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CONNECTICUT AIR POLLUTION CONTROL REGULATIONS

(Regulations of Connecticut State Agencies, Department of Environmental Protection, Abatement of Air Pollution, February 1978 Edition; Amended August 31, 1979; December 14, 1979)

Sec. 19-508-1. Definitions

"Actual emissions" means the emission rate, after application of air pollution control equipment, of a particular pollutant where the emission rate is calculated using the maximum rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the maximum rated capacity by restricting the operation rate or hours of operation of the source, or the type or amount of materials combusted or processed.

"Administrator" means the administrator of the United States Environmental Protection Agency.

"Air pollutant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, aerosol, odorous substances, or any combination thereof, but does not include carbon dioxide, uncombined water vapor or water droplets, or molecular oxygen or nitrogen.

"Air pollution" means the presence in the outdoor (ambient) atmosphere of one or more air pollutants or any combination thereof in such quantities and of such characteristics and duration as to be, or be likely to be, injurious to public welfare, to the health of human, plant or animal life, or to property, or as unreasonably to interfere with the enjoyment of life and property.

"Allowable emissions" means the emission rate of a particular pollutant where the emission rate is calculated using the maximum rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the maximum rated capacity by restricting the operating rate or hours of operation of the source, and the most stringent of the following:

(i) Applicable standards as set forth in Title 40 of the Code of Federal Regulations part 60 and part 61, as from time to time may be amended.

(ii) The applicable emission limitation under these regulations, or

(iii) The emission rate specified as a permit condition.

"Ambient air" means that portion of the atmosphere external to buildings.

"Ambient air quality standard" means any standard which establishes the largest allowable concentration of a specific pollutant in the ambient air of a region or subregion as established by the Federal Environmental Protection Agency or by the Commissioner.

"Architectural coating" means a coating used for residential or commercial buildings and their appurtenances, or industrial buildings, or other outdoor structures.

"Attainment" shall mean that the quality of the ambient air, as determined by the commissioner, meets primary and secondary state and national ambient air quality standards for a given pollutant.

"Best available control technology" or "BACT" means an emission limitation, including a visible emission standard, based on the maximum degree of reduction for each applicable pollutant from any proposed stationary source or modification which the commissioner, on a case-by-case basis, determines is generally achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In determining BACT the commissioner shall take into account energy, environmental and economic impacts and other costs. In no event shall the application of BACT result in emissions of any pollutant which would exceed the emission allowed by an applicable standard under Title 40 of the Code of Federal Regulations part 60 and Part 61, as from time to time may be amended. In determining BACT for a reconstructed source, the commissioner shall take into account the provisions of Title 40 of the Code of Federal Regulations part 60.15(f)(4), as from time to time may be amended, in assessing whether a standard of performance under part 60 is applicable to such source. 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, he may prescribe a design, equipment, work practice or operational standard, or combination thereof, to require 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.

"BTU" means British thermal unit, which is the amount of heat required to raise the temperature of one pound of water one degree Fahrenheit.

"Class I" means any area designated as such by federal or state government pursuant to federal regulations for the prevention of significant deterioration of air quality, as provided in Title 40 of the Code of Federal Regulations part 51 and part 52, as from time to time may be amended.

"Commence" or "Commencement" as applied to construction of a stationary source or modification means that the owner or operator has all necessary permits or approvals required under federal air quality control laws and these regulations, and has either:

(i) Begun, or caused to begin, a program of physical on-site construction of the source:

(1) Subject to a schedule which will lead to completion in a reasonable time, and

(2) Without any breaks in such construction of more than 18 months; or

(ii) Entered into site specific binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

"Commissioner" means the Commissioner of Environmental Protection, or the Deputy Commissioner for Environmental Quality.

"Deterioration in air quality" means that a pollutant concentration in a region or subregion for any pollutant specified in these regulations will exceed the maxi-

mum pollutant concentration for the specified time period for that region or subregion.

"Dispersion technique" means any method which attempts to affect the concentration of a pollutant in the ambient air by

(i) Use of that portion of a stack which exceeds the good engineering practice stack height,

(ii) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant, or

(iii) The manipulation of source process parameters, exhaust gas parameters, stack parameters other than height, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

The preceding sentence does not preclude the reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.

"Emission" means the act of releasing or discharging air pollutants into the ambient air from any source.

"Emission limitation" and "Emission standard" mean a requirement established by the commissioner or the administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement which limits the level of opacity, prescribes equipment or fuel specifications, or relates to the operation of maintenance of a source to assure continuous emission reduction.

"Excessive concentration" for the purpose of determining good engineering practice stack heights in fluid modeling studies means a maximum concentration which is greater than an ambient air quality standard, or an applicable remaining prevention of significant deterioration increment, and which is at least 40 percent in excess of the maximum concentration experienced in the absence of downwash, wakes, or eddy effects produced by nearby structures or terrain.

"Existing ambient pollutant concentration" means the concentration of a specific pollutant at any point in a region or subregion either as a measured or calculated value adjusted to reflect the impact of any point source or indirect source which is in construction or for which a permit to construct or operate has been issued.

"Existing indirect source" means any indirect source, the construction or modification of which is commenced prior to October 1, 1974.

"Existing point source" means any point source, the construction or modification of which is commenced prior to July 1, 1979.

"Flare" means an apparatus or contrivance for the burning of flammable gases or vapors at or near the exit of a stack, flue or vent.

"Fuel-burning equipment" means any furnace, boiler, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power.

"Fugitive dust" means solid airborne particulate matter emitted from any source other than through a stack.

"Good engineering practice stack height" means that stack height necessary to ensure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as a result of atmospheric downwash, wakes, or eddy effects which may be created by the source itself, nearby structures, or nearby terrain obstacles and shall not exceed as appropriate:

(i) 30 meters, for a stack uninfluenced by structures or terrain;

(ii) The height of the structure or nearby structure plus one and one half times the lesser dimension (height or width) of the structure or nearby structure; or

(iii) Such height as an owner or operator of a source demonstrates through the use of a field study or fluid model is necessary to ensure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source.

"Incinerator" means any device, apparatus, equipment, or structure used for destroying, reducing, or salvaging by fire any material or substance including, but not limited to, refuse, rubbish, garbage, trade waste, debris or scrap; or facilities for cremating human or animal remains. For further definitions related to incineration, see subdivision 19-508-18(c)(1).

"Indirect source" means any building, structure, facility installation or combination thereof, that has or leads to associated activity as a result of which any air pollutant is or may be emitted. Indirect sources include, but are not limited to: shopping centers, sports complexes; drive-in theaters or restaurants; parking lots or garages; residential, commercial, industrial or institutional buildings or developments; amusement parks and other recreational areas; highways; airports and combinations thereof.

"Indirect source construction permit" means a permit for the construction of an indirect source which is required to insure that the proposed indirect source

will neither prevent nor interfere, either directly or indirectly, with the attainment or maintenance of any applicable ambient air quality standard.

"Lowest Achievable Emission Rate" or "LAER" means the rate of emissions which reflects:

(i) The most stringent emission limitation which is contained in any state implementation plan for such class or category of source, unless such limitation cannot be achieved in practice; or

(ii) The most stringent emission limitation which is achieved in practice by such source or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable standards in Title 40 of the Code of Federal Regulations part 60 and part 61, as from time to time may be amended.

"Maximum pollutant concentration" means the largest concentration of a specific pollutant in a region or subregion either as a measured or calculated value, as determined by the Commissioner, for the twelve months ending on June 30, 1972. The time periods to be averaged for the purpose of establishing maximum pollutant concentrations shall be as follows: for sulfur oxides, particulate matter, and nitrogen dioxide, one year; for carbon monoxide, eight hours; for photochemical oxidants, one hour; for hydrocarbons, three hours.

"Maximum rated capacity" means the design maximum hourly capacity multiplied by 365 days per year and 24 hours per day.

"Mobile source" means a source designed or constructed to move from one location to another during normal operation and includes, but is not limited to, automobiles, buses, trucks, tractors, earth moving equipment, hoists, cranes, mobile power generators, aircraft, locomotives operating on rails, vessels for transportation on water, lawnmowers, and other small home appliances.

"Modify" or "modification" means making any physical change in, change in the method of operation of, or addition to a stationary source which increases the potential emission rate to the ambient air of any air pollutant regulated under these regulations including any not previously emitted to the ambient air; or which increases the ambient impact on any area of the state of pollutants that are emitted to the ambient air by the source and for which dispersion models have been adopted by the commissioner and the administrator, e.g. a reduction in a source's stack height or a change in

a source's location from one plant to another, except as provided in paragraphs (2) and (5) below; or which increases the maximum rated processing or fuel burning capacity of the source, except that:

(1) Routine maintenance, repair and replacement shall not be considered physical changes, and

(2) The following shall not be considered a change in the method of operation, unless previously limited by enforceable permit conditions or other legal action:

(i) An increase in the production rate, if such increase does not exceed the operating design capacity of the affected facility;

(ii) An increase in hours of operation;

(iii) Use of an alternative fuel or raw material if such source is not subject to the requirements of subdivision 19-508-3(k)(2) or (l)(3) and, prior to the date any standard under this part becomes applicable to such source, the affected facility is designed to accommodate such alternative use of fuel or material, or if such source is subject to the requirements of subdivision 19-508-3(k)(2) and prior to January 6, 1975 the affected facility was designed to accommodate such alternative fuel or material, or if such source is subject to the requirements of subdivision 19-508-3(l)(3) and prior to December 22, 1976 the affected facility was capable of accommodating such alternative fuel or material; or if the source is directed to change fuels by reason of an order in effect under section 2(a) and (b) of the energy supply and environmental coordination act of 1974 or any superseding legislation, or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, or by reason of an order or rule under section 125 of the Federal Clean Air Act.

(3) Any change, the sole purpose of which is to bring an existing source into compliance with regulations applicable to such source, shall not be considered a modification.

(4) Any change to accommodate the use of fuel derived from solid waste in an existing fossil fuel fired steam generating unit, the primary purpose of which is to generate electric power, shall not be considered a physical change or a change in the method of operation. This exemption from the definition of modification shall not be applicable to subsection 19-508-3(k).

(5) Relocation of a stationary source within the boundary lines of one or more contiguous or adjacent properties owned by the same person or by persons under common control shall not be considered a physical change.

"Multiple-chamber incinerator" means any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, which consists of two or more refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

"Nearby" as used in the definition of good engineering practice stack height is defined for a specific terrain feature, and means that distance equal to five times the lesser of the height or width dimension of a structure or terrain feature not greater than one-half mile.

"New indirect source" means any direct source, the construction or modification of which is commenced after October 1, 1974.

"New point source" means any point source, the construction or modification of which is commenced after July 1, 1979.

"Non-attainment" shall mean that the quality of the ambient air, as determined by the commissioner, fails to meet any primary or secondary state or national ambient air quality standard for a given pollutant.

"Non-degradation" means that air quality in any region or designated sub-region shall not deteriorate, as defined in this section.

"Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

"Open-burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack or flue.

"Operator" means the person or persons who are legally responsible for the operation of a source of air pollution.

"Organic compounds" means any chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate.

"Particulate matter" means any material, except water in uncombined form, that is or has been airborne and exists as a liquid or a solid at standard conditions.

"Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state, the United States, or political subdivision or agency thereof or any legal successor, representative, agent, or any agency of the foregoing.

"Point source" means any mobile source, process source or stationary source which is subject to emissions rate standards or other emissions standards imposed by these regulations.

"Point source construction permit" means a permit for the construction of a point source which is required to insure

(1) that the proposed point source will not be in violation of any applicable emissions rate standards imposed by these regulations and

(2) that the proposed point source will neither prevent nor interfere directly with the attainment or maintenance of any applicable ambient air quality standards.

"Point source permit to operate" means a permit which is required to insure

(1) that the operation of a point source will be in compliance with any applicable emissions rate standards imposed by these regulations and

(2) that the operations of a point source will neither prevent nor interfere directly with the attainment or maintenance of any applicable ambient air quality standard.

"Potential emissions" means the emission rate, in the absence of air pollution control equipment, of a particular pollutant where the emission rate is calculated using the maximum rated capacity of the source unless the source is subject to enforceable permit conditions which limit the maximum rated capacity by restricting the operating rate or hours of operation of the source, or the type or amount of materials combusted or processed. For the purpose of this definition, air pollution control equipment shall not include control equipment necessary for the normal physical operation of the source. In the event that the federal definition of this term is changed for the review of sources in either attainment or non-attainment areas by federal judicial or administrative action, the commissioner shall use that definition which is valid under federal law.

"Process source" means any operation, process, or activity except

(1) the burning of fuel for indirect heating in which the products of combustion do not come in contact with process material,

(2) the burning of refuse, and

(3) the processing of salvageable material by burning.

"Reconstruct" or "reconstruction" shall generally mean the renovation or re-building of a source in accordance with the provisions of Title 40 of the Code of Federal Regulations part 60.15 (f)(1)-(3), as from time to time may be amended. A reconstructed source shall

be considered a new source for the purposes of these regulations. Use of an alternative fuel or raw material by reason of an order in effect under sections 2(a) and (b) of the Federal Energy Supply and Environmental Coordination Act of 1974, or superseding legislation, or by reason of a Natural Gas Curtailment Plan pursuant to the Federal Power Act, or by reason of an order or rule under section 125 of the Federal Clean Air Act, shall not be considered reconstruction.

"Region" means an Air Quality Control Region, or the Connecticut portion thereof, as defined by the Environmental Protection Agency in its Office of Air Programs publication No. AP-102.

"Residual oil" means any fuel oil of No. 4, No. 5, or No. 6 grades, as defined by Commercial Standard C.S. 12-48.

"Ringelmann chart" means the chart published and described in the U.S. Bureau of Mines Information Circular 8333.

"Resource recovery facility" means any stationary source whose primary function is:

(i) The reclamation of non-combustible and/or combustible fractions of solid waste for sale or re-use, or

(ii) The production of fuel derived from solid waste, or

(iii) The direct combustion of waste for recovery of at least fifty (50) percent of the useful heat in the flue gas or fifty (50) percent of the heat input, whichever is less.

"Soiling index" means a measure of the soiling properties of suspended particles in air determined by drawing a measured volume of air through a known area of Whatman No. 4 filter paper for a measured period of time, expressed as COHs/1,000 linear feet, or equivalent.

"Solid waste" means unwanted or discarded materials, including solid, liquid, semisolid, or contained gaseous material.

"Source" means any property, real or personal, which emits or may emit any air pollutant.

"Stack" means any point of release from a source, which emits solids, liquids, or gases into the ambient air, including a pipe, duct, or flare.

"Standard conditions" means a dry gas temperature of 68° Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute (20° C, 760 mm. Hg.).

"State" as used in the phrase "any other state" means state, region, territory, commonwealth, military reservation, or Indian reservation.

"State implementation plan" means a plan required by section 110 of the Federal Clean Air Act which has been approved by the administrator.

"Stationary source" means any building, structure, facility, equipment, operation, or installation, or combination thereof, which is located on one or more contiguous or adjacent properties and which is owned by or operated by the same person, or by persons under common control, which emits or may emit any air pollutant, and which does not move from location to location during normal operation.

"Submerged fill pipe" means any fill pipe the discharge opening of which is still entirely submerged when the pipe normally used to withdraw liquid from the tank can no longer withdraw any liquid.

"Subregion" means a subdivision of a Region, as determined by the Commissioner.

"Tank" means any vessel for containing liquids or gases.

"Volatile organic compound" means any compound of carbon that has a vapor pressure greater than 0.1 millimeters of mercury at standard conditions excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, methane and ethane.

"Waste water separator" means any tank, box, sump, or other container in which any volatile organic compound floating on or entrained or contained in water entering such tank, box, sump, or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

Sec. 19-508-2. Registration requirements for existing stationary sources of air pollutants

(a) Any person who, on June 30, 1979, owns or operates a stationary source of air pollutants, as specified in subdivision 19-508-3(a)(1), shall submit to the Commissioner a stationary source registration statement and reports to be completed in accordance with instructions and on forms furnished by the Commissioner. This requirement shall not apply to any stationary source which was previously granted a permit pursuant to section 19-508-3, or for which a decision is pending on a permit application subject to section 19-508-3, or for which the owner or operator previously failed to apply for and receive a valid permit pursuant to section 19-508-3, or which is already registered with the department. The owner or operator of a stationary source subject to the requirements of section 19-508-3 prior to July 1, 1979 who failed to apply for and receive a valid permit pursuant to section 19-508-3 shall be sub-

ject to the requirements of section 19-508-3 in effect at the time of application for a permit.

