2864

STATE OF CONNECTICUT

# REGULATION

OF

NAME OF AGENCY

~~Department of Environmental Protection~~

Concerning

SUBJECT MATTER OF REGULATION

Abatement of Air Pollution



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

SECTION 19-508-3

Section 19-508-3 of the Regulations of Connecticut State Agencies is amended as follows:

Sec. 19-508-3. Permits for construction and operation of [new or modified] stationary sources

(a) Permit applicability.

(a)(1) Permits under this regulation are required for the following NEW OR MODIFIED stationary sources:

(i) Equipment in a manufacturing process involving surface coating including, but not limited to, spray and dip painting, roller coating, electrostatic depositing or spray cleaning, and in which the total quantity of coating material and solvents used is thirty (30) pounds or more in any one hour.

(ii) Equipment which is used in a manufacturing process involving metal cleaning and/or surface preparation and which is connected to a ventilation system controlling escape of air pollutants or contaminants to the workroom air, such manufacturing process including, but not limited to, etching, pickling, or plating when for a wet system the individual capacity of such equipment is [1,000] ONE THOUSAND (1,000) gallons or more or for a dry system the actual emissions to the ambient air from the dry system equipment are greater than eight (8) tons per year; or any solvent degreasing units with a total liquid capacity of [1,000] ONE THOUSAND (1,000) gallons or more.

(iii) Equipment used in manufacturing process, other than as set forth in [paragraphs] SUBPARAGRAPHS [(a)(1)](i), (ii), (iv), (v), (vi), (vii)[,] OR (viii)[, or (ix)] in which the combined weight of all materials introduced, excluding air and water, is [2,000] TWO THOUSAND (2,000) pounds or more in any one hour or [16,000] SIXTEEN THOUSAND (16,000) pounds or more in any one day. For a cyclical or batch operation, the process weight per hour shall be derived by dividing the total process weight by the number of hours in one complete operation, from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.

(iv) Any liquid storage tank, reservoir, or container used for the storage of acids, volatile organic compounds with a vapor pressure of [1.5] ONE AND ONE-HALF (1.5) pounds per square inch absolute or greater under actual storage conditions, inks, colorants, lacquers, enamels, varnishes, or liquid resins and having a capacity of [40,000] FORTY THOUSAND (40,000) gallons or more.

(v) Fuel-burning equipment in which the maximum heat input guaranteed by the manufacturer of such equipment is five million (5,000,000) BTU per hour or more; or fuel-burning equipment burning solid fuels, or fuel-burning equipment burning fuel oils having a specific gravity in API degrees of [30] THIRTY (30) or less, unless the maximum heat input guaranteed by the manufacturer of such equipment is less than [250,000] TWO HUNDRED FIFTY THOUSAND (250,000) BTU per hour.

(vi) Stationary sources used as incinerators or as afterburners for the disposal of waste gases.

(vii) [All stationary industrial pneumatic solid material handling or conveying systems which are directly vented to the ambient air.

(viii)] All industrial flares for the disposal of liquids or gases.

[(ix)](viii) Any other stationary source, including any process, operation, equipment, or activity except those sources which are below the thresholds established in SUBparagraphs (a)(1)(i) through (v), whose [total actual] emissions of any air pollutant [or combination of air pollutants] AFTER THE APPLICATION OF AIR POLLUTION CONTROL EQUIPMENT AND WHERE THE EMISSION RATE IS CALCULATED USING THE MAXIMUM RATED CAPACITY is greater than [eight (8)] FIVE (5) tons per year.

(a)(2) Notwithstanding any provision of subdivision (a)(1), permits shall not be required for any stationary source specified thereunder whose [actual] emissions of [any] EACH air pollutant AFTER THE APPLICATION OF AIR POLLUTION CONTROL EQUIPMENT AND WHERE THE EMISSION RATE IS CALCULATED USING THE MAXIMUM RATED CAPACITY would be less than [two (2)] FORTY (40) pounds per day AND LESS THAN FIVE (5) TONS PER YEAR.

(a)(3) Notwithstanding any provision of [subdivision] SUBDIVISIONS (a)(1) or (a)(2), permits shall be required for:

(i) Any NEW OR MODIFIED stationary source which is subject to those sections of title 40 of the Code of Federal Regulations part 60 or part 61, as from time to time may be amended which the [commissioner] COMMISSIONER has been delegated authority to enforce by the [administrator] ADMINISTRATOR[.];OR

(ii) Any NEW OR MODIFIED stationary source with [potential] UNCONTROLLED emissions of [100] ONE HUNDRED (100) tons per year or more AS DETERMINED BEFORE THE APPLICATION OF CONTROL EQUIPMENT AND WHERE THE EMISSION RATE IS CALCULATED USING THE MAXIMUM RATED CAPACITY, UNLESS IT IS DEMONSTRATED TO THE COMMISSIONER'S SATISFACTION THAT BEST AVAILABLE CONTROL TECHNOLOGY IS USED.

(a)(4) Reconstructed stationary sources shall be considered as new stationary sources.