(b) Unless the Commissioner shall otherwise determine, two or more stationary sources of a similar or identical nature in the same plant or premises shall be considered a single aggregate source for registration purposes. Two or more dissimilar stationary sources in the same plant or premises shall be considered separate sources for registration purposes.

(c) Any person who has registered a stationary source pursuant to the provisions of subsection (a) shall inform the Commissioner on forms supplied by him of any change in location of the source, or any alteration of the source which changes the amount of any air pollutant emitted by such source, or the installation of an air-cleaning device thereon, or permanent cessation in operation of the source. Such information shall be submitted at least 120 days prior to the completion of such change or alteration or cessation of operation. The information furnished the Commissioner shall be sufficient to enable him to determine the manner in which the change will affect emissions from such source.

(d) The holder of a registration certificate may not transfer it without prior written notification to the commissioner. Each new owner or operator or holder of the registration certificate shall be responsible for complying with all applicable regulations and with the conditions of the registration.

(e) Reporting forms and instructions shall be furnished by the Commissioner for preparation of the registration statements and reports. The Commissioner shall make these forms as clear, easily understood, and concise as possible.

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 stationary sources:

(i) Equipment used 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 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 gallons or more.

(iii) Equipment used in manufacturing process, other than as set forth in paragraphs (a)(1)(i), (ii), (iv), (v), (vi), (vii), (viii), or (ix) in which the combined weight of all materials introduced, excluding air and water, is 2,000 pounds or more in any one hour or 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 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 gallons or more.

(v) Fuel-burning equipment in which the maximum heat input guaranteed by the manufacturer of such equipment is five million 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 or less, unless the maximum heat input guaranteed by the manufacturer of such equipment is less than 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) Any other stationary source, including any process, operation, equipment, or activity, except those sources which are below the thresholds established in paragraphs (a)(1)(i) through (v), whose total actual emissions of any air pollutant or combination of air pollutants is greater than eight (8) 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 air pollutant would be less than two (2) pounds per day.

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

(i) Any 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 has been delegated authority to enforce by the administrator.

(ii) Any stationary source with potential emissions of 100 tons per year or more.

(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. 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 subdivisions (b)(1) and (g)(6) shall make application for such source on forms furnished by the 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 may require.

(b)(3) Unless the 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 or more dissimilar stationary sources are constructed or modified, a separate permit is required for each source.

(c) Standards for granting construction permits. The 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:

(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 and National Ambient Air Quality Standards in Connecticut or in any other state.

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

(a) The peak emissions from an operation over the appropriate time period for an applicable state or national ambient air quality standard shall be used when such time period is shorter than:

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

(2) The operating time for a continuous process.

(b) The emissions from an operation shall be averaged over the appropriate time period for an applicable state or national ambient air quality standard when such time period is longer than:

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

(2) 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 has been delegated authority to enforce by the administrator.

(c)(4) The new or modified stationary source contains, as required by the 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

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

(c)(5) The new or modified stationary source will operate without causing or contributing to air pollution in any other state in violation of any 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 fees in accordance with a permit fee schedule to be incorporated in regulations adopted by the 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; 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 ($\mu\text{g}/\text{m}^3$) |
|-----------------------|--|
| 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, the amount of ambient impact that will be considered significant or that will exacerbate a violation is:

(i)(a) For a stationary source 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 ($\mu\text{g}/\text{m}^3$) |
|--------------------|---|
| 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 stationary source of the following pollutants which is subject to permit requirements:

| Pollutant | Ambient impact ($\mu\text{g}/\text{m}^3$) |
|--------------------|---|
| 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 commissioner 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 date 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) Concentrations of attainment pollutants attributable to the increase in emission 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 reason 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 stationary source or modification has demonstrated 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 stationary source must demonstrate, after public notice and opportunity for public hearing, that a greater height is necessary to prevent excessive concentrations of any pollutant in the immediate vicinity of the stationary source.

(ii) In no event may the 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 shall be based upon the applicable air quality models, data bases, and other requirements acceptable to the 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 shall make use of the EIS wherever reasonably possible in order to avoid needless duplication of information gathering and analysis.

(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 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 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 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 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 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 received all required information.

(d)(6) A permit to construct shall be posted for easy access at the site of construction throughout the period of such construction and shall be effective for such period as is specified by the commissioner but not to exceed five 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 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 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 provisions 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 course 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 point source subject to subdivisions (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 any applicable state and 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 operator's expense, in accordance with methods prescribed by the 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.

(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 requirement 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 therefore within thirty (30) days after receipt of an acceptable performance test report.

(g)(4) Operating permits shall be posted for easy access at the site of operation and shall be renewed every five 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 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 changes 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 days prior to the start-up of operations.

(g)(8) If, following issuance of a notice by the 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 subdivision (g)(1) and (3)(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 hearing and issuance of the decision of the Commissioner.

(j) **Public information and hearing procedures.** (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 notices required.

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

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

(ii) The opportunity for public comment on any permit application for a stationary source subject to the provisions of subdivision (b)(1) or (g)(6) or paragraph (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) or (g)(6).

(j)(3) While a decision is pending on a permit application for sources 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 permit application, a written objection setting forth the basis thereof in detail with the Department of Environmental Protection and opposing the approval of the permit in its entirety or requesting that specific conditions be attached to it. Objection may be accompanied by a request for a public hearing.

(j)(4) Following receipt of a request for a hearing by 25 or more people or by an association representing 25 or more members according to subdivision (j)(3) or upon his own initiative, the Commissioner may, prior to the issuance of the permit, hold a public hearing. Following the close of the hearing, the Commissioner shall make a decision based on all available evidence, including the record of the hearing and the recommendation of the hearing examiner, 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 day period from the date of the notice required by (j)(5)(i) for submission of public comment.

(k) **Reserved.**

(l) **Non-attainment areas.**

(l)(1)(i) In addition to demonstrating compliance with the requirements of sub-

sections (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 emissions of an individual non-attainment pollutant of 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, must also demonstrate that such new stationary source or modification will comply with the requirements of subdivision (1)(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 emissions of an individual non-attainment pollutant of 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 for that particular pollutant is 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 for such pollutant in an adjacent non-attainment area must demonstrate that the proposed source or modification will comply with the requirements of subdivision (1)(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 of allowable emissions, the commissioner shall take into account all accumulated potential emissions occurring at the stationary source since July 1, 1979 or since the date of the last permit approval for the stationary source under subsection (l), 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 (l) 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), which ever time is most recent.

(iv) The requirements of subdivision (l)(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 (41 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 (l)(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 (l)(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 particulate matter, lead, nitrogen dioxide, or sulfur dioxide and would produce a significant net environmental improvement to the satisfaction of the Commissioner.

(vii) Notwithstanding the provisions of paragraphs (i) and (ii) above, the requirements of paragraphs (l)(3)(ii) and (iii) shall not apply to any non-attainment pollutant for which the commissioner has submitted an approved state implementation plan which demonstrates attainment by the deadlines 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 (l)(3).

(l)(2) Analysis of alternatives.

(i) Prior to the issuance of any permit for construction of a new stationary source or modification subject to the requirements of subdivision (l)(3) in an area where there is a violation of a pri-

mary national or state 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.

(l)(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 (LAER) for each pollutant which is emitted in excess of the emission threshold established in paragraphs (l)(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 provisions 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 (l)(3) are required. The offsets must be such that, by the time the proposed source is to commence operation, total allowable emission from existing sources in the region, from new or modified stationary sources under construction which are not subject to subdivision (l)(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 national or state 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 stationary source is to commence operation.

(ii)(d) The state or any political subdivision thereof may commit to reducing emissions from existing sources to sufficiently outweigh 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 (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 (l)(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, emission offsets are not required.

(ii)(h) The offsets must be transacted on a pounds per hour actual basis. The

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.

(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 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 operations 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 purposes of this paragraph 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 that the source has not ceased operations, as defined above. Upon such request the 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 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 (l)(3) which would cause or exacerbate a violation of a state 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 $\mu\text{g}/\text{m}^3$ (24-hour average) for particulates and by at least 550 $\mu\text{g}/\text{m}^3$ (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 (l)(3) shall be exempt from the requirements of paragraphs (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 provision of subdivision (l)(3) must demonstrate that all stationary sources owned, operated or controlled by him in the state 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 (l)(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 (l)(3) shall comply with

the public participation requirements set forth in paragraph (k)(2)(vii).

(vi) Source information. The owner or operator of a proposed stationary source or modification subject to the provisions of subdivision (l)(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).

Sec. 19-508-4 Source monitoring, record keeping, reporting and authorization of inspection of air pollution sources

(a) Source Monitoring. (a)(1) The owner or operator of any air pollution source shall install, use, and maintain monitoring equipment, establish and maintain records, and make periodic reports as prescribed herein by the Commissioner.

(a)(2) In addition to the requirements of subsection (b) and (c), the commissioner may require the owner or operator of any source to monitor continuously air pollutant emissions where he determines that equipment and methods for such monitoring are reasonably available. The commissioner may determine that continuous monitoring of air pollutant emissions is not technologically feasible. In such cases, the commissioner may require monitoring or intermittent stack testing of such source in whatever reasonable manner he determines to be necessary to demonstrate the source is in compliance with applicable regulations.

(a)(3) Nothing in subsections (a)(1) and (a)(2) shall be construed to require installation or use of monitoring devices or methods on any source for the purpose of determining compliance with applicable regulations when such source can be demonstrated, to the satisfaction of the commissioner, to be physically incapable of violating such regulations.

(b) Smoke and Opacity Monitoring. (b)(1) Effective January 1, 1976 the owner or operator of any of the following sources shall install, maintain, and operate a smoke and opacity monitor approved in accordance with subsection (d)(1):

(i) Fuel-burning equipment burning coal;

(ii) Fuel-burning equipment burning liquid or solid fuels having a maximum rated heat input of five million (5,000,000) BTU per hour or more;

(iii) Incinerators having a maximum rated input in excess of two thousand (2,000) pounds per hour;

(iv) A process source that will emit in excess of twenty-five (25) pounds per hour of particulate matter, as determined after the application of control equip-

ment when operated at maximum rated capacity.

(v) Fuel-burning equipment burning no. 6 residual oil.

(b)(2) The provisions of subsection (b)(1)(i) shall not apply to:

(i) Any coal burning space heater which was installed in any single family home on or before May 1, 1975 provided only anthracite coal with a sulfur content of less than 0.75% by weight (dry basis) is used for fuel.

(ii) Any coal burning equipment in a commercial establishment in regular operation on or before May 1, 1975 provided only anthracite coal with a sulfur content of less than 0.75% by weight (dry basis) is used for fuel and that less than seventy-five (75) tons per year is consumed.

(iii) Any coal burning equipment used primarily for educational or historical demonstrations or exhibits. These sources shall include, but are not limited to, blacksmiths' forges, steam locomotives, and steamboats provided, however, that said sources do not burn fuel which contains sulfur in excess of one and one-half percent (1.5%) by weight (dry basis).

(b)(3) The provisions of subsections (b)(1)(ii) and (b)(1)(v) shall not apply to:

(i) Standby fuel burning equipment which is used only to provide emergency heat or power and which operates not more than a total of one hundred sixty-eight (168) hours in any calendar year. The commissioner may request such proof and reports of operations as he deems necessary.

(ii) Gas turbines equipped with any smoke control apparatus which, in the commissioner's judgment, is adequate to prevent visible discharge of an opacity greater than that designated as no. 1 on the Ringelmann chart, or 20% opacity.

(b)(4) The owner or operator of any source listed in subsection (b)(1) who on or before September 1, 1974 has installed and continues to properly operate a smoke and opacity detector and recorder not approved by the commissioner shall not be required to install a smoke and opacity monitor approved by the commissioner until January 1, 1985. The commissioner may request such proof of date of purchase as he deems necessary.

(b)(5) The commissioner may revoke or modify an exemption under subsections (a)(3), (b)(2)(ii) and (iii), (b)(3) and (b)(4) if it is determined that repeated violations of subsection 19-508-18(a) or violations of any specific applicable conditions in these exemptions have occurred or if it is determined that operation of the source will prevent or interfere with the attainment or maintenance of appli-

cable ambient air quality standards, create a health hazard or create a nuisance.

(c) **Record Keeping and Reporting.**

(1) The commissioner may require the submission of any records or reports of monitoring data and other information as he deems necessary to fulfill the purpose and policies contained in these regulations. Such record keeping and reporting may be required of any point source or any indirect source of air pollution. Records and reports required by the Commissioner concerning air pollutants, fuels, and operational information shall be recorded, compiled, and submitted on forms furnished or prescribed by the Commissioner. And shall be signed or verified in writing by a ranking corporate officer or managing official with offices located in the state. Such signature shall constitute personal affirmation that such officer has exercised due diligence in verifying the accuracy of the record or report and that, to the best of his knowledge and belief, the record or report is true complete, and complies fully with applicable state requirements. Such signature shall subject the responsible official to liability for false or misleading statements.

(c)(2) Any monitoring data required of any source under subsection (a) or (b) of this section shall be kept current and in a form allowing easy inspection and shall be retained by the source for a period of three years.

(c)(3) The owner or operator of any source described in subsection (b)(1) with the exception of fuel burning equipment having a maximum gross heat input capacity of less than two hundred fifty million (250,000,000) BTUs per hour, shall submit to the commissioner on forms furnished or prescribed by him a report summarizing opacity monitoring data for the preceding three months. Such reports shall be due not later than thirty (30) days following the end of each calendar quarter.

(d) **Approved Monitors.** (d)(1) The commissioner shall, from time to time, publish the design, performance, and installation specifications for an approvable smoke and opacity monitor. No smoke and opacity monitor shall be considered approved until the manufacturer has submitted evidence that the monitor meets all specifications required by the commissioner and until an independent laboratory verifies that a randomly selected instrument or instruments representative of the instrument for which approval is sought, meets all specifications required by the commissioner. The commissioner reserves the right to disapprove any monitor and to revoke his previous ap-

proval if he believes that the monitor will not, in fact, meet his specifications.

(e) **Operation.** (e)(1) Equipment as may be required pursuant to this section shall be maintained in operation at any time that the source is in operation.

(e)(2) Except for necessary maintenance, no person shall deliberately shut down any monitoring device or method required under these regulations while the source being monitored is in operation or is emitting air pollutants.

(e)(3) In the case of deliberate shut down or of a breakdown or failure of any monitoring device or method during which time the source will be in operation, all reasonable measures shall be taken to assure resumption of monitoring as soon as possible. In the event such shut down of monitoring equipment is expected, or may reasonably be expected, to continue for longer than 72 hours, and if the source is to be operated at any time during that period, the Commissioner shall be promptly notified in writing. Such notification shall specify the steps being taken to restore monitoring, the expected duration of the monitoring shut down, and the length of time that the source will be in operation during the shut down.

(e)(4) Failure of any monitoring equipment in no way relieves the owner or operator of any source from the responsibility to comply with applicable air pollutant emission regulations or standards.

(e)(5) It shall be a violation of these regulations to adjust or alter any monitoring device or method so as to falsify its readings or results.

(f) **Source Inspection.** (f)(1) The Commissioner or his designated agent, upon presentation of his credentials may:

(i) Enter at all reasonable times upon any public or private property, except a private residence, for the purpose of inspection and investigation to ascertain possible violations of these regulations, in accordance with constitutional limitations;

(ii) At reasonable times have access to records and may obtain copies thereof; and

(iii) At any reasonable time inspect any monitoring equipment or method and sample any emissions.

Sec. 19-508-5. Methods of sampling emission testing, and reporting

(a) All sampling, emission testing, and reporting shall be done in accordance with procedures prescribed by the Commissioner from time to time by regulation.

(b) **Sampling and emission testing methods.** (1) Analysis for the sulfur content of liquid fuels shall be done according to the American Society for Testing and Materials methods D 129 or D 1552.