(a)(5) Permits under this section shall not be required for mobile sources.

(b) Applications for permits to construct.

(b)(1)

(i) Effective July 1, 1979 any person who constructs, modifies, installs or causes the construction, modification, or installation of any new stationary source of air pollutants as specified under subsection (a), or modifies any existing stationary source or facility as specified under subsection (a) shall first apply for and obtain a construction permit from the [commissioner] COMMISSIONER. However, this requirement shall not apply to any stationary source which was previously granted a valid permit pursuant to section 19-508-3, or for which a decision is pending on a permit application subject to section 19-508-3 that was in effect prior to July 1, 1979.

(ii) Any person who owns or operates a stationary source which was subject to section 19-508-3 prior to July 1, 1979, and who failed to apply for and receive a valid permit pursuant to section 19-508-3 shall be subject to the requirements of section 19-508-3 in effect at the time of application for a permit.

(b)(2) The owner or operator of each stationary source described in subdivision (b)(1) and (g)(6) shall make application for such source on forms furnished by the [commissioner] COMMISSIONER. In the application the owner or operator shall include siting information; descriptions of the equipment and processes involved; a description of fuels and process materials to be used; the nature, source and quantity of uncontrolled and controlled emissions; the type, size and efficiency of control facilities; and such other information as the [commissioner] COMMISSIONER may require.

(b)(3) Unless the [commissioner] COMMISSIONER determines otherwise, when two or more stationary sources of a similar or identical nature are constructed or modified in the same plant or premises, they shall be considered a single aggregate stationary source and subject to interpretation under subsection (a). When two more dissimilar stationary sources are constructed or modified, a separate permit is required for each source.

(c) Standards for granting construction permits.

The [commissioner] COMMISSIONER shall grant a permit to construct or modify a stationary source when he determines, upon evidence submitted by the applicant or otherwise made part of the record, that[:] THE NEW OR MODIFIED STATIONARY SOURCE WILL COMPLY WITH THE APPLICABLE AND RELEVANT PROVISIONS OF SUBDIVISIONS (c)(1) THROUGH (c)(8) INCLUSIVE AND (c)(11).

(c)(1) The new or modified stationary source will operate in accordance with all applicable emission limitations and regulations.

(c)(2) The new or modified stationary source will operate without preventing or interfering with the attainment or maintenance of applicable [state] CONNECTICUT and National Ambient Air Quality Standards [in Connecticut or in any other state].

[(i)] In order to determine compliance with this subdivision the [commissioner] COMMISSIONER shall, where applicable AND RELEVANT, consider the following:

[(a)](i) The peak emissions from an operation over the appropriate time period for an applicable [state or national ambient air quality standard] CONNECTICUT OR NATIONAL AMBIENT AIR QUALITY STANDARD shall be used when such time period is shorter than:

[(1)](a) The batch or cycle time for a batch or cyclical operation[,]; or

[(2)](b) The operating time for a continuous process.

[(b)](ii) The emissions from an operation shall be averaged over the appropriate time period for an applicable [state or national ambient air quality standard] CONNECTICUT OR NATIONAL AMBIENT AIR QUALITY STANDARD when such time period is longer than:

[(1)](a) The batch or cycle time for a batch or cyclical operation. Successive periods of operation and down time, or a portion therefore, shall be included in such averaging, as appropriate; or

[(2)](b). The operating time for a continuous process. Successive periods of operation and down time, or a portion thereof, shall be included in such averaging, as appropriate.

(c)(3) The new or modified stationary source will operate in accordance with all applicable emission standards and standards of performance under Title 40 of the Code of Federal Regulations part 60 and part 61, as from time to time may be amended, which the [commissioner] COMMISSIONER has been delegated authority to enforce by the [administrator] ADMINISTRATOR.

(c)(4) The new or modified stationary source contains, as required by the [commissioner] COMMISSIONER:

(i) Sampling ports of a size, number and location as the Commissioner may reasonably require[.];

(ii) [Safe access to each port.

(iii)] Such instrumentation to monitor and record emission data as is required by these regulations; and

(iii)[(iv)] Such other sampling and testing facilities as the Commissioner may reasonably require.

(c)(5) The new [or modified] MAJOR stationary source OR MAJOR MODIFICATION will operate without [causing or contribution to air pollution] SIGNIFICANTLY INTERFERING WITH EITHER ATTAINMENT OF ANY NATIONAL AMBIENT AIR QUALITY STANDARD in any other state [in violation of] OR any OTHER requirements in the applicable state implementation plan for such state [to prevent significant deterioration of air quality or to protect visibility in accordance with applicable federal visibility requirements].

(c)(6) The owner or operator of the new or modified stationary source has paid to the [department] DEPARTMENT fees in accordance with a permit fee schedule [to be incorporated in regulations] adopted by the [commissioner] COMMISSIONER.

(c)(7) The operation of the new or modified stationary source[,] which has a significant impact, as defined below, on ambient air quality will not cause or exacerbate a violation of a [national or state ambient air quality standard] CONNECTICUT OR NATIONAL AMBIENT AIR QUALITY STANDARD; will comply with the provisions of subdivisions (c)(2) and (c)(5).[; and will consume no more of the following air quality increments in an attainment area than 75 percent of the remaining 3-hour or 24-hour increment, whichever is more stringent, and no more than 25 percent of the remaining annual increment:

| Pollutant | Total Air Quality Increment ($ug/m^3$) |
|---|---|
| Particulate matter | |
| Annual geometric mean | 19 |
| 24-hour average | 37 |
| Sulfur dioxide | |
| Annual geometric mean | 20 |
| 24-hour average | 91 |
| 3-hour average | 512] |

(i) In order to determine that emissions of an individual pollutant from a new or modified stationary source will have a significant impact on air quality or that the emissions of an individual pollutant will exacerbate an existing violation of an applicable [state or national ambient air quality standard] CONNECTICUT OR NATIONAL AMBIENT AIR QUALITY STANDARD, the amount of ambient impact that will be considered significant or that will exacerbate a violation is:

[i](a) For a NEW MAJOR stationary source OR MAJOR MODIFICATION [with allowable emissions of more than 50 tons per year and potential emissions of more than 100 tons per year of the following individual pollutants]:

| Pollutant | Ambient impact (ug/m$^3$) |
|---|---|
| Particulate matter | |
| Annual average | 1 |
| 24-hour average | 5 |
| Sulfur dioxide | |
| Annual average | 1 |
| 24-hour average | 5 |
| 3-hour average | 25 |
| Carbon monoxide | |
| 8-hour average | 500 |
| 1-hour average | 2000 |
| Nitrogen dioxide | |
| Annual average | 1 |

[i](b) For [any other] A stationary source [of the following pollutants which is subject to permit requirements] OTHER THAN A NEW MAJOR STATIONARY SOURCE OR A MAJOR MODIFICATION:

| Pollutant | Ambient impact (ug/m$^3$) |
|---|---|
| Particulate matter | |
| 24-hour average | 10 |
| Sulfur dioxide | |
| 24-hour average | 10 |
| 3-hour average | 50 |

[(ii) To determine whether the new stationary source or modification would consume more than the allowable increment or exceed the total increment in an attainment area, the commissioner shall, through the use of air quality models approved by the commissioner and the administrator, model the impact of the emissions from the new stationary source or modification together with the impact of emissions from all sources in the inventory maintained by the comissioenr which commenced operation after August 7, 1977; the impact of emissions from all new stationary sources or modifications of the sizes and types defined in paragraph (k)(1)(iv) which commenced construction on

or after January 6, 1975, and which were in operation on August 7, 1977; and the impact of decreases in emissions, from all stationary sources in the inventory maintained by the commissioner, which occurred after August 7, 1977. The resultant impact shall be compared to the increment or remainder thereof to determine compliance with this paragraph. In the event that the August 7, 1977 reference date is changed by federal judicial or administrative action, the commissioner shall use that data which is valid under federal law.

(iii) If the new stationary source or modification would consume more than the allowable increment or exceed the total increment in an attainment area, or if the ambient air quality in the area is at or above the level of the total increment at the time of the application for the new stationary source or modification, the owner or operator thereof may demonstrate that he has, through legally enforceable means satisfactory to the commissioner, achieved emission reductions from existing sources in the inventory maintained by the commissioner located in the area of the new stationary source or modification which are sufficient to enable the new stationary source or modification to be constructed and operated without consuming the allowable increment or exceeding the total increment.

(iv) Concentration of attainment pollutants attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both, by reason of an order in effect under sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, or any superseding legislation, over the emissions from such sources before the effective date of such an order shall be excluded in determining compliance with the total increment allowance for a period not to exceed five years from the effective date of the order.

(v) Concentrations of an attainment pollutant attributable to the increase in emissions from sources which have converted from using natural gas by reasons of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan shall be excluded in determining compliance with the total increment allowance for a period not to exceed five years from the effective date of the plan.

(vi) If both exclusions provided in paragraphs (iv) and (v) above are applicable to the same stationary source, no exclusion shall apply more than five years after the later of the effective dates provided.]

(c)(8) The owner or operator of a new MAJOR stationary source or MAJOR modification [has demonstrated] SHALL DEMONSTRATE that the degree of emission limitation required of the source for control of any air pollutant shall not be affected by that portion of the source's stack height that exceeds good engineering practice or by any other dispersion technique, even when the degree of emission limitation required may be economically or technologically infeasible to obtain except that stack heights in existence, or dispersion techniques implemented, prior to December 31, 1970; or coal-fired steam electric generating units, subject to section 118 of the Federal Clean Air Act, which commenced operation before July, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974 shall not be subject to this requirement.

(i) In order to take credit for the amount of emission limitation attributable to that part of the stack height which exceeds good engineering practice, the owner or operator of the MAJOR stationary source must demonstrate, after public notice and opportunity for public hearing, that a greater height is necessary to prevent excessive concentration of any pollutant in the immediate vicinity of the MAJOR stationary source.