(2) Analysis for sulfur content of solid fuel shall be done according to the American Society for Testing and Materials methods:

(i) Mechanical sampling by method D 2234.

(ii) Sample preparation by method D 2013.

(iii) Sample analysis by method D 3176 or D 3180.

(3) The emission testing method for sulfur dioxide emissions from stationary sources shall be that specified as Method 6 in title 40 code of federal regulations part 60.

(4) The emission testing method for sulfur oxides emissions from sulfuric acid plants, and from any other source as the Commissioner shall determine by regulation, shall be that specified as Method 8 in title 40 code of federal regulations part 60.

(5) The emission testing method for particulate emissions from all stationary sources shall be that specified as Method 5 in title 40 code of federal regulations part 60.

(6) Emission tests for organic compound emissions shall be conducted in a manner approved by the commissioner.

(7) The emission testing method for nitrogen oxide emissions from stationary sources shall be that specified as Method 7 in title 40 code of federal regulations part 60.

(c) All emissions tests undertaken to comply with this section shall be made under the direction of persons qualified by training or experience in the field of sampling emissions from air pollution sources.

(d) Sampling and emission testing methods as specified in subsection (b) may be modified or adjusted with the approval of the Commissioner as required by the specific sampling conditions or needs and in accordance with good engineering practice, judgment and experience.

(e)(1) The owner or operator of a source of air pollution which would emit 100 tons per year or more of air pollutants if operated without the use of air pollution control equipment shall be required to carry out emission tests as prescribed by the commissioner. Such test or tests shall be conducted at such intervals as the commissioner may specify for an individual source. As used in this subsection "air pollution control equipment" includes but is not limited to: baghouses; cyclone type separators; electrostatic pre-

cipitators; fume incinerators; scrubbers and combinations thereof.

(e)(2) In addition to the emission tests required in subsection (e)(1) the commissioner may require the owner or operator of any air pollution source to conduct emission tests of emissions. Tests required under the provisions of subsection (e)(1) and this subsection shall be conducted in a manner satisfactory to the Commissioner and shall be conducted at the expense of the owner or operator of the pollution source being tested, and the commissioner or his representative shall be entitled to observe the tests, including initial sampling, subsequent laboratory analysis, and other related procedures.

Sec. 19-508-6. Air Pollution emergency episode procedures

(a) When air pollutant concentrations monitored by the Department of Environmental Protection indicate that short term high pollutant levels may be expected which are likely to have an adverse impact on human health, the Commissioner shall prepare for the declaration of an appropriate air pollution emergency episode.

(b) Industrial Emergency episode criteria. In determining that any stage of an air pollution industrial emergency episode exists, the Commissioner shall be guided by the following criteria:

(b)(1) First Stage: Industrial Air Pollution Alert. An air pollution industrial alert shall be declared whenever the concentration of one or more of the pollutants listed below reaches the described level at any monitoring site operated by the Department of Environmental Protection: SO_2 : 800 $\mu\text{g}/\text{m}^3$ (0.3 ppm), 24-hour average; Particulates: 3.0 COHs or 375 $\mu\text{g}/\text{m}^3$, 24-hour average; SO , and particulates combined: product of SO_2 ppm, 24-hour average, and COHs equal to 0.8; or product of SO_2 $\mu\text{g}/\text{m}^3$, 24-hour average, and particulate $\mu\text{g}/\text{m}^3$, 24-hour average equal to 65×10^3 ;

NO_2 : 1130 $\mu\text{g}/\text{m}^3$ (0.6 ppm), 1-hour average; 282 $\mu\text{g}/\text{m}^3$ (0.15 ppm), 24-hour average; and meteorological conditions are such that the pollutant concentrations can be expected, unless control actions are taken, to remain at the above levels or increase over a period of twelve (12) or more hours or such other length of time determined by the Commissioner to constitute a threat to the safety and welfare of people.

(b)(2) Second Stage: Industrial Air Pollution Warning. An industrial air pollution warning shall be declared whenever one of the following levels is reached at any monitoring site operated by the

Department of Environmental Protection: SO_2 : 1,600 $\mu\text{g}/\text{m}^3$ (0.6 ppm), 24-hour average;

Particulates: 5.0 COHs or 625 $\mu\text{g}/\text{m}^3$, 24-hour average;

SO , and particulates combined: product of SO_2 ppm, 24-hour average and COHs equal to 0.8; or product of SO_2 $\mu\text{g}/\text{m}^3$, 24-hour average and particulate $\mu\text{g}/\text{m}^3$, 24-hour average to 261×10^3 ;

NO_2 : 2,260 $\mu\text{g}/\text{m}^3$ (1.2 ppm), 1-hour average; 565 $\mu\text{g}/\text{m}^3$ (0.3 ppm), 24-hour average; and meteorological conditions are such that pollutant concentrations can be expected, unless control actions are taken, to remain at the above levels or increase over a period of twelve (12) or more hours or such other length of time determined by the Commissioner to constitute a threat to the safety and welfare of people.

(b)(3) Third Stage: Industrial Air Pollution Emergency. An industrial air pollution emergency shall be declared whenever evidence shows that air quality has degraded to a level deemed unacceptable by the Commissioner under any circumstances and requiring the most stringent control actions. An industrial air pollution emergency shall be declared when any one of the following levels is reached at any monitoring site operated by the Department of Environmental Protection.

SO_2 : 2,100 $\mu\text{g}/\text{m}^3$ (0.8 ppm), 24-hour average;

Particulates: 7.0 COHs or 875 $\mu\text{g}/\text{m}^3$, 24-hour average;

SO , and particulates combined: product of SO_2 ppm, 24-hour average and COHs equal to 1.2; or product of SO_2 $\mu\text{g}/\text{m}^3$, 24-hour average and particulate $\mu\text{g}/\text{m}^3$, 24-hour average equal to 393×10^3 ;

NO_2 : 3,000 $\mu\text{g}/\text{m}^3$ (1.6 ppm), 1-hour average; 750 $\mu\text{g}/\text{m}^3$ (0.4 ppm), 24-hour average; and meteorological conditions are such that this condition can be expected to continue for twelve (12) or more hours or such other length of time determined by the Commissioner to justify an industrial air pollution emergency.

(b)(4) Termination. Once any stage of an industrial air pollution emergency episode has been declared, it shall remain in effect until the Commissioner announces its termination.

(c) Plans of action at each stage of an industrial air pollution emergency episode.

(c)(1) First Stage: Industrial Air Pollution Alert. Whenever the Commissioner declares an industrial air pollution alert, persons responsible for the operation of a source of air pollution shall as rapidly as possible take all required steps for pollution reduction as described in table

1. Persons responsible for the operation of a source of air pollution which emits, or has the capacity to emit, more than 100 tons of pollutants per year, as determined before the application of control equipment, shall put into effect the preplanned abatement strategy for an industrial air pollution alert.

Table I

Steps for Air Pollution Reduction at an Industrial Air Pollution Alert

1. There shall be no open burning, except as authorized by the Commissioner in writing to safeguard public health and safety.
2. The use of incinerators for the disposal for any form of solid waste shall be limited to the hours between 12 noon and 4 p.m.
3. Boiler lancing or soot blowing required for fuel-burning equipment shall be performed only between the hours of 12 noon and 4 p.m.
4. Fuels having low ash and sulfur content shall be used.
5. Electric power generation shall, whenever possible, be diverted to facilities outside the alert area.
6. Steam load demands shall be reduced.
7. Manufacturing operations shall be curtailed, postponed, or deferred.
8. Trade waste disposal operations which emit solid particles, gas vapors or malodorous substances shall be deferred.
9. Heat load demands for processing shall be reduced.

(e)(2) Second Stage: Industrial Air Pollution Warning. Whenever the Commissioner declares an industrial air pollution warning, persons responsible for the operation of a source of air pollution shall as rapidly as possible take all required steps for pollution reduction as described in table II. Persons responsible for the operation of a source of air pollution which emits, or has the capacity to emit, more than 100 tons of pollutants per year, as determined before the application of control equipment, shall put into effect the preplanned abatement strategy for an air pollution industrial warning.

Table II

Steps for Air Pollution Reduction at an Air Pollution Industrial Warning

1. There shall be no open burning except as authorized by the Commissioner in writing to safeguard public health and safety.
2. The use of incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited.

3. Boiler lancing or soot blowing required for fuel-burning equipment shall be performed only between the hours of 12 noon and 4 p.m.

4. All unessential operation of motor vehicles shall be terminated.

5. Electric power generation shall, to the maximum extent possible, be diverted to facilities outside the warning area.

6. Steam load demands shall be reduced to the maximum extent possible.

7. Manufacturing operations shall be ceased, curtailed, postponed, or deferred.

8. Trade waste disposal operations which emit solid particles, gas vapors, or malodorous substances shall be deferred.

9. Heat load demands for processing shall be reduced to the maximum extent possible.

(c)(3) Third Stage: Industrial Air Pollution Emergency. Whenever the Commissioner declares an industrial air pollution emergency, persons responsible for the operation of a source of air pollution shall immediately take all required steps for pollution reduction as described in table III, persons responsible for the operation of a source of air pollution which emits, or has the capacity to emit, more than 100 tons of pollutants per year, as determined before the application of control equipment, shall put into effect the preplanned abatement strategy for an industrial air pollution emergency.

Table III

Steps for Air Pollution Reduction at an Industrial Air Pollution Emergency

1. There shall be no open burning, except as authorized by the Commissioner in writing to safeguard public health and safety.
2. The use of incinerators for the disposal of any form of solid or liquid waste shall be prohibited.
3. All enterprises and activities described below shall immediately cease operations:
 - A. Mining and quarrying.
 - B. All construction work except that essential to secure sites against endangering life and limb.
 - C. All manufacturing establishments except those involved in combatting the air pollution emergency in accordance with preplanned abatement strategies.
 - D. All wholesale trade establishments, i.e., places of business primarily engaged in selling merchandise to retailers, or industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies, except those

engaged in the distribution of drugs, surgical supplies and food.

E. All state and local government offices except those necessary for public safety and welfare, including any involved in combatting the industrial air pollution emergency.

F. All retail trade establishments except pharmacies, surgical supply distributors, and stores primarily engaged in the sale of food.

G. Banks, credit agencies other than banks, securities and commodities brokers, dealers, exchanges and services; office of insurance carriers, agents and brokers, real estate offices.

H. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments; photographic studios; beauty shops, barber shops, shoe repair shops.

I. Advertising offices; consumer credit reporting, adjustment and collection agencies; duplicating, addressing, blue-printing; photocopying, mailing, mailing list and stenographic services, equipment rental services, commercial testing laboratories.

J. Automobile repair and servicing and all parking and garage operations.

K. All offices, clerical and professional service enterprises including law and accounting offices but excluding doctors' offices and medical laboratories.

L. All schools of any kind.

M. Establishments rendering amusement and recreational services including motion picture theaters.

4. All commercial, manufacturing or service establishments not shut down by this regulation shall institute such actions as will result in maximum reduction of air pollutants from their activities by ceasing, curtailing, or postponing operations which emit air pollutants to the extent possible without causing injury to persons or damage to equipment.

5. The use of motor vehicles of any kind shall cease except in emergencies with the express approval of local or state police.

(d)(1) Preplanned abatement strategies. Any person responsible for the operation of a source of air pollutants that emits, or has the capacity to emit, 100 tons or more of pollutants a year as determined before the application of control equipment, shall prepare a standby plan for reducing the emission of air pollutants during each of the three stages of an industrial air pollution emergency episode, i.e., Industrial Alert; Industrial Warning; Industrial Emergency. Standby plans shall be designed to reduce or eliminate emission of air pollutants in accordance

with the requirements set forth in Tables I - III.

(d)(2) Any person responsible for the operation of a source of air pollutants not set forth under subdivision (d)(1) shall, when requested by the Commissioner, prepare standby plans for reducing the emissions of air pollutants during each of the four stages of an industrial air pollution emergency episode. Such standby plans shall be designed to reduce or eliminate emissions of air pollutants in accordance with the requirements set forth in Tables I-III.

(d)(3) All standby plans shall be in writing, identify the source of air pollutants, contain a commitment as to the amount of reduction to be achieved, and set forth in sufficient detail for the Commissioner to evaluate the manner in which the reduction will be accomplished.

(d)(4) During any Industrial Air Pollution Emergency Episode, standby plans shall be made available on the premises to persons authorized to enforce these regulations.

(d)(5) The standby plans required by subdivision (d)(1) shall be submitted to the Commissioner by August 1, 1972. Standby plans requested by the Commissioner under subdivision (d)(2) shall be submitted within 90 days of the date of receipt of the request. When in the judgment of the Commissioner a standby plan is not adequate to carry out the objectives set forth in Tables I-III, he may reject the plan and require that it be resubmitted in an acceptable form within 30 days from the date of rejection.

(e) **Declaration of an industrial air pollution emergency episode in aid of sister state.** Notwithstanding that the concentration of pollutants in the air over the State of Connecticut does not meet the criteria set forth in subdivisions (b)(1) to (b)(3) for any stage of an industrial air pollution emergency episode the Commissioner may nevertheless declare such emergency episode to be in effect at the stage level he deems appropriate when it becomes necessary to reduce the level of air pollutants in Connecticut to avoid intensifying deteriorated air conditions in one or more areas outside the state that are endangering the health and welfare of residents in those areas.

(f) **Emissions from a limited number of sources.** Whenever the Commissioner determines that a specified emergency criteria level set forth in subdivisions (b)(1) to (b)(3) has been reached in a limited area, he may restrict the response to such emergency in the manner he deems appropriate, including notification to those sources contributing or believed to be contributing to the emergency levels

that the abatement actions of Tables I, II, or III, as the case may be, are required and shall be put into effect until the pollutant levels are reduced below the criteria levels.

(g) **Automotive emergency episode criteria.** In determining any stage of an automotive air pollution emergency episode to exist, the commissioner shall be guided by the following criteria:

(g)(1) **First Stage: Automotive Air Pollution Alert.** An automotive air pollution alert shall be declared whenever the concentration of one or more of the pollutants listed below reaches the described level at any monitoring site operated by the Department of Environmental Protection: CO: 17 $\mu\text{g}/\text{m}^3$ (15 ppm), 8-hour average;

Oxidant (O_3): 400 $\mu\text{g}/\text{m}^3$ (0.2 ppm), 1-hour average; and meteorological conditions are such that the pollutant concentrations can be expected, unless control actions are taken, to recur the next calendar day.

(g)(2) **Second Stage: Automotive Air Pollution Warning.** An automotive air pollution warning shall be declared whenever evidence shows that air quality is continuing to degrade from the automotive air pollution advisory and alert one of the following levels is reached at any monitoring site operated by the Department of Environmental Protection: CO: 34 $\mu\text{g}/\text{m}^3$ (30 ppm), 8-hour average;

Oxidant (O_3): 800 $\mu\text{g}/\text{m}^3$ (0.4 ppm), 1-hour average; and meteorological conditions are such that pollutant concentrations can be expected, unless control actions are taken, to recur the next calendar day.

(g)(3) **Third Stage: Automotive Air Pollution Emergency.** An automotive air pollution emergency shall be declared whenever evidence shows that air quality has degraded to a level deemed unacceptable by the commissioner under any circumstances and requiring the most stringent control actions. An automotive air pollution emergency will automatically be declared when any one of the following levels is reached at any monitoring site operated by the Department of Environmental Protection: CO: 46 $\mu\text{g}/\text{m}^3$ (40 ppm), 8-hour average;

Oxidant (O_3): 1,000 $\mu\text{g}/\text{m}^3$ (0.5 ppm), 1-hour average; and meteorological conditions are such that this condition can be expected to recur the next calendar day.

(g)(4) **Termination.** Once any stage of an automotive air pollution emergency episode has been declared, it shall remain in effect until the commissioner announces its termination.

(h) **Plans of action at each stage of emergency.**

(h)(1) **First Stage: Automotive Air Pollution Alert.** Whenever the commissioner declares an automotive air pollution alert, all unessential operation of motor vehicles shall be terminated.

(h)(2) **Second Stage: Automotive Air Pollution Warning.** Whenever the commissioner declares an automotive air pollution warning, persons operating motor vehicles must reduce operations by the use of car pools and increased use of public transportation and elimination of unnecessary operation.

(h)(3) **Third Stage: Automotive Air Pollution Emergency.** Whenever the commissioner declares an automotive air pollution emergency, all private non-commercial motor vehicle operations shall cease except where absolutely essential for necessities of life including medical treatment, and commercial vehicle operations shall be reduced to the absolute minimum necessary to transport necessities and provide for public safety and welfare.

Sec. 19-508-7. Malfunction of control equipment; reporting

(a) Equipment or methods which control air pollutant emissions from a source and which are necessary to the operation of such source in compliance with applicable emission standards and regulations shall be maintained in operation at all times that the source is in operation or is emitting air pollutants.

(b) No person shall deliberately shut down any such control equipment or method while the source is in operation except for such necessary maintenance as cannot be accomplished when the source itself is not in operation and is not emitting air pollutants.

(c) In the case of breakdown, failure, or deliberate shutdown of any control equipment or method during which time the source will be in operation, all reasonable measures shall be taken to assure resumption of control as soon as possible. Due diligence shall be exercised to minimize emissions while the control equipment or method is inoperative. In the event such shutdown of control equipment or methods is expected or may reasonably be expected to continue for longer than 72 hours, and if the source is to be operated at any time during that period, the Commissioner shall be notified promptly. Such notice shall include, but is not limited to, the following:

(1) Identification of the specific facility taken out, or to be taken out, of service as well as its location and, where applicable, registration or permit number;

(2) The expected length of time that the air pollution control equipment will be out of service;

(3) The nature and quantity of emissions of air pollutants likely to be emitted during the shutdown period;

(4) Measures such as the use of off-shift labor and equipment that will be taken to minimize the length of the shutdown period;

(5) The reasons that it would be impossible or impractical to shut down the source operation during the maintenance period.

(d) The Commissioner may attach conditions to the operation of the source during the period of shutdown or breakdown.

Sec. 19-508-8. Compliance plans and schedules

(a) All new sources must comply with all regulations as of startup of operations.

(b)(1) Existing sources must comply with subsections 19-508-17(b), 19-508-18(b), 19-508-18(d), and 19-508-23(a) by June 1, 1972.

(b)(2) Existing sources must comply with subsections 19-508-18(a), 19-508-18(c), 19-508-18(e), 19-508-18(f), 19-508-19(b) through (f) inclusive, 19-508-20(a) through (e) inclusive, subdivisions 19-508-20(f)(1), 19-508-20(f)(2), 19-508-20(f)(5), 19-508-20(f)(6), 19-508-20(f)(7), 19-508-20(f)(8), 19-508-20(f)(9), 19-508-20(f)(10), 19-508-21(a) and (b), and 19-508-22 (a) through (c) inclusive as expeditiously as practicable but not later than June 1, 1973.

(b)(3) Sources subject to subdivision 19-508-20(f)(4) must submit to the Commissioner a proposed compliance plan and schedule by November 1, 1972, which plan must provide for compliance with appropriate regulations as expeditiously as practicable but not later than April 1, 1975. Sources that do not submit such a plan must be in compliance by June 1, 1973.

(b)(4) Fuel merchants must comply with subdivision 19-508-19(a)(2) by September 1, 1972, and fuel users must comply with the section by April 1, 1973.

(b)(5) Paint merchants must comply with subdivision 19-508-20(g)(1) by January 1, 1974, and paint users must comply with section 19-508-20(g)(2) and (g)(3) by January 1, 1975.

(b)(6) The owner or operator of a source subject to the requirements of subsections 19-508-20(l) through (r) must comply by October 1, 1980.

(c)(1) Any existing source required to comply with subdivision (b)(2) which is unable to comply by the date specified

therein must submit to the Commissioner a proposed compliance plan and schedule by October 1, 1972, which plan must provide for compliance with appropriate regulations as expeditiously as practicable but not later than April 1, 1974.

(c)(2) The owner or operator of any source which cannot comply with the requirements of subdivision (b)(6) shall submit a compliance plan by July 1, 1980 which provides for compliance as expeditiously as practicable but not later than July 1, 1982.

(c)(3) Notwithstanding the provisions of subdivision (c)(2) the commissioner may accept a compliance plan with a final date of compliance no later than July 1, 1985 if he determines that the plan calls for new or innovative technology such as the use of low solvent coatings.

(d) Compliance plans and schedules pursuant to subsection (b)(3) and (c) must:

(d)(1) be submitted on forms furnished or prescribed by the Commissioner;

(d)(2) set forth a proposed date for compliance with each applicable regulation; and

(d)(3) specify in detail the manner in which compliance will be achieved. Said schedule shall also include dates for achievement of increments of progress toward compliance and provide for the source to verify completion of each increment to the Commissioner as it is achieved.

(e) The Commissioner may approve, approve with conditions, or disapprove a proposed compliance plan and schedule. The Commissioner shall approve such plan and schedule if he determines that:

(e)(1) The source cannot comply with the regulation at any earlier time, even using the best available control technology, or cannot install such technology any earlier;

(e)(2) Adherence to such plan and schedule will not jeopardize the attainment or maintenance of a national standard by the required time;

(e)(3) The plan and schedule provide for the earliest possible compliance by the source; and

(e)(4) The plan and schedule provide for interim control measures to be taken before the compliance date.

(f) If the Commissioner rejects a proposed plan and schedule or portion thereof, then the source or sources involved must be in compliance with applicable regulations not later than October 1, 1980.

(g) All decision of the Commissioner regarding a proposed plan and schedule shall be in writing and shall briefly state the basis for the decision.

(h) The Commissioner shall issue periodic reports at intervals of not less than once a month, available on request to any interested party, which shall contain information regarding:

(h)(1) proposed compliance schedules received; and

(h)(2) determinations of the Commissioner regarding such schedules.

(i) Following submission to the Commissioner of a proposed compliance plan and schedule, any person may file written objections to the plan, in whole or in part, specifying the basis for those objections. The Commissioner may, at his discretion and after appropriate notice, hold public hearings upon proposed compliance plans and schedules.

(j) The commissioner shall, if petitioned by a minimum of twenty-five (25) persons or by an association having not less than twenty-five members, hold an investigative hearing once each calendar year beginning January 1, 1980 for the purpose of determining the feasibility of expanding the applicability of the provisions of subsection 19-508-20 (cc) concerning alternative emission reduction plans for volatile organic compounds to other sections of these regulations to permit owners and operators of stationary sources to submit alternative emission reduction plans for other pollutants consistent with the requirements of the administrator. The hearing shall be conducted in accordance with section 22a-4-8 of the regulations of Connecticut state agencies.

Sec. 19-508-9. Prohibition of air pollution

(a) No person shall permit or cause air pollution, as defined in section 19-508-1. This section applies to air pollutants not otherwise covered by these regulations.

Sec. 19-508-10. Public availability of information

(a) Any records, reports or other information obtained by the Commissioner or on file with the department shall, pursuant to the provisions of sections 1-7 through 20 of the General Statutes, as amended, be made available to the public. Upon a showing satisfactory to the Commissioner by any person that such records, reports or other information, or particular parts thereof (other than emission data), if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Commissioner shall consider such record, report or information, or particular part thereof, confidential, except that such record, report or in-

formation may be disclosed to other officers, employees, or authorized representatives of the state concerned with carrying out these regulations or when relevant in any hearing conducted by the Department of Environmental Protection or in any judicial proceeding, subject to such safeguards as the hearing officer or presiding judge may impose.

(b) Emission data shall not be entitled to protection as a trade secret.

(c) Any emission data made public by the Commissioner shall be presented in such a manner as to show the relationship between measured amounts under applicable emission limitations and compliance schedules or other measures.

(d) The Commissioner, when he deems it appropriate, may require a nominal charge to defray the costs of reproducing any requested information.

Sec. 19-508-11. Prohibition against concealment or circumvention.

(a) No person shall install or cause the installation or use of any device or any means which, without resulting in reduction in the total amount of air pollutant emitted, conceals or dilutes an emission of air pollutant which would otherwise violate applicable regulations.

(b) Abatement of objectionable odors as defined in section 19-508-23 by means of dilution or masking shall not be deemed a violation of this section, provided that any masking odor used shall not itself violate section 19-508-23 or create a nuisance.

Sec. 19-508-12. Violations and enforcement

(a) No person shall violate or cause the violation of any applicable regulation.

(b) **Remedies for violations.** (1) The Commissioner shall designate employees of DEP to be known as enforcement personnel, who shall, acting with or without complaints, conduct investigations and ascertain whether the Commissioner's regulations are being complied with.

(2) Whenever the enforcement personnel determine that any regulation promulgated by the Commissioner has been violated or there has been a failure to comply therewith, they shall make and serve upon the person or persons responsible for the violations or failure a written order specifying the nature of the violation or failure and affording a reasonable period of time for its correction or remedying.

(3) Prior to the issuance of such order, the enforcement personnel shall make reasonable effort in the light of all cir-

cumstances to correct the violation or failure of compliance by conference, conciliation and persuasion, as required by statute.

(4) Unless the person or persons against whom an order has been served files a written answer thereto with the Commissioner, within thirty (30) days after the date of service of the order, and requests a hearing thereon, such order shall become final and effective. The answer shall contain a clear and concise statement of the reason or reasons, if any, that the order is claimed to be invalid or insufficient and/or the manner in which the persons filing the answer deem themselves aggrieved by the order. Upon receipt of the answer and request for a hearing, the Commissioner shall schedule the hearing as soon thereafter as is practical before himself or a designated hearing officer to act in his place and stead. The person designated to act as hearing officer shall not have participated in any way in the investigation or other preliminary proceedings preceding the issuance of the order specifying the violation. The hearing shall be open to the public and shall be conducted in the manner provided by statute, to wit: Testimony shall be under oath and recorded stenographically or by a sound-recording device, but strict rules of evidence of court of law shall not be binding on the hearing officer. True copies of the transcript and of any other record made by or at such hearing shall be furnished a party or any other person requesting them at his own expense. During the course of a hearing, the hearing officer may take appropriate measures to preserve the confidentiality of trade secrets.

(5) Any person who receives a notice that a permit has been denied, revoked or modified, or only conditionally approved may deem the notice a written order of violation under subsection (b) (2) and file a written answer and request for a hearing under subsection (b)(4).

(6) At the conclusion of a hearing held under subsection (b)(4) or (b)(5) and after reviewing the hearing record and the recommendation and report of the hearing officer, if any, the Commissioner shall determine whether the person or persons against whom such order has been issued is violating any regulation of the Commissioner, or has failed to comply with a proper requirement, order, notice, ruling or directive duly issued, or has improperly had a permit denied, revoked, or modified, or conditionally approved and shall affirm, modify, reverse or revoke the order, notice or other action complained of as

he shall in his discretion determine, and shall so notify such persons or persons by certified mail. Any information as to secret processes or methods shall be kept confidential.

(c) Any person who violates an order of the Commissioner shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) per week commencing the 10th day after expiration of the time fixed for the taking of preventive or corrective measures, although the Commissioner in his discretion may waive such accrual in whole or in part. The penalty may be collected in a civil action in the manner provided by statute. In addition, the Commissioner may institute a civil action in any court of competent jurisdiction for injunctive relief to prevent any further violations of an order.

(d)(1) **Emergencies.** Notwithstanding any other provision of these regulations, if the Commissioner determines that an air pollution emergency exists caused by adverse meteorological conditions, such as an inversion or a stagnant high pressure system, which requires immediate action to protect public health or safety, he may order any person emitting or responsible for the emission of air pollutants or contaminants creating or contributing to the emergency, to reduce or discontinue such actions immediately. Upon the issuance of such order, the Commissioner shall fix a place and time, not later than forty-eight hours thereafter, for a hearing to be held before him or a hearing officer designated by him. Not more than twenty-four hours after the conclusion of such hearing, and without adjournment thereof, the Commissioner shall affirm, modify or set aside his order. Nothing contained in this regulation shall be deemed a waiver of the Commissioner's powers to seek immediate injunctive relief in the courts against a person responsible for emission of pollutants in an emergency.

(d)(2) Any person who violates an order issued during and/or related to an air pollution emergency shall be liable for a civil penalty of five thousand dollars (\$5,000) per week commencing with the date of notice to such person of issuance of the order.

(e) **Criminal liability.** Any person who files any statement, record or report with the Commissioner containing false or misleading information or other claims shall be subject to criminal prosecution for a Class A misdemeanor punishable by imprisonment for a period of up to one year and a fine of up to one thousand dollars (\$1,000) for each violation.

(f) **Progress report requirements.** (1) Requirement, time, form. Any person

against whom a final order has been issued shall submit progress reports as required and prescribed by the terms of the order. Such progress reports shall be submitted in such a form as the commissioner prescribes.

(f)(2) Contents. Progress reports shall contain a separate declaration for each required step of an order's compliance timetable, stating either that compliance with the step is on schedule, or that compliance with the step is off-schedule. Progress reports declaring that compliance is proceeding on-schedule shall contain a concise but comprehensive description of (1) the action completed on each and every step required by the order during the time period covered by the report, and (2) the date or dates on which compliance with such step or steps was completed. Progress reports declaring that compliance is proceeding off-schedule shall contain a concise but comprehensive description of (1) the specific reasons for the tardiness, (2) the current state of completion, and (3) the special action which will be taken to return "on-schedule" by the date of the next progress report. Progress reports shall contain such other information as the commissioner may require by the terms of a final order.

(f)(3) Proof of compliance. Progress reports shall include the name and address of any vendor whose goods were ordered for compliance purposes since the prior progress report. Where the terms of an order reported upon require the purchase of any material, service or equipment, progress reports shall include copies of the purchase order or orders. The commissioner may require such other proof as he deems necessary to determine the progress and degree of compliance.

(f)(4) Verification of contracted work. Progress reports shall include the name and address of any consultants, subcontractors, or other agents employed under the terms of the order since the prior progress report together with a concise but comprehensive description of the actions they are to take to assist in compliance with the orders. Whenever any vendor, consultant, subcontractor or other agent is undertaking any activity regarding any step in the order, the progress report shall include a verification by the person under order that the vendor, consultant, subcontractor, or other agent is proceeding on-schedule.

(f)(5) Liability. Any person required to submit progress reports shall be liable for failure to meet any of the requirements of this section notwithstanding any delegation of responsibility to an

agent to complete and submit reports. Any person who files a progress report containing false or misleading information or other claims shall be subject to criminal prosecution pursuant to section 53a-157 of the General Statutes.

Sec. 19-508-13. Variances

(a) Any person who owns or operates any source of air pollutants as defined in section 19-508-1 may apply to the Commissioner for a variance or a partial variance from one or more of the provisions of these regulations. Applications for a variance shall be submitted on forms furnished or prescribed by the Commissioner and shall supply such information as he requires, including but not limited to,

(1) information on the nature and location of the facility or process for which such application is made;

(2) the reasons for which the variance is required, including the economic and technological justifications;

(3) the type and quantity of emissions that will occur during the period of variance;

(4) a description of interim control measures to be taken by the source to minimize emissions and the damages occurring therefrom;

(5) history of any previous environmental litigation between the source and government agencies;

(6) a specific schedule of measures to be taken to bring the source into eventual compliance with those regulations from which the variance is sought;

(7) any other relevant information the Commissioner may require in order to make a determination regarding the application.

(b) Failure to supply all necessary information to enable the Commissioner to make a determination regarding the application shall be cause for rejection of the application.

(c) No variance shall be approved unless the applicant shall establish to the Commissioner's satisfaction that:

(1) discharges occurring during the period of variance will not constitute a danger to public health or safety;

(2) compliance with the regulations would produce practical difficulty or hardship without equal or greater benefits to the public.

(d) In making a determination or granting a variance the Commissioner shall consider:

(1) the character and degree of injury to, or interference with, safety, health, or the reasonable use of property which is caused or threatened to be caused;

(2) the social and economic value of the activity for which the variance is sought;

(3) the suitability or unsuitability of the activity to the area in which it is located;

(4) the impracticability, both scientific and economic, of complying with the regulation from which the variance is sought.

(e) The Commissioner shall not grant any variance that will prevent or interfere with the attainment or maintenance of any relevant ambient air quality standard.