(ii) In no event may the [commissioner] COMMISSIONER prohibit any increase in any stack height or restrict in any manner the stack height of any stationary source.

(c)(9) All estimates of ambient [concentrations] AIR QUALITY IMPACTS FOR EITHER NEW MAJOR STATIONARY SOURCES OR MAJOR MODIFICATIONS shall be based upon the applicable air quality models, data bases [, and] OR other requirements acceptable to the [commissioner and the administrator] COMMISSIONER AND THE ADMINISTRATOR.

(c)(10) In those cases where an Environmental Impact Statement (EIS) has been or will be prepared under the National Environmental Policy Act (42 U.S.C. 4321) or similar state or local laws, the [commissioner] COMMISSIONER shall make use of the EIS wherever reasonably possible in order to avoid needless duplication of information gathering and analysis.

(c)(11) ANY NEW OR MODIFIED STATIONARY SOURCE SHALL INCORPORATE BEST AVAILABLE CONTROL TECHNOLOGY.

(d) Action on application for construction permits.

(d)(1) Except where a public hearing is held under subdivision (j)(4), the Commissioner shall inform an applicant for a construction permit of the decision approving or denying the application within thirty (30) days of the receipt of a complete application. The [commissioner] COMMISSIONER may, on notice to the applicant, extend the time for acting on the application an additional fifteen (15) days. An application will not be deemed to have been received by the Commissioner until all papers and documents required in support of the application have been submitted in the proper form. The [commissioner] COMMISSIONER must act within forty-five (45) days of receipt of a complete application.

(d)(2) When a public hearing is held under subdivision (j)(4) on an application for a construction permit, the [commissioner] COMMISSIONER shall inform the applicant of his decision on the application within thirty (30) days following receipt of the records of the hearing.

(d)(3) The Commissioner shall briefly set forth in any notice of approval, conditional approval, or denial the basis for his determination.

(d)(4) The [commissioner] COMMISSIONER may impose any reasonable conditions upon an approval to construct or modify.

(d)(5) Within thirty (30) days after receipt of an application for a permit to construct, or of any amendment to such application, the [commissioner] COMMISSIONER shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be the date on which the [commissioner] COMMISSIONER received all required information.

(d)(6) A permit to construct shall be [posted for easy access] AVAILABLE at the site of construction throughout the period of such construction and shall be effective for such period as is specified by the [commissioner] COMMISSIONER but not to exceed five (5) years, subject to renewal.

(d)(7) If construction of the stationary source will not be completed within the time specified, the holder of the permit to construct shall apply for renewal of the permit at least [120] ONE HUNDRED TWENTY (120) days prior to the expiration date of the permit.

(e) Cancellation of construction permits.

(e)(1) The Commissioner may cancel or revise the conditions of a construction permit if:

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

(ii) During construction or modification, work is suspended for one year; or

(iii) The [commissioner] COMMISSIONER determines that any provision of subsection (c) has not been or is not being met.

(f) Permits to operate.

(f)(1) Any person who operates or causes the operation of a new or modified stationary source shall first obtain a permit to operate from the Commissioner in accordance with the requirements of this section. Separate applications are required for those sources subject to the provision of subdivision (g)(6).

(f)(2) Prior to issuance of a permit to operate, the Commissioner may require the owner or operator of a new or modified stationary source to provide such additional information as he deems necessary and as has not already been included in the application for a construction permit or submitted during the source of construction.

(g) Standards for granting permits to operate.

(g)(1) The Commissioner may impose reasonable conditions on any permit to operate, including requirements beyond normal due diligence in operation and maintenance.

(g)(2) The Commissioner shall grant a permit to operate a stationary source subject to subdivision (f)(1), (g)(5), or (g)(6) if he determines that:

(i) The source is in compliance with applicable regulations[.];

(ii) The source shall operate without preventing or interfering with the attainment or maintenance of applicable [state and] CONNECTICUT OR National Ambient Air Quality Standards [in Connecticut or in any other state.];

(iii) The source is equipped with instrumentation to monitor and record emission data or other information about the operation of the source which satisfies the requirements of section 19-508-4[.];

(iv) The new or modified source has been constructed in accordance with and meets the requirements, standards, and conditions set forth in the construction permit[.];

(v) Performance tests conducted at the owner's or operators expense, in accordance with methods prescribed by the [commissioner] COMMISSIONER or his duly authorized representative and with his observation and participation if he so requires, demonstrate that the new or modified source has in fact met the requirements, standards, and conditions of the construction permit, is in compliance with applicable regulations, and that the owner or operator of the source verifies the results in a form satisfactory to the Commissioner; AND

(vi) An emergency abatement or standby plan, where required, has been submitted for the source and approved by the Commissioner.

(g)(3) In circumstances where reliable performance tests must be conducted during actual operations, the Commissioner may issue a conditional permit to commence operations. For good cause shown, such a permit may be renewed by the Commissioner for any additional period required to perform such tests. The Commissioner shall notify the owner or operator in writing of his approval, conditional approval, or denial of the permit to operate and the reasons thereof within thirty (30) days after receipt of an acceptable performance test report.

(g)(4) Operating permits shall be [posted for easy access] MAINTAINED at the site of operation and shall be renewed every five (5) years, unless issued for a shorter period.

(g)(5) The holder of a permit to operate must apply for the renewal of the permit at least [120] ONE HUNDRED TWENTY (120) days prior to the permit expiration date. A request for renewal of a permit to operate must be made in writing and shall consist of a description of any change made to the source since the last permit to operate, or renewal thereof, was issued which would constitute a change in the data provided in the original application or subsequent renewals.

(g)(6) Any person who operates or causes the operation of a source specified in subdivision (a)(1) of the regulations which were in effect prior to July 1, 1979, the construction of which commenced prior to June 1, 1972, but which did not begin operation prior to October 1, 1972, is required to obtain a permit to operate from the Commissioner in accordance with the requirements of this subsection.

(g)(7) Applications pursuant to subdivision (g)(6), must be made at least [120] ONE HUNDRED TWENTY (120) days prior to the start-up of operations.

(g)(8) If, following issuance of a notice by the [commissioner] COMMISSIONER, the owner or operator of the permitted stationary source fails to apply for a renewal of the permit to operate, then the [allowable] emissions from the source shall be eliminated from the inventory maintained by the Commissioner.

(h) Transfer of permit to operate. The holder of a permit to operate may not transfer it without prior written notification to the Commissioner. Each new owner or operator or holder of the permit shall be responsible for complying with all applicable regulations and with the conditions of the permit.

(i) Denial, revocation or change in the conditions of operating permits.

(i)(1) The Commissioner may deny, revoke, or change the conditions of an operating permit for failure to comply with the terms of subdivisions (g)(1) and (g)(2).

(i)(2) Notice of denial, revocation or change in the conditions of either a construction or an operating permit shall set forth the reasons for the action taken and shall be effective thirty (30) days after the date of service of the notice, unless a hearing is requested prior to the expiration of the thirty (30) day period.

(i)(3) Any person considering himself aggrieved by the notice of denial, revocation, or modification may consider the notice a written order of violation under subdivision 19-508-12(b)(2) and may obtain a hearing thereon by filing a written answer and request for a hearing in accordance with subdivision 19-508-12(b)(5). Filing of the answer and request for the hearing shall postpone the effective date of the notice until conclusion of the hearing and issuance of the decision of the Commissioner.

(j) Public information and hearing procedures FOR NEW OR MODIFIED STATIONARY SOURCES.

(j)(1) In all cases where legal notice is required pursuant to any section of these regulations, the applicant shall publish at his own expense all notice required.

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

(i) All permit applications received for NEW OR MODIFIED stationary sources subject to provisions of subdivision (b)(1) or (g)(6):

(ii) The opportunity for public comment on any permit application OR PROPOSED DECISION for a NEW OR MODIFIED stationary source subject to the provisions of subdivision (b)(1) or (g)(6) or [paragraph] SUBPARAGRAPH (c)(8)(i);

(iii) [All decisions approving, denying, or conditionally approving any permit for a stationary source which is subject to the provisions of subdivision (b)(1).] ALL PROPOSED DECISIONS APPROVING, DENYING, OR CONDITIONALLY APPROVING ANY PERMIT FOR A STATIONARY SOURCE WHICH IS SUBJECT TO THE PROVISIONS OF SUBDIVISION (b)(1).

(iv) ALL DECISIONS APPROVING, DENYING, OR CONDITIONALLY APPROVING ANY PERMIT FOR A STATIONARY SOURCE WHICH IS SUBJECT TO THE PROVISIONS OF SUBDIVISION (b)(1).

(j)(3) While a decision is pending on a permit application for [sources] A NEW OR MODIFIED STATIONARY SOURCE subject to the provisions of subdivision (b)(1) or (g)(6) any person may file, within a 15-day period following the public notice of [receipt of] A PROPOSED DECISION UNDER SUBPARAGRAPH (j)(2)(iii) FOR a permit application FOR SUCH NEW OR MODIFIED STATIONARY SOURCE, a written objection setting forth the basis thereof in detail with the Department [of Environmental Protection] [and] opposing the approvals of the permit in its entirety or requesting that specific conditions be attached to it. [Objection] THE OBJECTION may be accompanied by a request for a public hearing.

(j)(4) Following receipt of a request for a PUBLIC hearing by [25] TWENTY FIVE (25) or more people or by an association representing [25] TWENTY FIVE (25) or more members according to subdivision (j)(3) or upon his own initiative, the Commissioner may, prior to the issuance of the permit FOR A NEW OR MODIFIED STATIONARY SOURCE, hold a public hearing. Following the close of the PUBLIC hearing, the Commissioner shall make a decision based on all available evidence, including the record of the PUBLIC hearing and the recommendation of the hearing examiner, as to whether to approve, deny or conditionally approve the permit. Notice of such decision shall be published according to subdivisions (j)(1) and (j)(2).