(f) Applications for variances may be rejected as untimely if received by the Department of Environmental Protection less than 90 days prior to the date of compliance with the regulation for which the variance is sought, or if notice of violation of the regulation has been served in accordance with section 19-508-12(b)(2).

(g) Following receipt and review of an application for a variance, the Commissioner shall fix a date, time, and location for a public hearing on such application.

(h) The Commissioner shall cause the applicant to publish at his own expense all notices of hearings and other notices required by law.

(i) Within sixty (60) days of the receipt of the record of the hearing on a variance application, the Commissioner shall issue his determination regarding such application. All such decisions of the Commissioner shall be in writing and shall briefly set forth the reasons for the decision.

(j) The Commissioner may, at his discretion, limit the duration of any variance granted under these regulations, except that no such variance may extend beyond three years.

(1) Any party holding a variance for three years and needing an extension time may apply for a new variance under the provisions of these regulations.

(2) Any such application shall include a demonstration of compliance with any conditions imposed under the previous variance.

(k) The Commissioner may attach to any variance any reasonable conditions he deems necessary or desirable, including but not limited to:

(1) requirements for special control measures to be taken by the source to minimize emissions during the period of variance.

(2) requirements for periodic reports submitted by the applicant relating to emissions, to compliance with any other conditions under which the variance is

granted, or to any other relevant information the Commissioner deems necessary.

(1)(1) A variance may be revoked or modified for failure to comply with such conditions as the Commissioner may have attached to the original grant of a variance.

(1)(2) Notice of revocation or modification 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.

(1)(3) Any person considering himself aggrieved by such notice may consider the notice a written order of violation under section 19-508-12(b)(2) and may obtain a hearing thereon by filing a written answer and request for a hearing in accordance with section 19-508-12(b)(4). Filing of the answer and request for the hearing shall postpone the effective date of the notice until conclusion of hearing and issuance of the decision of the Commissioner.

Sec. 19-508-14. Compliance with regulation no defense to nuisance claim

(a) Nothing in any portion of these regulations shall in any manner be construed as authorizing or legalizing the creation or maintenance of a nuisance, and compliance of a source with these regulations is not a bar to a claim of nuisance by any person.

Sec. 19-508-15. Severability

(a) If any provision of these regulations or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of these regulations which can be given effect without the invalid provisions or application, and to this end the provisions of these regulations and the various applications thereof are declared to be severable.

Sec. 19-508-16. Responsibility to comply with applicable regulations

(a) Exemption from requirements for registration or permits or possession of a permit to construct or operate or of a variance or approval of a compliance schedule shall not relieve any person of the responsibility to comply with any other applicable regulations or other provision of federal or state law.

Sec. 19-508-17. Control of open burning

(a) **Definitions.** As used in subsections (a) through (g) inclusive:

(i) "Brush" means shrubs, vegetation, or prunings the diameter of which is not greater than three inches at the widest point.

(ii) "Designee" means any person employed by the department of environmental protection and designated by the commissioner.

(iii) "Fireman (Firemen)" means any person whose full-time occupation is fighting fires or who engages in fire fighting under the immediate supervision of a person whose full-time occupation is fighting fires.

(iv) "Open burning official" means any person designated and certified by the commissioner pursuant to subsection (g) of this section.

(v) "Resident" means an individual seeking to burn on the property where he resides.

(b) **Certificate for open burning.** (b)(1) Certificates under this regulation shall not be required for the following fires:

(i) Barbecues or other outdoor open fires for the cooking of food for human consumption;

(ii) Campfires, bonfires, and other fires for ceremonial or recreational purposes;

(iii) Fires to abate an immediate fire hazard provided that the abatement fire is supervised by a responsible fire official;

(iv) Fires for training firemen in methods of fighting fires, where only liquid fuels are burned;

(v) Fires in salamanders or other similar devices used by construction or other workers for heating purposes, which fires are essential to street installation or paving activities, the repairing of utilities, or other similar work.

(b)(2) The commissioner, or his designee or the certified open burning official may issue, subject to the provisions of subsection (e), a certificate for the following fires:

(i) Fires for the prevention, control, or destruction of diseases and pests, and agricultural burning for vegetation management.

(ii) Fires by any resident to dispose of brush on the property where he resides.

(b)(3) The commissioner or his designee may issue, subject to the provisions of subsection (e), a certificate for the following fires:

(i) Fires for the disposal of dangerous material such as toxic gases, where there is not reasonable alternative method.

(ii) Fires to thwart a hazard which

cannot properly be managed by any other means or is necessary for the protection of public health.

(iii) Fires in salt water marshes.

(iv) Fire-training exercises, other than those subject to (b)(1)(iv). In reviewing any application for such a certificate the provisions of section (d)(iv) shall not be applied.

(v) Any other fires not specified in subsection (b)(2).

(c) **Applications for open burning certificates.** (c)(1) Except as specified in subsection (b)(1), no person shall set, cause or permit an open fire without obtaining an open burning certificate from the commissioner, or his designee or the certified open burning official.

(c)(2) A permit application for any fire described in subsection (b)(2) or (b)(3) shall be made by the applicant on forms furnished by the commissioner, and each application shall describe the purpose of the fire, the nature and quantity of the material to be burned, and such other information as the commissioner may require.

(c)(3) A certificate issued under this subsection shall be applicable only for the occasion or the purpose for which it has been obtained.

(d) **Standards for open burning certificates.** The commissioner, or his designee or the certified open burning official, shall not issue a certificate requested under subsection (c) when he determines that:

(i) A hazardous health condition will be created by such burning; or

(ii) The fire constitutes a salvage operation by open burning; or

(iii) A practical and alternative method for the disposal of the material to be burned exists, including but not limited to, the following techniques: chipping, cutting for forest products, landfilling, piling for protective cover for wildlife and stockpiling (not applicable to burning of brush as specified in subsection (b)(2)(ii)); or

(iv) Such open burning would interfere with or prevent the attainment or maintenance of a relevant ambient air quality standard; or

(v) The forest fire danger, as determined by the state forest fire warden, is high or extreme and the area is within 100 feet of a woodland or grassland.

(vi) An advisory of an air pollution emergency episode stage is in effect pursuant to Section 19-508-6 of these regulations.

(vii) Garbage, paper, grass, metals, plastics, leaves, rubber, painted materials or demolition waste is to be burned.

(e) **Conditions on open burning certificates.** Certificates approved under subsection (c) shall be subject to such reasonable conditions as are necessary to avoid a nuisance or to protect the health, safety, or comfort of the public, including but not limited to, the following:

(i) Only materials and quantities specified on the certificate may be burned;

(ii) The commissioner may specify on any permit the hours and days during which open burning is allowed;

(iii) Except for fire training exercises, burning shall only be permitted on sunny or partly sunny days when wind speed is 5 to 15 miles per hour;

(iv) A copy of the certificate shall be kept in the possession of the applicant at the burning site at all times during the burning;

(v) The commissioner or his designee or the open burning official may revoke in writing any certificate or add any reasonable, specifically identified conditions if circumstances indicate that air pollution standards will be violated.

(f) **Effect on local ordinances.** These regulations do not preclude a municipality from prohibiting or attaching any more stringent conditions to any open burning.

(g) **Certified open burning officials.** The commissioner may establish and maintain a program for the training of local open burning officials. A local open burning official shall be nominated only by the chief executive officer of the municipality in which the official will serve. Nomination of the local open burning official entitles him to participate in the training program. The commissioner may certify as local open burning official any person properly nominated who successfully completes the training program. Between training programs and upon approval by the commissioner, a nominated official may serve in a temporary capacity. The nomination may be revoked by the chief executive of the municipality in which the local open burning official serves according to local practice, procedure, custom or ordinance.

Sec. 19-508-18. Control of particulate emissions

(a) **Visible emissions.** (a)(1) Visible emission restrictions for stationary sources.

(i) No person shall cause or permit the emission of visible air pollutants of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann chart or 20 percent opacity.

(ii) A person may discharge air pollutants into the atmosphere from any source of emission for a period or periods aggregating not more than 5 minutes

in any 60 minutes, provided that said air pollutants are of a shade or density not darker than No. 2 on the Ringelmann chart or 40 percent opacity.

(iii) Open burning conducted under provisions of section 19-508-17 shall not be subject to this subsection.

(a)(2) **Visible emission restrictions for mobile sources.**

(i) No person shall cause or permit the emission of visible air pollutants from gasoline powered mobile sources for longer than five (5) consecutive seconds.

(ii) No person shall cause or permit the emission of clearly visible air pollutants (comparable to a shade or density equal to or darker than No. 1 on the Ringelmann chart or 20 percent opacity) from diesel powered motor vehicles for more than ten (10) consecutive seconds, during which time the maximum shade or density of emissions shall be no darker than No. 2 on the Ringelmann chart or 40 percent opacity.

(a)(3) **Exceptions for uncombined water.** Where the presence of uncombined water, such as water vapor, is the only reason for the failure of an emission to meet the requirements of this regulation then the provisions of this regulation shall not apply.

(a)(4) The following shall be exempt from the requirements of subsection (a)(2):

(i) Antique automobiles over 30 years old;

(ii) Vehicles used exclusively for racing; and

(iii) Mobile sources in the process of being repaired.

(a)(5) **Emissions from stationary or idling mobile sources.** No mobile source engine shall be allowed to operate for more than three (3) consecutive minutes when the mobile source is not in motion except as follows:

(i) When a mobile source is forced to remain motionless because of traffic conditions or mechanical difficulties over which the operator has no control;

(ii) When it is necessary to operate heating, cooling or auxiliary equipment installed on the mobile source when such equipment is necessary to accomplish the intended use of the mobile source;

(iii) To bring the mobile source to the manufacturer's recommended operating temperature;

(iv) When the outdoor temperature is below twenty (20) degrees Fahrenheit;

(v) When the mobile source is being repaired.

(a)(6) Subsections (a)(2) and (a)(5) shall not apply to aircraft, locomotives operating on rails, vessels for transporta-

tion on water, lawnmowers, snowblowers, and other small home appliances.

(b) **Fugitive dust.** (b)(1) No person shall cause or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions shall be in accordance with good industrial practice as determined by the Commissioner and shall include, but not be limited to, the following:

(i) Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;

(ii) Application of asphalt, oil, water, suitable chemicals or coverage on materials stockpiles and other surfaces which can give rise to airborne dusts;

(iii) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials. Adequate containment methods shall be employed during sandblasting or other similar operations;

(iv) Covering, at all times when in motion, open-bodied trucks and trains transporting materials likely to give rise to airborne dusts;

(v) The prompt removal of earth or other material from paved streets onto which earth or other material has been deposited by trucking or earth-moving equipment, erosion by water, or other means.

(b)(2) **Agricultural activities** are exempt from the provisions of subsection (b)(1). However, agricultural practices such as tilling of land and application of fertilizers shall be conducted in such manner as to minimize dust from becoming airborne.

(b)(3) No person shall cause or permit the discharge of visible emissions beyond the lot line of the property on which the emissions originate when:

(i) The emissions remain visible and exist near ground level outside the property boundaries; or

(ii) The emissions remain visible and impinge on a building or structure so the the health, safety, or enjoyment of life of the public may be diminished.

(b)(4) No particulate matter shall be emitted into the open air in such a manner as to cause a nuisance.

(c) **Incineration.** (c)(1) **Definitions.** The following terms as used in subsections (c)(1) to (c)(6) inclusive shall have the following meanings:

(i) "Incinerator" means any device,

apparatus, equipment or structure used for destroying, reducing or salvaging by fire any material or substance, including but not limited to, refuse, rubbish, garbage, trade waste, debris or scrap, or facilities for cremating human or animal remains. "Small incinerator" means an incinerator designed and used to burn waste materials of types 0, 1, 2, and 3 only, in all capacities not exceeding two thousand pounds per hour of waste material input. "Special incinerator" means an incinerator designed and used to burn pathological waste type 4 or trade waste types 5 and 6 of any burning capacity. Crematories are included in this category. "Large incinerator" means an incinerator owned or operated by any government or any person, firm or corporation, designed and used to burn waste materials generated by the public of any and all types, 0 to 6 inclusive, with a burning capacity in excess of two thousand pounds per hour of waste material input.

(ii) "New incinerator" means an incinerator which is a new source, as defined in section 19-508-1(r).

(iii) "Existing incinerator" means any incinerator which is not a new source, as defined in section 19-508-1(r).

(iv) "Flue-fed incinerator" means an incinerator provided with a single flue which serves as both the charging chute and the flue to transport products of combustion to the atmosphere.

(v) "Liquid particulates" means particles which have volume but are not of rigid shape and which upon collection tend to coalesce and create uniform homogeneous films upon the surface of the collecting media.

(vi) "Solid particulates" means particles of rigid shape and definite volume.

(vii) "Smoke" means and includes small gas-borne particles, excluding water vapor, arising from a process of combustion in sufficient number to be observable.

(viii) "Air pollution control equipment" means any device which prevents or controls the emission of any air contaminant.

(ix) "Type 0 waste" means trash, a mixture of highly combustible waste such as paper, cardboard, cartons, wood boxes and combustible floor sweepings, from commercial and industrial activities. The mixture may contain up to ten percent by weight of plastic bags, coated paper, laminated paper, treated corrugated cardboard, oily rags and plastic or rubber scraps. This type of waste contains approximately ten percent moisture and five percent incombustible solids and has a heating value of approximately

eighty-five hundred BTUs per pound as fired.

(x) "Type 1 waste" means rubbish, a mixture of combustible waste such as paper, cardboard cartons, wood scrap, foliage and combustible floor sweepings from domestic, commercial and industrial activities. The mixture may contain up to twenty percent by weight of restaurant or cafeteria waste, but contains little or no treated paper, plastic or rubber wastes. This type of waste contains approximately twenty-five percent moisture and ten percent incombustible solids and has a heating value of approximately sixty-five hundred BTU per pound as fired.

(xi) "Type 2 waste" means refuse, consisting of an approximately even mixture of rubbish and garbage by weight. This type of waste is common to apartment and residential occupancy, consisting of up to fifty percent moisture and approximately seven percent incombustible solids, and has a heating value of approximately forty-three hundred BTU per pound as fired.

(xii) "Type 3 waste" means garbage consisting of animal and vegetable wastes from restaurants, cafeterias, hotels, hospitals, markets and like installations. This type of waste contains up to seventy percent moisture and up to five percent incombustible solids and has a heating value of approximately twenty-five hundred BTU per pound as fired.

(xiii) "Type 4 waste" means human and animal remains, consisting of carcasses, organs and solid organic wastes from hospitals, laboratories, abattoirs, animal pounds and similar sources, consisting of up to eighty-five percent moisture and approximately five percent incombustible solids and having a heating value of approximately one thousand BTU per pound as fired.

(xiv) "Type 5 waste" means by-product waste, gaseous, liquid or semi-liquid, such as tar, paints, solvents, sludge, and fumes from industrial operations.

(xv) "Type 6 waste" means solid by-product waste, such as rubber, plastics, wood waste from industrial operations and all salvage operations.

(c)(2) Flue-fed incinerators. No person shall construct, install, use or cause to be used any new incinerator of the flue-fed type.

(c)(3)(i) **Emission standards. Particulates.** No person shall construct, install, use or cause to be used any new incinerator which will result in particulate matter in the effluent in excess of 0.08 gr/S.C.F. (0.18 gm/NM³) corrected to 12 percent CO₂ maximum 2 hour average. No person shall use or cause to be used any

existing incinerator which will emit more than four-tenths pound of particulates per one thousand pounds of flue gases adjusted to fifty percent excess air.

(c)(3)(ii) All incinerators must comply with subsection (a)(1).

(c)(3)(iii) Unburned waste and ash. No person shall cause, suffer, allow or permit the emission of particulates of unburned waste or ash from any incinerator which are individually large enough to be discernible by the human eye.

(c)(3)(iv) Odors. No person shall construct, install, use or cause to be used any incinerator which will result in violations of section 19-508-23.

(c)(4) Operations. (i) Approved operating procedures and rated burning capacity of the incinerator shall be posted at a convenient place as near as practical to the point of operation.

(ii) No person shall use or cause to be used any incinerator unless all components connected, or attached to, or serving the incinerator which affect air pollution are functioning properly and are in use, in accordance with the permit to construct and the certificate or permit to operate.