(j)(5) Opportunity for public comment required by subdivision (j)(2) includes as a minimum:

(i) A notice by advertisement in a newspaper of general circulation in the region affected of the application for a permit;

(ii) Availability for public inspection in the office of the director of air compliance of the information submitted by the owner or operator and of the analysis by the Commissioner or his designee of the effect on air quality; and

(iii) A [15] FIFTEEN (15) day period from the date of the notice of required by SUBPARAGRAPH (j)(5)(i) for submittal of public comment.

(k) Reserved.

(l) Non-attainment areas.

(l)(1)

(i) In addition to demonstrating compliance with the requirements of subsections (a) through (i) [and (k)] for new stationary sources and modifications, the owner or operator of a [new] stationary source [or modification,] which has [potential] ACTUAL PREMISE emissions of an individual non-attainment pollutant of [100] ONE HUNDRED (100) tons per year or more [, and allowable emissions of the same non-attainment pollutant of at least 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is most restrictive,] and which is located in an area which has been designated non-attainment by the Commissioner with respect to an applicable [national or state ambient air quality standard] NATIONAL AMBIENT AIR QUALITY STANDARD, must also demonstrate that [such] ANY new stationary source or modification will comply with the requirements of subdivision (l)(3) with respect to that pollutant.

(ii) In addition to demonstrating compliance with the requirements of subsections (a) through (i) [and (k)] for new stationary sources and modifications, the owner or operator of a new stationary source or modification, which has [potential] ACTUAL PREMISE emissions of an individual non-attainment pollutant of [100] ONE HUNDRED (100) tons per year or more [, and allowable emissions of the same non-attainment pollutant of at least 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is most restrictive,] and which is located in an area where [neither a national nor a state ambient air quality standard] A NATIONAL AMBIENT AIR QUALITY STANDARD for that particular pollutant is NOT being violated, and which would cause or exacerbate, as defined in subdivision (c)(7), a violation of [either a national or state ambient air quality standard] A NATIONAL AMBIENT AIR QUALITY STANDARD for such pollutant in an adjacent non-attainment area must demonstrate that the proposed source or modification will comply with the requirements of subdivision (l)(3) with respect to that pollutant.

(iii) [ For the purpose of subsection (l), to determine whether a modification exceeds the thresholds of 100 tons per year of potential emissions and 50 tons per year, 1,000 pounds per day, or 100 pounds per hour or allowable emissions, the commissioner shall take into account all accumulated potential emission occurring at the stationary source since July 1, 1979 or since the date of the last permit approval for the stationary source

under subsection (1), whichever time is more recent, and all accumulated allowable emissions occurring at the stationary source since December 21, 1976 or since the date of the last permit approval for the stationary source under subsection (1) or under the administrator's emission offset interpretive ruling of December 21, 1976 (41 FR 55524), as amended on January 16, 1979 (44 FR 3274), whichever time is most recent.

(iv) The requirements of subdivision (1)(3) shall not apply to a new stationary source or modification that was subject to the review requirements of the administrator's emission offset interpretive ruling of December 21, 1976 (1 FR 55524), as amended on January 16, 1979 (44 FR 3274), for review of new stationary sources and modifications.

(v) When an identifiable piece of equipment within a stationary source is modified but not reconstructed, the requirements of subdivision (1)(3) shall not apply if no net increase in emissions of a non-attainment pollutant would occur at the stationary source, taking into account all emissions increases and decreases at the stationary source which would accompany the modification, and if no adverse ambient air quality impact would occur. However, this exemption shall not be applicable where an identifiable piece of equipment which itself has potential emissions of 100 tons per year and allowable emissions of at least 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is most restrictive, is added to or reconstructed at a source, whether the purpose of the modification or reconstruction is to replace production capacity or for growth.

(vi)] The requirements of [paragraphs] SUBPARAGRAPHS (1)(3)(ii) and (iii) may be waived for a resource recovery facility, if it can be demonstrated that the operation of the facility would not cause or exacerbate a violation of the primary [national or state ambient air quality standard for] NATIONAL AMBIENT AIR QUALITY STANDARD FOR EITHER particulate matter, lead, nitrogen dioxide[,] or sulfur dioxide and would produce a significant net environmental improvement to the satisfaction of the [commissioner] COMMISSIONER. In addition, such an exemption may be granted only if (a) the applicant demonstrates that it made its best efforts to obtain sufficient offsets; (b) the applicant applies all offsets that are available; and (c) the applicant will continue to seek the necessary offsets and apply them when they become available.

[(vii)](iv) Notwithstanding the provisions of [paragraphs] SUBPARAGRAHS (i) and (ii) above, the requirements of [paragraphs] SUBPARAGRAPHS (1)(3)(ii) and (1)(3)(iii) shall not apply to any non-attainment pollutant for which the [commissioner] COMMISSIONER has submitted an approved state implementation plan which demonstrates attainment by the deadline of the Federal Clean Air Act and expressly identifies and quantifies the emissions of any such pollutant which will be allowed to result from construction and operation of new stationary sources or modifications which would be subject to the provision of subdivision (1)(3).

(1)(2) Analysis of alternatives

(i) Prior to the issuance of any permits for construction of a new stationary source or modification subject to the requirements of subdivision (1)(3) in an area where there is a violation of a primary [national or state ambient air quality standard] NATIONAL AMBIENT AIR QUALITY STANDARD for either ozone or carbon

monoxide, an analysis will be required of alternative sites, sizes, production processes, and environmental control techniques which are available and reasonable for such proposed source or modification. Such analysis shall be performed with respect to ozone and carbon monoxide and shall demonstrate that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

(1)(3) Requirements

(i) Control technology review. A new stationary source or modification subject to the provision of this subsection shall comply with the [lowest achievable emission rate] LOWEST ACHIEVABLE EMISSION RATE (LAER) for each pollutant which [is emitted in excess of the emission threshold established in paragraphs (1)(1)(i) and (ii) and which] will have a significant impact, as defined in subdivision (c)(7), on an area designated non-attainment for that pollutant. However, if the source is modified intermittently and any of the intermittent modifications has not previously been subject to the requirements under this paragraph, the Commissioner shall consider the stage of construction of each such intermittent modification and the ability of the source to install additional control equipment at the time the source becomes subject to the requirements of this subsection.

[i](a) In no event shall the specified lowest achievable emission rate result in the emission of any pollutant in excess of the amount allowable under the applicable federal standards for new sources under Title 40 of the Code of Federal Regulations part 60 and part 61, as from time to time may be amended.

[i](b) The requirement for the lowest achievable emission rate shall apply to a new stationary source or modification subject to the provision of this subsection regardless of its location in the non-attainment region.

(ii) Emission offsets. Emission reductions, hereafter "offsets," of an applicable pollutant from existing sources in the area of a proposed stationary source or modification subject to the provisions of subdivision (1)(3) are required. The offsets must be such that, by the time the proposed source is to commence operation, total allowable emissions from existing sources in the region, from new or modified stationary sources under construction which are not subject to subdivision (1)(3), and from the proposed stationary source will be sufficiently less than the total emissions from existing stationary sources allowed under these regulations prior to the filing of the permit application, so as to represent reasonable further progress toward the attainment of the applicable [nationl or state ambient air quality standard] NATIONAL AMBIENT AIR QUALITY STANDARD.

[ii](a) The new stationary source or modification will be allowed offset credit only for emission reductions which otherwise would not be accomplished as a result of the regulations in effect at the time of the application for a permit to construct under these regulations, notwithstanding that such reductions may have qualified as offsets at some earlier time. No offset credit is available if the effect of an emission reduction is simply to bring a stationary source into compliance with these regulations.

[ii](b) The owner or operator of the new stationary source or modification may propose offsets which involve reductions from stationary sources controlled by the source owner or which involve reductions from stationary sources controlled by others.

[ii](c) The emission reduction committed to must be incorporated in a revised permit or other legally enforceable document and must be accomplished by the time the proposed source is to commence operation.

[ii](d) [The state] CONNECTICUT or any political subdivision thereof may commit to reducing emissions from existing sources to sufficiently outweight the impact of the proposed stationary source. For such emission offsets, several different stationary sources may be allowed to construct as a result of a general state implementation plan revision.

[ii](e) If the emission reduction committed to is in excess of the minimum required to produce the necessary reduction which would authorize construction, the excess reduction will be eligible for consideration as a future offset for the applicant or subsequent holder of such offset rights.

[ii](f) Emission offsets must be greater than one-to-one and must produce a net air quality benefit, as defined in [paragraph] SUBPARAGRAPH (iii) below, and the owner or operator must meet all other applicable federal and state requirements.

[ii](g) For a new stationary source or modification, otherwise subject to the provision of subdivision (1)(3), whose ambient air quality impact would not be significant, as defined in subdivision (c)(7), or whose ambient air quality impact would be significant but would not cause or exacerbate a violation of a [state or national ambient air quality standard] NATIONAL AMBIENT AIR QUALITY STANDARD, emission offsets are not required.

[ii](h) The offsets must be transacted on a pounds per hour actual basis. The [commissioner] COMMISSIONER shall consider other averaging periods, e.g., tons per year and pounds per day, in addition to the pounds per hour basis if necessary to carry out the intent of this paragraph.

[ii](i) The reductions must come from the emissions inventory maintained by the Commissioner, or they must otherwise be approved by the [commissioner] COMMISSIONER.

[ii](j) Only intrapollutant emission offsets will be acceptable, e.g., particulates for particulates.

[ii](k) Offsets for all pollutants must come from the Connecticut portion of the region in which the proposed stationary source is located except that offsets for volatile organic compounds may come from anywhere in the state.