(c)(5)(i) Emission tests shall be conducted at the maximum-rate burning capacity of the incinerator.

(c)(5)(ii) The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the Commissioner in accordance with good engineering practices. In cases of conflict, the determination made by the Commissioner shall govern.

(c)(5)(iii) For the purposes of this regulation, the total of the capacities of all furnaces within one system shall be considered as the incinerator capacity.

(c)(6) Exceptions. The provisions of subsections (c)(1) to (c)(5) inclusive shall not apply to incinerators installed or used in dwellings containing six or fewer family units.

(c)(7) None of these regulations shall be construed to permit the emission of hazardous materials defined and limited by the Commissioner.

(d) **Fuel-burning equipment.** (d)(1) No person shall cause or permit the emission from fuel-burning equipment of particulate matter in excess of 0.20 pounds per million BTU (0.36 gm/10³ gm-cal) of heat input for existing sources and 0.10 pounds per million BTU (0.18 gm/10⁶ gm-cal) of heat input for new sources.

(d)(2) For purposes of this section, the heat input value used shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater.

(d)(3) Fuel-burning sources which, as of the effective date of these regulations, have particulate control equipment in place must maintain such control equipment in proper operation.

(e) **Process industries—general.** (e)(1) No person shall cause or permit the emission of particulate matter in any one hour from any source in excess of the amount shown in Table 3-1 below for the process weight rate allocated to such source, with the exception of sources specified in subsection (f).

TABLE 3-1

| Process Weight Rate | Emission Rate | Process Weight Rate | Emission Rate |
|---------------------|---------------|---------------------|---------------|
| lbs./hr. | lbs./hr. | lbs./hr. | lbs./hr. |
| 50 | 0.36 | 60,000 | 29.60 |
| 100 | 0.55 | 80,000 | 31.19 |
| 500 | 1.53 | 120,000 | 33.28 |
| 1,000 | 2.25 | 160,000 | 34.85 |
| 5,000 | 6.34 | 200,000 | 36.11 |
| 10,000 | 9.73 | 400,000 | 40.35 |
| 20,000 | 14.99 | 1,000,000 | 46.72 |

(e)(2) Interpolation of the data in Table 3-1 for the process weight rates up to 60,000 lbs./hr. shall be accomplished by the use of the equation:

$E = 3.59 P^{0.62}$ P equal to or less than 30 tons/hr. and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lbs./hr. shall be accomplished by the use of the equation:

$E = 17.31 P^{0.16}$ P greater than 30 tons/hr.

Where: E = Emission in pounds per hour.

P = Process weight rate in tons per hour.

(e)(3) For the purpose of this regulation, process weight per hour is the total weight of all materials introduced into any specific process that may cause any emission of particulate matter. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. For a cyclical or batch operation, the process weight per hour will 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. For a continuous operation, the process weight per hour will be derived by dividing the process weight for a typical period of time by the length of that period of time.

(e)(4) Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this regulation, the interpretation that results in the minimum value for allowable emission shall apply.

(e)(5) For purposes of the regulation, the total process weight from all similar

process units at a plant or premises shall be used for determining the maximum allowable emission or particulate matter that passes through a stack or stacks.

(e)(6) For the purposes of this regulation, when any material undergoes a series of operations which are capable of emitting particulate matter and which employ any combination of machines, equipment, or other devices used for processing the material either continuously or in batches, the total process weight for the series of operations shall be the weight of materials introduced to the series as a whole. Any material which is the product of any operation in the series shall not be counted as part of the process weight for any other operation in the series.

(f) **Process industries—Specific.** (f)(1) Emission standards (iron cupolas). No person shall cause or allow the operation of any iron foundry cupola unless such cupola is equipped with gas-cleaning devices and so operated as to remove eighty-five percent by weight of all particulate matter in the cupola discharge gases, or to release not more than eight-tenths of a pound of particulate matter per thousand pounds of discharge gas, whichever is more stringent. Gases, vapors and gas-entrained effluents from such cupolas shall be incinerated at a minimum temperature of 1300 degrees Fahrenheit for a period of not less than three-tenths of a second.

(f)(2) Emission standards (hot mix asphalt plants.) No persons shall cause or allow the emission of particulate matter from hot mix asphalt plants in excess of three-tenths of a pound per one thousand pounds of discharge gas. In addition, the process must conform to subsection (b) of this regulation.

(f)(3) Emission standards (foundry sand). No person shall cause or allow the operation of a foundry sand process unless such process conforms to subsection (b) of this regulation and is equipped with fugitive dust control facilities with collection efficiency of at least 90 percent.

(f)(4) Emission standards (concrete batching). No person shall cause or allow the operation of a concrete batching process unless such process conforms to subsection (b) of this regulation and is equipped with fugitive dust control facilities with a collection efficiency of 90 percent or 0.02 pounds per cubic yard of concrete, whichever results in less emission.

Sec. 19-508-19. Control of sulfur compound emissions

(a) **Fuel combustion.** (a)(1) Definitions. As used in subsections (a) through (f)

inclusive: (i) "Fuel" means a substance containing combustibles used for producing heat, light, power, or energy; (ii) "combustible" means the heat-producing constituents of a fuel; (iii) "combustion" means the rapid chemical combination of oxygen with the combustible element of a fuel resulting in the production of heat; (iv) "sulfur dioxide (SO₂)" means a colorless gas at standard conditions which has the molecular formula SO₂; (v) "sulfur oxides (SO_x)" means any compound made up only of sulfur and oxygen. For the purpose of this regulation, concentrations of sulfur oxides (SO_x) will be calculated as sulfur dioxide (SO₂); (vi) "stack" or "chimney" means a flue, conduit or opening permitting particulate or gaseous emission into the open air, or constructed or arranged for such purpose; (vii) "fuel merchant" means any person who offers for sale or sells, transfers, or provides in retail or wholesale trade, fuel, including agents, brokers, wholesalers, distributors, or producers who sell commercial or noncommercial fuel; (viii) "fuel user" means any person who stores or utilizes commercial or noncommercial fuel for the purpose of creating by combustion heat, light, power, or energy.

(a)(2)(i) No fuel merchant, except as provided in subsections (a)(3) and (a)(4), shall store, offer for sale, sell, make available, deliver for use or exchange in trade for use in Connecticut, and no person shall use or burn fuel which contains sulfur in excess of one percent (1.0 percent) by weight (Dry Basis). After September 1, 1972, no fuel merchant shall store, offer for sale, sell, make available, deliver for use or exchange in trade for use in Connecticut fuel which contains sulfur in excess of one-half of one percent (0.5 percent) by weight (Dry Basis), and after April 1, 1973, no person shall use or burn fuel which contains sulfur in excess of one-half of one percent (0.5 percent) by weight (Dry Basis).

(ii) Under conditions of fuel shortage emergency, as determined by the Commissioner, higher percentages of sulfur may be permitted by express approval of the Commissioner for temporary periods.

(a)(3) Notwithstanding the provisions of subsection (a)(2), the Commissioner may approve: (i) combustion of a mixture of fuels, or (ii) combustion of a single fuel, which contain(s) a higher sulfur content than that specified by subsection (a)(2), if the combustion of such fuel is combined with a stack-gas cleaning process or its equivalent as approved in writing by the Commissioner. No such stack-gas cleaning process, or its equivalent, shall

be approved unless the total sulfur compound emission (expressed as sulfur dioxide) from the stack, chimney, flue, and other vents to the ambient air do not exceed 0.55 pounds per million BTU gross heat input, provided that any effluent from the approved stack-gas cleaning process or its equivalent which is discharged into state waters meets with the prior approval of the Commissioner. The Commissioner may require such information or data as is necessary to establish that total emission will not exceed the above limitations.

(a)(4) In other than conditions of fuel shortage emergency described under subsection (a)(2)(ii), fuel merchants seeking to store, offer for sale, sell, deliver for use of exchange in trade, for use in Connecticut, and fuel users seeking to create by combustion heat, light, power, or energy from fuels containing sulfur in excess of the maximums set by subsection (a)(2) under the conditions specified in subsection (a)(3) shall obtain the prior approval of the Commissioner.

(a)(5) The provisions of subsection (a)(1) through (a)(7) inclusive shall not apply to fuels used by oceangoing vessels.

(a)(6) The Commissioner may require submission of fuel analyses or results of stack sampling, or both, prepared at the expense of the merchant or user, to ensure compliance with the provisions of subsection (a)(1) through (a)(7) inclusive, and no person shall fail to submit such data when requested to do so by the Commissioner.

(a)(7) Persons selling fuels in Connecticut shall maintain records of sales of all fuel containing sulfur and shall make these records available for inspection by the Commissioner or his representative during normal business hours. This section shall not apply to any of the following fuels which have sulfur contents below two-tenths of one percent (0.2 percent) by weight (Dry Basis): distillate oil, motor vehicle fuel, aircraft fuel, or gaseous fuel.

(a)(8) No person shall cause or permit the flaring or combustion of any refinery process gas stream or any other process gas stream that contains sulfur compounds measured as hydrogen sulfide in concentrations greater than 10 grams per 100 standard cubic feet (23 gm/100 scm) of gas.

(a)(9)(i) The provisions of subsections (a)(2)(i) above shall not apply to any coal burning space heater installed in any single family home on or before May 1, 1975. This exemption shall apply only to heaters burning anthracite coal with a sulfur content less than 0.75 percent by weight (dry basis).

(ii) The provisions of subsections (a)(2)(i) above shall not apply to any commercial establishment's coal burning equipment in operation on or before May 1, 1975. This exemption shall be limited to the burning of less than 75 tons per year of anthracite coal with a sulfur content less than 0.75 percent by weight (dry basis).

(iii) The provisions of subsections (a)(2)(i) above shall not apply to any coal burning equipment used primarily for educational or historical demonstrations or exhibits. These sources shall include, but are not limited to, blacksmith's forges, steam locomotives, and steamboats, provided, however, that such sources do not use or burn fuel which contains sulfur in excess of one and one-half percent (1.5 percent) by weight (dry basis).

(iv) As a prerequisite for exemption under the provisions of subsections (a)(9)(ii) and (a)(9)(iii), owners shall notify the commissioner on or before October 15, 1976 of said operation in accordance with instructions and forms furnished by the commissioner.

(v) The commissioner may revoke or modify an exemption under subsection (a)(9) if he determines that operation of the source will (1) prevent or interfere with the attainment or maintenance of any applicable air quality air standards, or (2) create a substantial health problem.

(vi) All fuel merchants are authorized to sell fuel to any owner or operator granted an exemption pursuant to subsections (a)(9)(i), (ii), and (iii) above. In addition to the requirements of subsection (a)(7) above, all records shall include the sulfur content of the fuel.

(b) **Sulfuric acid plants.** No person shall cause or permit sulfur oxides emissions which exceed 6.5 pounds per ton (3.25 kg/metric ton) of 100 percent acid produced.

(c) **Sulfur recovery plants.** No person shall cause or permit the emission of sulfur oxides from a sulfur recovery plant to exceed 0.01 pounds (kg.) per pound (kg.) of sulfur processed.

(d) **Nonferrous smelters.** No person shall cause or permit the emission of sulfur oxides from primary non-ferrous smelters to exceed that set forth according to the following equations.

Copper smelters: $Y = 0.2 X$

Zinc smelters: $Y = 0.564 X^{0.85}$

Lead smelters: $Y = 0.98 X^{0.77}$

Where X is the total sulfur fed to the smelter in lb./hr. and Y is the allowable sulfur dioxide emission in lb./hr.

(e) **Sulfite pulp mills.** No person shall cause or permit the total sulfite pulp mill emissions of sulfur oxides from

blow pits, washer vents, storage tanks, digester relief, recovery system, etc., to exceed 9.0 pounds per air-dried ton (4.5 kg./metric ton) of pulp produced.

(f) **Other process sources.** Notwithstanding the provisions of section 19-508-18(e), process sources not covered in subsections (b) through (e) inclusive shall not emit sulfur oxides in the effluent in concentrations which exceed 500 parts per million.

Sec. 19-508-20. Control of organic compound emissions

(a) **Storage of volatile organic compounds.**

(a)(1) Definitions. For the purpose of this section:

"Approved control system" means, a vapor balance system or a vapor recovery system.

"Delivery vehicle" means a tank truck, tank-equipped trailer, railroad tank car, or other mobile source equipped with a storage tank used for the transportation of gasoline from sources of supply to stationary storage tanks.

"Dispensing facility" means any site where gasoline is delivered to motor vehicles other than agricultural vehicles from any stationary storage tank with a capacity of 250 gallons or more.

"Gasoline" means any petroleum distillate having a Reid vapor pressure of four pounds or greater and used as a motor vehicle fuel.

"Throughput" means the number of gallons delivered through all equipment at a dispensing facility or a loading facility over a specified time interval.

"Vapor balance system" means a combination of pipes or hoses which create a closed connection between the vapor spaces of an unloading tank and receiving tank such that vapors displaced from the receiving tank are transferred to the tank being unloaded. The complete system as a whole and not just the individual components shall have been tested and approved by a nationally recognized testing laboratory.

"Vapor recovery system" means a device or system of devices with attendant valves, fittings, piping, and other appurtenances incorporating a means for the incineration of vapors or the liquefaction of vapors by absorption, adsorption, condensation or other means. The complete system as a whole and not just the individual components shall have been tested and approved by a nationally recognized testing laboratory.

(a)(2) No person shall place, store, or hold in any stationary tank, reservoir or other container of more than 40,000

gallons (150,000 liters) capacity any volatile organic compound with a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions unless the tank, reservoir, or other container is a pressure tank capable of maintaining working pressures sufficient at all times to prevent vapor or gas loss to the atmosphere or is designed, and equipped, with one of the following vapor loss control devices:

(i) A floating roof, consisting of a pontoon type, double deck type roof or internal floating cover, which will rest on the surface of the liquid contents and be equipped with a closure seal or seals to close the space between the roof edge and tank wall. This control equipment is not permitted if the volatile organic compound has a vapor pressure of 11.0 pounds per square inch absolute (568 mm. Hg), or greater under actual storage conditions. All tank gauging or sampling devices must be gas-tight except when tank gauging or sampling is taking place.

(ii) A vapor recovery system.

(iii) Other equipment or means of equal efficiency for purposes of air pollution control as may be approved by the Commissioner.

(a)(3) No person shall place, store, or hold in any stationary storage vessel of more than 250-gallon (950 liter) capacity any volatile organic compound with a vapor pressure of 1.5 pounds per square inch or greater under actual storage conditions unless such vessel is equipped with a permanent submerged fill pipe or is a pressure tank as described in subsection (a)(1).

(b) Loading of gasoline and other volatile organic compounds.

(b)(1) No person shall load or permit the loading of any volatile organic compound with a vapor pressure of 1.5 pounds per square inch or greater under actual storage conditions into any delivery vehicle from any loading facility with a throughput of 10,000 gallons or more in any one day unless: such loading facility is equipped with a vapor collection and disposal system or its equivalent, properly installed, in good working order, and in operation, and

(i) The vapors discharged from the delivery vehicle during loading are processed by a vapor recovery system; and

(ii) The amount of volatile organic compounds released to the ambient air is less than 80 milligrams per liter of liquid loaded.

(b)(2) No person shall load or permit the loading of any volatile organic compounds with a vapor pressure of 1.5 pounds per square inch or greater under actual storage conditions into any delivery

vehicle having a capacity in excess of 200 gallons (760 liters) from any loading facility with a throughput of 10,000 gallons or more in any one day unless such loading facility is equipped with a loading arm with a vapor collection adaptor, pneumatic, hydraulic, or other mechanical means to force a vapor-tight seal between the adaptor and the hatch. A means shall be provided to prevent liquid organic compounds drainage from the loading device when it is removed from the hatch of any tank, truck, or trailer, or to accomplish complete drainage before such removal. When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which make vapor-tight connections and which close automatically when disconnected.

(b)(3) Subdivisions (b)(1) and (b)(2) shall apply only to the loading of volatile organic compounds with a vapor pressure of 1.5 pounds per square inch or greater under actual storage conditions at a facility from which at least 10,000 gallons of such organic compounds are loaded in any one day. "Loading facility," for the purpose of this subsection, shall mean any aggregation or combination of organic liquid loading equipment which is both (i) possessed by one person and (ii) located so that all the organic liquid loading outlets for such aggregation or combination of loading equipment can be encompassed within any circle of three hundred (300) feet in diameter.

(b)(4) After April 1, 1982, no person shall load or permit the loading of gasoline into any delivery vehicle from any loading facility with a throughput of less than 10,000 gallons a day and more than 4,000 gallons a day unless the loading takes place through a submerged fill pipe and a vapor balance system is used.

(b)(5) By January 1, 1982, any person who owns or operates any dispensing facility with a stationary storage tank for gasoline having a capacity of more than 2000 gallons and an annual throughput of 120,000 gallons or more shall install at each stationary storage tank an approved control system.

(b)(6) After January 1, 1982, no person shall install any stationary storage tank for gasoline with a capacity of more than 250 gallons and an annual throughput of 120,000 gallons or more unless the tank has an approved control system.

(b)(7) Effective May 31, 1982, no person shall transfer or allow the transfer of gasoline from a delivery vehicle to a stationary storage tank subject to the provisions of subdivisions (b)(5) and (b)(6) unless the transfer is made through:

(i) a properly maintained and operated approved control system; and

(ii) piping, valves, fittings, and connections on the delivery vehicle so that the rated collection efficiency of the control system is attained for any transfer.

(b)(8) No person shall dispense gasoline to a stationary storage tank having an approved control system in such a manner as to impair the collection efficiency of the control system.

(b)(9) The owner or operator of a delivery vehicle shall ensure that:

(i) The delivery vehicle is designed and maintained to be vapor-tight at all times; and,

(ii) The hatches are closed at all times during loading operations; and,

(iii) The pressure relief valves are set to release at no less than 0.7 pounds per square inch; and

(iv) The vapor laden delivery vehicle is refilled only at facilities which meet the requirements of subdivisions (b)(1) or (b)(4).

(b)(10) The commissioner may provide an exemption to the provisions of subdivisions (b)(4) or (b)(5) for economic or technological impracticability.

(c) **Volatile organic compound water separation.** No person shall use any compartment of any single or multiple compartment volatile organic compound waste water separator which receives effluent water containing 200 gallons (760 liters) a day or more of any volatile organic compound with a vapor pressure of 1.5 pounds per square inch or more from any equipment processing, refining, treating, storing, or handling volatile organic compounds unless such compartment is equipped with one or more of the following vapor loss control devices, properly installed, in good working order, and in operation:

(1) A container having all openings sealed and totally enclosing the liquid contents. All gauging and sampling devices be gas-tight except when gauging or sampling is taking place.

(2) A container equipped with a floating roof, consisting of a pontoon type, double deck type roof, or internal floating cover, which will rest on the surface of the contents and be equipped with a closure seal or seals to close the space between the roof edge and container wall. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(3) A container equipped with a vapor recovery system.

(4) A container having other equipment of equal efficiency for purposes of air pollution control as maybe approved by the Commissioner.

(d) **Pumps and compressors.** All pumps and compressors handling volatile organic compounds with a vapor pressure

of 1.5 pounds per square inch or greater under actual storage conditions shall have mechanical seals or other equipment of equal efficiency for purposes of air pollution control as may be approved by the Commissioner, except that in cases where mechanical seals are impractical because of the abrasive or corrosive nature of the liquid handled, best available technology for the reduction of organic compound emissions shall be deemed equivalent to the use of mechanical seals.

(e) **Waste gas disposal.** (e)(1) No person shall cause or permit any emission from any ethylene producing plant or other ethylene emission source unless the waste gas stream is properly burned at 1300 degrees F. (704 degrees C) for 0.3 second or greater in a direct-flame after-burner or an equally effective device as approved by the Commissioner. This provision shall not apply to emergency reliefs and vapor blowdown systems.

(e)(2) No person shall cause or permit the emission of organic gases from a vapor blowdown system or emergency relief unless these gases are burned by smokeless flares or an equally effective control device as approved by the Commissioner. Exemptions to this section will be considered when the frequency of venting and the quantity of potential release are low, and all occurrences are reported to the Commissioner. In the case of emergency reliefs, exemptions will also be considered if the Commissioner determines that addition of control equipment would constitute an explosion hazard or other safety hazard.

(f) **Organic solvents.** (f)(1) No person shall cause or permit the discharge into the atmosphere of more than 40 pounds of organic materials in any one day, nor of more than 8 pounds in any one hour, from any article, machine, equipment or other contrivance, in which any organic solvent or any material containing organic solvent comes into contact with flame or is baked, heat-cured or heat-polymerized, in the presence of oxygen, unless said discharge has been reduced by at least 85 percent. Those portions of any series of articles, machines, equipment or other contrivances designed for processing a continuous web, strip, or wire which emit organic materials and using operations described in this subsection are collectively subject to compliance with this subdivision.

(f)(2) No person shall cause or permit the discharge into the atmosphere of more than 40 pounds of organic materials in any one day, nor of more than 8 pounds in any one hour, from any article

or machine, other than described in subsection (f)(1), for employing or applying any photochemically reactive solvent, as defined in subdivision (i)(1) and photochemically reactive solvent, unless the discharge has been reduced by at least 85 percent. Emissions of organic materials into the atmosphere resulting from air or heated drying of products for the first 12 hours after their removal from any article, machine, equipment, or other contrivance described in this subdivision are included in determining compliance with this subdivision. Emissions resulting from baking, heatcuring, or heat-polymerizing as described in subdivision (f)(1) are excluded from determination of compliance with this subdivision. Those portions of any series or articles, machines, equipment or other contrivances designed for processing a continuous web, strip or wire which emit organic materials and using operations described in this subdivision shall be collectively subject to compliance with this subdivision.

(f)(3) [Reserved]

(f)(4) On or after June 1, 1973, no person shall cause or permit the discharge into the atmosphere of more than 800 pounds of organic materials in any one day, nor more than 160 pounds in any one hour, from any article, machine, equipment or other contrivance in which any nonphotochemically reactive organic solvent or any materials containing such solvent is employed or applied, unless said discharge has been reduced by at least 85 percent. Emissions of organic materials into the atmosphere resulting from air or heated drying of products for the first 12 hours after their removal from any article, machine, equipment, or other contrivance described in this subsection are included in determining compliance with this subdivision. Emissions resulting from baking, heat-curing, or heatpolymerizing as described in subsection (f)(1) are excluded from determination of compliance with this subdivision. Those portions of any series of articles, machines, equipment or other contrivances designed for processing a continuous web, strip or wire which emit organic materials and using operations described in this subsection shall be collectively subject to compliance with this subdivision.

(f)(5) Emissions of organic materials to the atmosphere from the cleanup of any article, machine, equipment or other contrivance described in subdivisions (f)(1) through (f)(4) inclusive are included with the other emissions of organic materials from that article, equipment or

other contrivance for determining compliance.

(f)(6) The owner or operator of a source subject to subdivision (f)(1), (f)(2) or (f)(4) shall achieve the emission limits under those paragraphs by:

(i) Incineration, provided that 90 percent or more of the carbon in the organic material being incinerated is oxidized to carbon dioxide. However, incineration is not acceptable for halogenated hydrocarbons.

(ii) Adsorption, or

(iii) A system demonstrated to have control efficiency equivalent to or greater than the above and approved by the commissioner.

(f)(7) A person incinerating, adsorbing, or otherwise processing organic materials pursuant to subdivision (f)(6) shall provide, properly install, and maintain in calibration, in good working order, and in operation, devices or procedures as specified by the Commissioner for indicating and recording temperatures, pressures, rates of flow, or other operating conditions necessary to determine the degree and effectiveness of air pollution control.

(f)(8) Any person using or supplying solvents or any materials containing organic solvents shall supply the Commissioner, upon request and in the manner and form prescribed by him, written evidence of the chemical composition, physical properties, and amount consumed for each organic solvent used.

(f)(9) The provisions of subsection (f) shall not apply to:

(i) The use of equipment for which other requirements are specified by subsections (a) through (e) inclusive and subsections (m) through (r) inclusive or which are exempt from air pollution control requirements under those subsections.

(ii) The spraying or other employment of insecticides, pesticides, or herbicides.

(iii) The emission of organic compounds from coating operations where the organic compound portion of the coating solvent is 20 percent or less by weight.

(f)(10)(i) For the purposes of subsection (f), organic materials are defined as chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates, and ammonium carbonate.

(ii) For the purposes of subsection (f), organic solvents include diluents and thinners and are defined as organic materials which are liquids at standard conditions and which are used as dissolvers, viscosity reducers or cleaning agents, except that such materials which exhibit

a boiling point higher than 220 degrees F. at 0.5 millimeter mercury absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220 degrees F.

(iii) For the purpose of subdivisions (f)(1) and (f)(4), 85 percent reduction of organic materials emissions shall mean 85 percent reduction of total organic materials emissions present when operations are conducted according to good industrial practice.

(iv) For the purpose of subdivision (f)(2) 85 percent reduction of emissions shall mean 85 percent reduction of photochemically reactive solvent emissions present when operations are conducted according to good industrial practice, utilizing the maximum proportion of photochemically reactive solvent appropriate to such good practice. Substitution of a photochemically unreactive solvent shall be considered 100 percent reduction of the photochemically reactive emissions involved.

(v) For the purposes of subsection (f), a continuous web, strip or wire means a product which contains at least one unbroken web, strip or wire from beginning to end of an article, machine, equipment or other contrivance (or series of) irrespective of the addition of any other materials during processing.

(g) **Architectural coatings.** (g)(1) On or after January 1, 1974, no person shall sell or offer for sale to the final user in containers greater than 1-quart (0.95 liter) capacity any architectural coating or solvent for the purpose of thinning or diluting any architectural coating unless the solvent composition is photochemically unreactive, as defined in subdivision (i)(4).

(g)(2) On or after January 1, 1975, no person shall employ, apply, evaporate, or dry any architectural coating purchased in containers of greater than 1-quart (0.95 liter) capacity unless the solvent composition is photochemically unreactive, as defined in subdivision (i)(4).

(g)(3) On or after January 1, 1975, no person shall thin or dilute for application any architectural coating with a photochemically reactive solvent, as defined in subdivisions (i)(1) and (i)(2), purchased in containers of greater than 1-quart (0.95 liter) capacity.

(h) **Exemptions.** If the Commissioner determines that photochemically unreactive solvents are not available for a particular application or class of applications, he may issue an exemption, provided that this shall not prevent the attainment or maintenance of the national

ambient air quality standard for photochemical oxidants.

(i) **Classification of solvents.** (i)(1) The following solvents shall be considered photochemically reactive:

(i) Group R1: Any hydrocarbons, alcohols; aldehydes, esters, ethers, or ketones, having an olefinic or cycloolefinic type of unsaturation.

(ii) Group R2: Any aromatic compounds with eight or more carbon atoms to the molecule except ethylbenzene, phenyl acetate, and methyl benzoate.

(iii) Group R3: Any ketones having branched hydrocarbon structures, and ethylbenzene, trichloroethylene, and toluene.

(i)(2) Any solvent mixture will be considered photochemically reactive if the composition of such mixture exceeds any of the following limits by volume:

(i) 5 percent of any combination of chemical compounds in group R1.

(ii) 8 percent of any combination of chemical compounds in group R2.

(iii) 20 percent of any combination of chemical compounds in group R3.

(iv) 20 percent of any combination of chemical compounds in groups R1, R2, and R3.

(i)(3) Whenever any organic solvent or any constituent of any organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered a member of the most reactive chemical group, which is, that group having the least allowable percent of the total volume of solvents.

(i)(4) Any solvent not classified in (i)(1) and any solvent mixture which does not exceed any of the limits in (i)(2) shall be considered photochemically nonreactive.

(j) **Disposal and evaporation of solvents.** A person shall not, during any one day, dispose of more than one and one-half gallons (5.7 liters) of any organic solvent or of any material containing more than one and one-half gallons (5.7 liters) of any such organic solvent by any means which will permit the evaporation of such solvent into the atmosphere.

(k) [Reserved]

(l) **Metal cleaning**

(l)(1) Definitions. For the purpose of this subsection:

"Cold cleaning" means a batch process of cleaning and removing soils from metal surfaces by spraying, brushing, flushing or immersion while maintaining the degreasing solvent below its boiling point. Wipe cleaning is not included in this definition.

"Conveyorized degreasing" means the continuous process of cleaning and re-

moving soils from metal surfaces by operating with either cold or vaporized degreasing solvents.

"Degreasing solvent" means any volatile organic compound used for metal cleaning.

"Freeboard ratio" means the freeboard height divided by the width of the degreaser.

"Open top vapor degreasing" means the batch process of cleaning and removing soils from metal surfaces by condensing hot degreasing solvent vapor on the colder metal parts.

"Metal cleaning" means the process of cleaning soils from metal surfaces by cold cleaning or open top vapor degreasing or conveyorized degreasing.

(l)(2) The provisions of this subsection apply with the following exceptions:

(i) Open top vapor degreasers with an open area smaller than one (1) square meter (10.8 square feet);

(ii) Conveyorized degreasers with an air/vapor interface smaller than 2.0 square meters (21.6 square feet);

(iii) Metal cleaning equipment in operation prior to July 1, 1980 which meets the requirements of subsection (f).

(l)(3) After July 1, 1980 the owner or operator of a cold cleaning facility shall:

(i) Equip the cleaner with a cover designed so that it can be easily operated with one hand; and

(ii) Equip the cleaner with a facility for draining cleaned parts constructed internally so that parts are enclosed under the cover while draining. The drainage facility may be external for applications where in internal type cannot fit into the cleaning system; and,

(iii) Store waste degreasing solvent only in covered containers and not dispose of waste degreasing solvent or transfer it to another party, in a manner such that greater than 20 percent of the waste degreasing solvent (by weight) can evaporate into the atmosphere; and,

(iv) Close the cover whenever parts are not being handled in the cleaner; and,

(v) Drain the cleaned parts for at least 15 seconds or until dripping ceases; and,

(vi) If used, supply a degreasing solvent spray that is a solid fluid stream (not a fine, atomized or shower type spray) at a pressure which does not cause excessive splashing.

(l)(4) After July 1, 1980, the owner or operator of an open top vapor degreaser shall:

(i) Equip the vapor degreaser with a cover that can be opened and closed easily without disturbing the vapor zone; and,

(ii) Provide the following safety switches:

(a) A condenser flow switch and thermostat which shut off the heat if the condenser coolant is either not circulating or is too warm; and,

(b) A spray safety switch which shuts off the spray pump if the vapor level drops more than 10 centimeters (4 inches) below the lowest condensing coil; and,

(iii) Install one of the following control devices:

(a) Powered cover, if the freeboard ratio is greater than or equal to 0.75, and if the degreaser opening is greater than 1 square meter (10 square feet); or,

(b) Refrigerated chiller; or,

(c) Enclosed design (cover or door opens only when the dry part is actually entering or exiting the degreaser); or,

(d) Carbon adsorption system, with ventilation greater than or equal to 15 cubic meters per minute per square meter (50 cubic feet per minute per square foot) of air/vapor area (when cover is open), and exhausting less than 25 parts per million of degreasing solvent averaged over one complete adsorption cycle; or

(e) A control system, demonstrated to have control efficiency equivalent to or greater than any of the above, and approved by the commissioner; and,

(iv) Keep the cover closed at all times except when processing work loads through the degreaser; and,

(v) Store waste degreasing solvent only in covered containers and not dispose of waste degreasing solvent or transfer it to another party, such that greater than 20 percent of the waste degreasing solvent (by weight) can evaporate into the atmosphere.

(l)(5) After July 1, 1980 the owner or operator of a conveyorized degreaser shall:

(i) Install one of the following control devices:

(a) Refrigerated chiller; or

(b) Carbon adsorption system, with ventilation greater than or equal to 15 cubic meters per minute per square meter (50 cubic feet per minute per square foot) of air/vapor area (when downtime covers are open), and exhausting less than 25 parts per million of degreasing solvent by volume averaged over a complete adsorption cycle; or,

(c) A system, demonstrated to have a control efficiency equivalent to or greater than the above and approved by the commissioner; and,

(ii) Provide the following safety switches:

(a) A condenser flow switch and thermostat which shut off the heat if the condenser coolant is either not circulating or too warm; and,

(b) A spray safety switch which shuts off the spray pump or the conveyor if

the vapor level drops more than 10 centimeters (4 inches) below the lowest condensing coil; and,

(iii) Store waste degreasing solvent only in covered containers and not dispose of waste degreasing solvent or transfer it to another party, such that greater than 20 percent of the waste degreasing solvent (by weight) can evaporate into the atmosphere.