[ii](l) When a stationary source in the inventory maintained by the [commissioner] COMMISSIONER ceases operations and either the permit is not renewed by the owner or operator pursuant to subdivision (g)(5) of these regulations, or the permit or the registration certificate for the allowable emissions from that source has not been transferred to a subsequent holder pursuant to subsection 19-508-3(h) or subsection 19-508-2(d), respectively, the allowable emissions from the source shall be

eliminated from the inventory maintained by the Commissioner and shall revert to the Connecticut Department of Economic Development for subsequent use as offset credit. In determining whether a stationary source has ceased operation for the purposes of this subparagraph, the Commissioner shall consider such factors as the lay-off of employees, the removal of equipment, failure to make tax payments due, failure to renew licenses and permits necessary to continue business activity in the state, initiation of bankruptcy proceedings, and other factors as may be relevant under the circumstances. No stationary source shall be found to have ceased operations for the purpose of this [paragraph] SUBPARAGRAPH if the emitting machinery and equipment are retained at the source, taxes continue to be paid thereon, and the owner or operator requests that the allowable emissions from the source not be removed from the inventory maintained by the Commissioner. Prior to eliminating a stationary source's allowable emissions from the inventory on the grounds that the source has ceased operations, the Commissioner must notify the owner or operator of his intent. Within thirty (30) days of such notice, the owner may request a hearing for the purpose of establishing the source has not ceased operations, as defined above. Upon such request the [commissioner] COMMISSIONER shall hold a hearing and shall within sixty (60) days of the completion of the hearing notify the petitioner of his decision. The notice and hearing provided above shall not be required where allowable emissions are eliminated from the inventory following expiration of a permit, as provided in subdivision (g)(8).

(iii) Air quality review.

[iii](a) Emission offsets must provide a positive net air quality benefit in the affected area. Such benefit shall be determined by the atmospheric modeling or other procedure approved by the Commissioner.

[iii](b) A net air quality benefit is required only for a new stationary source or modification subject to the provisions of subdivision (1)(3) which would cause or exacerbate a violation of a [state or national ambient air quality standard] CONNECTICUT OR NATIONAL AMBIENT AIR QUALITY STANDARD.

[iii](c) A net air quality benefit is demonstrated when the maximum impact of the emissions to be reduced is greater than the maximum impact of the emissions from the new stationary source or modification by at least 11 $ug/m^3$ (24-hour average) for particulates and by at least 550 $ug/m^3$ (8-hour average) for carbon monoxide and occurs over the same basic area of population impact of the new stationary source or modification.

[iii](d) A new stationary source or modification subject to the provisions of subdivision (1)(3) shall be exempt from the requirements of [paragraphs] SUBPARAGRAPHS (ii) and (iii) above if the source would terminate operations permanently or relocate out of a non-attainment area within two years from the date of initial operation.

(iv) Source obligation.

[iv](a) The owner or operator of the proposed new stationary source or modification subject to the provisions of subdivision (1)(3) must demonstrate that all stationary sources owned, operated or controlled by him in [the state] CONNECTICUT are in compliance, or are on a schedule of compliance, with all applicable emission limitations and standards.

[iv](b) In addition, the applicant must demonstrate that all enforcement orders for stationary sources owned or operated by the applicant in the Connecticut portion of the same region as the proposed new stationary source or modification subject to the provisions of subdivision (1)(3) are on the most expeditious compliance schedule practicable. Where practicable, a more expeditious compliance schedule must be required as an enforceable condition of the new stationary source permit.

(v) Public participation. The owner or operator of a new stationary source or modification subject to the provisions of subdivision (1)(3) shall comply with the public participation requirements set forth in [paragraph (k)(2)(vii)] SUBSECTION (j).

(vi) Source Information. The owner or operator of a proposed stationary source or modification subject to the provision of subdivision (1)(3) shall submit all information necessary to perform any analysis or make any determination under this subsection, as set forth in [paragraph (k)(2)(vi)] SUBSECTION (j).

Statement of Purpose. To amend the Department's regulations which delineate permit requirements for business and industry to make such requirements easier to understand and to bring them into closer conformance with the Clean Air Act.

CERTIFICATION
R-39 REV. 1/77

Be it known that the foregoing: 

[X] Regulations [ ] Emergency Regulations

Are:

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

By the aforesaid agency pursuant to:

[X] Section 19-508 of the General Statutes.

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

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

After publication in the Connecticut Law Journal on June 15 19 82, of the notice of the proposal to:

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

*(If applicable):* [X] And the holding of an advertised public hearing on 15th day of July 19 82

WHEREFORE, the foregoing regulations are hereby:

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

Effective:

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

(OR)

[ ] The _____ day of _____ 19____.

| | DATE | SIGNED *(Head of Board, Agency or Commission)* | OFFICIAL TITLE, DULY AUTHORIZED |
|---|---|---|---|
| In Witness Whereof: | 8/5/82 | Stanley J. Pac | 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<br>Deputy Attorney General |

AUG 6 _ 1982

[X] Approved with deletions per letter 9/21/82.

[ ] 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 9/21/82 | SIGNED *(Clerk of the Legislative Regulation Review Committee)* Patricia A. Kozlowski |
|---|---|---|

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 |
|---|---|---|
| Sept 24, 1982 | Maura L. Kelley | Cypress L. Kerr |

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.