(m) **Can coating.**

(m)(1) For the purpose of this subsection:

"End sealing compound" means a synthetic rubber compound which is coated on to can ends and which functions as a gasket when the end is assembled on the can.

"Exterior base coating" means a coating applied to the exterior of a can to provide exterior protection to the metal and to provide background for the lithographic or printing operation.

"Interior base coating" means a coating applied by roller coater or spray to the interior of a can to provide a protective lining between the can metal and product.

"Interior body spray" means a coating sprayed on the interior of the can body to provide a protective film between the product and the can.

"Overvarnish" means a coating applied directly over ink to reduce the coefficient of friction, to provide gloss and to protect the finish against abrasion and corrosion.

"Three-piece can side-seam spray" means a coating sprayed on the exterior and interior of a welded, cemented or soldered seam to protect the exposed metal.

"Two-piece can exterior end coating" means a coating applied by roller coating or spraying to the exterior end of a can to provide protection to the metal.

(m)(2) The owner or operator of a can coating facility shall not cause or permit the discharge into the atmosphere of any volatile organic compounds in excess of:

(i) 0.34 kilograms per liter of coating (2.8 pounds per gallon), excluding water, delivered to the coating applicator from sheet basecoat (exterior and interior) and overvarnish or two-piece can exterior (basecoat and overvarnish) operations.

(ii) 0.51 kilograms per liter of coating (4.2 pounds per gallon), excluding water, delivered to the coating applicator from two- and three-piece can interior body spray and two-piece can exterior end (spray or roll coat) operations.

(iii) 0.66 kilograms per liter of coating (5.5 pounds per gallon), excluding water, delivered to the coating applicator from three-piece can side-seam spray operations.

(iv) 0.44 kilograms per liter of coating

(3.7 pounds per gallon), excluding water, delivered to the coating applicator from end sealing compound operations.

(n) **Coil coating.**

(n)(1) For the purpose of this subsection:

"Coil coating" means the coating of any flat metal sheet or strip that comes in rolls or coils.

(n)(2) The owner or operator of a coil coating facility shall not cause or permit the discharge into the atmosphere of any volatile organic compounds in excess of 0.31 kilograms per liter of coating (2.6 pounds per gallon), excluding water, delivered to the coating applicator from prime and topcoat or single coat operations.

(o) **Fabric and vinyl coating.**

(o)(1) For the purpose of this section:

"Fabric coating" means the coating of a textile substrate with a knife, roll or rotogravure coater to impart properties that are not initially present, such as strength, stability, water or acid repellency, or appearance.

"Knife coating" means the application of a coating material to a substrate by means of drawing the substrate beneath a knife that spreads the coating evenly over the full width of the substrate.

"Roll coating" means the application of a coating material to a substrate by means of hard rubber or steel rolls.

"Rotogravure coating" means the application of a coating material to a substrate by means of a roll coating technique in which the pattern to be applied is etched on the coating roll. The coating material is picked up in these recessed areas and is transferred to the substrate.

"Vinyl coating" means applying a decorative or protective topcoat, or printing on vinyl coated fabric or vinyl sheets.

(o)(2) The owner or operator of a fabric coating line or a vinyl coating line shall not cause or permit the discharge into the atmosphere of any volatile organic compounds in excess of:

(i) 0.35 kilograms per liter of coating (2.9 pounds per gallon), excluding water, delivered to the coating applicator from a fabric coating line.

(ii) 0.45 kilograms per liter of coating (3.8 pounds per gallon), excluding water, delivered to the coating applicator from a vinyl coating line.

(p) **Metal furniture coating**

(p)(1) For the purpose of this section:

"Application area" means the area where the coating is applied by spraying, dipping, or flowcoating techniques.

"Metal furniture coating" means the surface coating of any furniture made of

metal or any metal part which will be assembled with other metal, wood, fabric, plastic or glass parts to form a furniture piece.

(p)(2) The owner or operator of a metal furniture coating line shall not cause or permit the discharge into the atmosphere of any volatile organic compounds in excess of 0.36 kilograms per liter of coating (3.0 pounds per gallon), excluding water, delivered to the coating applicator from prime and topcoat or single coat operations.

(q) **Paper coating.** (q)(1) For the purpose of this subsection:

"Knife coating" means the application of a coating material to a substrate by means of drawing the substrate beneath a knife that spreads the coating evenly over the full width of the substrate.

"Paper coating" means coatings put on paper and pressure sensitive tapes regardless of substrate by knife, roll or rotogravure coating. Related web coating processes on plastic film and decorative coatings on metal foil are included in this definition.

"Roll coating" means the application of a coating material to a substrate by means of hard rubber or steel rolls.

"Rotogravure coating" means the application of a coating material to a substrate by means of a roll coating technique in which the pattern to be applied is etched on the coating roll. The coating material is picked up in these recessed areas and is transferred to the substrate.

(q)(2) The owner or operator of a paper coating facility shall not cause or permit the discharge into the atmosphere of any volatile organic compounds in excess of 0.35 kilograms per liter of coating (2.9 pounds per gallon), excluding water, delivered to the coating applicator from a paper coating line.

(r) **Wire coating.**

(r)(1) For the purpose of this section:

"Wire coating" means the process of applying a coating of electrically insulating varnish or enamel to aluminum or copper wire for use in electrical machinery.

(r)(2) The owner or operator of a wire coating oven shall not cause or permit the discharge into the atmosphere of any volatile organic compounds in excess of 0.20 kilograms per liter of coating (1.7 pounds per gallon), excluding water, delivered to the coating applicator from wire coating operations.

- (s) [Reserved]
- (t) [Reserved]
- (u) [Reserved]
- (v) [Reserved]
- (w) [Reserved]
- (x) [Reserved]

(y) [Reserved]

(z) [Reserved]

(aa) **Applicability.** The provisions of subsections (m) through (r) inclusive apply to any article, machine, equipment or other contrivance which emits volatile organic compounds in excess of 8 pounds in any one hour or in excess of 40 pounds in any one day.

(bb) **Compliance methods.** The owner or operator of a stationary source subject to subsections (m) through (r) inclusive shall achieve the emission limit under the appropriate paragraph by:

(i) The application of low solvent content coating technology; or,

(ii) Incineration, provided that 90 percent of the nonmethane volatile organic compounds (VOC measured as total combustible carbon) which enter the incinerator are oxidized to carbon dioxide and water; or,

(iii) A system demonstrated to have control efficiency equivalent to or greater than the above and approved by the commissioner.

(cc) **Alternative emission reductions.**

(cc)(1) The owner or operator of a stationary source subject to the provisions of subsections (m) through (r) inclusive may submit for the consideration of the commissioner an alternative emission reduction plan which would achieve the same net emission reduction as the owner or operator would achieve by having each emission source comply with the prescribed emission limitations provided in these regulations. Approval of the alternative plan is discretionary with the commissioner, but at a minimum, the owner or operator of the stationary source must demonstrate that:

(i) By means of an approved material balance of acceptable emission tests, sufficient reductions in volatile organic compound emissions will be obtained by controlling other existing emission sources of similar volatile organic compounds within the stationary source to the extent necessary to compensate for all excess emissions which result from one or more emission sources not achieving the prescribed emission limitation. This demonstration must be submitted in writing and must include:

(a) A description of the emission source or sources which will not comply with the prescribed emission limitations,

(b) Pounds per hour of volatile organic compounds emitted which are in excess of permissible emissions for each emission source,

(c) A description of each emission source and the related control systems, if any, for those emission sources within

the stationary source where emissions will be decreased to compensate for excess emissions from each emission source.

(d) Pounds per hour of volatile organic compounds, for each emission source both before and after the improvement or installation of any applicable control system, or any physical or operational changes at the facility to reduce emissions and the date on which these reductions will be achieved; and

(e) A description of the procedures and methods used to determine the emissions of volatile organic compounds; and

(ii) The alternative emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution regulations. The alternative emission reduction plan may include decreases in emissions accomplished through installation or improvement of a control system or through physical or operational changes at the stationary source such as increased transfer efficiencies;

(iii) The alternative emission reduction plan does not include provisions for the trade off of any volatile organic compound such as benzene which the administrator has determined to be a hazardous material;

(iv) The alternative emission plan does not delay or defer the compliance deadlines for any emission source or sources.

(cc)(2) The implementation of an alternative emission reduction plan instead of compliance with the emissions limitation proscribed in subsections (m) through (r) must be expressly approved by the commissioner through the issuance of an order in accordance with the provisions of section 19-508-12. After approval, any emissions in excess of those established for each emission source under the plan will be a violation of these regulations.

(cc)(3) Where it can be shown to the satisfaction of the commissioner that an emission source cannot be controlled to comply with subsections (m) through (r) inclusive of this section for reasons of technological and economic feasibility, the commissioner may accept a lesser degree of control upon the submission of satisfactory evidence that the stationary source owner has applied reasonably available control technology and has a plan to develop the technologies necessary to comply with the above subsections.

(dd) **Seasonal operation of afterburners.**

(dd)(1) The owner or operator of any stationary source which uses a natural gas-fired afterburner to meet the requirements of subdivisions (f)(1), (f)(2), (f)(4) or subsections (m) through (r) inclusive

may petition the commissioner for permission to discontinue the operation of the afterburner during the months of December, January, and February. The owner or operator shall submit the petition in writing and shall include the following information:

(i) Information on the nature and location of the facility or process for which the application is made;

(ii) The type and quantity of emissions that will occur during the period of shutdown;

(iii) The quantity of natural gas saved as a result of the shutdown;

(iv) Any other relevant information the commissioner may request in order to make a determination regarding the petition.

(dd)(2) The owner or operator of any stationary source for which a petition has been submitted in accordance with subdivision (dd)(1) shall:

(i) Publish by prominent advertisement in the region affected a notice that the petition has been submitted;

(ii) Have made available for public inspection for thirty (30) days a copy of the petition.

(dd)(3) The commissioner shall not grant a petition to discontinue the operation of a gas-fired afterburner which:

(i) Is required to meet the requirements of any other section of these regulations; or

(ii) Will prevent or interfere with the attainment or maintenance of any federal or state ambient air quality standard;

(iii) Has not met the requirements of subsection (dd)(2).

(dd)(4) The commissioner may attach any reasonable conditions he deems necessary or desirable to any approval of a petition under this subsection, including but not limited to:

(i) Requirements for special control measures to be taken by the owner or operator to minimize emissions during the period of the petition;

(ii) Requirements for periodic reports submitted by the owner or operator relating to emissions, to compliance with any other conditions under which the petition is granted, or to any other relevant information the commissioner deems necessary.

(dd)(5) Following his decision to approve or deny the petition the commissioner shall cause an order to be issued in accordance with the provisions of section 19-508-12.

Sec. 19-508-21. Control of carbon monoxide emissions

(a) No person shall cause or permit the emission of carbon monoxide waste

gas generated during the operation of a grey iron cupola, blast furnace or basic oxygen steel furnace unless the waste gas is incinerated in a direct flame afterburner, boiler, or equivalent device at a temperature of 1300 degrees F. for a period of not less than three-tenths of a second.

(b) No person shall cause or permit the emission of carbon monoxide waste gas from any catalyst regeneration of a petroleum cracking system, petroleum fluid coker, or other petroleum process into the atmosphere unless the waste gas is incinerated in a direct flame afterburner, boiler, or equivalent device at a temperature of 1300 degrees F for a period of not less than three-tenths of a second.

Sec. 19-508-22. Control of nitrogen oxides emissions

(a) Fuel burning equipment. (a)(1) No person shall cause or permit the emission of nitrogen oxides, calculated as nitrogen dioxide, from gas-fired fuel burning equipment in excess of 0.2 pounds per million BTU (0.36 gm/10⁶ gm-cal) of heat input.

(a)(2) No person shall cause or permit the emissions of nitrogen oxides, calculated as nitrogen dioxide, from oil-fired fuel burning equipment in excess of 0.30 pounds per million BTU (0.54 gm/10⁶ gm-cal) of heat input except that:

(i) For existing fast response double-furnace naval boilers the emission limit is 0.5 pounds per million BTU of heat input; and

(ii) For existing boilers with a cyclone furnace or furnaces the emission limit is 0.9 pounds per million BTU of heat input.

(a)(3) No person shall cause or permit emissions of nitrogen oxides, calculated as nitrogen dioxide, from a coal-fired boiler in excess of 0.7 pounds per million BTU of heat input per hour for new sources and 0.9 pounds per million BTU for existing sources.

(a)(4) Subdivisions (a)(1) through (a)(3) inclusive shall apply to all equipment with a maximum capacity rating above 250 million BTU per hour. For equipment rated between 5 and 250 million BTU/hr., these regulations shall apply unless the Commissioner is satisfied that it is not technically or economically feasible for a unit of the size considered. Subdivisions (a)(1) through (a)(4) inclusive shall not apply to stationary gas turbines, stationary internal combustion engines and mobile sources.

(a)(5) No person shall cause or permit emissions of nitrogen oxides, calculated as nitrogen dioxide, from a stationary

gas turbine in excess of 0.9 pounds per million BTU of heat input.

Sec. 19-508-23. Control of odors

(a) No person shall emit or cause to be emitted into the outdoor air any substance which creates an objectionable odor beyond his property line. An odor will be deemed objectionable when:

(1) A staff member of the Department of Environmental Protection determines, following personal observation, that the odor is objectionable taking into account its nature, concentration, location, and duration; or,

(a)(2) Samples for the source are taken and found to rate over 120 odor units per cubic foot as determined by Mills' adaptation of ASTM D-1391-57. ("Quantitative Odor Measurement", a paper by John L. Mills, 56th Annual Meeting of the Air Pollution Control Association, in Detroit, Michigan, June 9-14, 1963); or,

(3) If the odor is caused in whole or in part by a substance listed in Table 8-1, and when the concentration in Table 8-1 is exceeded for any period of time as demonstrated by analysis made in accordance with methods approved by qualified professional chemists.

(b) Nothing in this section shall permit emission of any air pollutant in violation of any other section.

Table 8-1 Odor Threshold Limits

| Chemical | Odor Threshold (ppm by volume) |
|--|-----------------------------------|
| Acetaldehyde | 0.21 |
| Acetic acid | 1.0 |
| Acetone | 100.0 |
| Acroetin | 0.21* |
| Acrylonitrile | 21.4* |
| Allyl chloride | 0.47 |
| Amine, dimethyl | 0.047 |
| Amine, monomethyl | 0.021 |
| Amine, trimethyl | 0.00021 |
| Ammonia | 46.8* |
| Aniline | 1.0 |
| Benzene | 46.8* |
| Benzyl Chloride | 0.047 |
| Benzyl sulfide | 0.0021 |
| Bromine | 0.047 |
| Butyric acid | 0.001 |
| Carbon disulfide | 0.21 |
| Carbon tetrachloride | 21.4* |
| chlorination of CS ₂) | |
| Carbon Tetrachloride (chlorination of CH ₄) | 100.0* |
| Chloral | 0.047 |
| Chlorine | 0.314 |
| Dimethylacetamide | 46.8* |
| Dimethylformamide | 100.0* |
| Dimethyl sulfide | 0.001 |
| Diphenyl ether | 0.1 |
| Diphenyl sulfide | 0.0047 |
| Ethanol (synthetic) | 10.0 |
| Ethyl acrylate | 0.00047 |
| Ethyl mercaptan | 0.001 |
| Formaldehyde | 1.0 |
| Hydrochloric acid gas | 10.0* |

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| | |
|---|----------------|
| Hydrogen sulfide (from Na ₂ S) | 0.0047 |
| Hydrogen sulfide gas | 0.00047 |
| Methanol | 100.0 |
| Methyl chloride | (above 10 ppm) |
| Methylene chloride | 214.0* |
| Methyl ethyl ketone | 10.0 |
| Methyl isobutyl ketone | 0.47 |
| Methyl mercaptan | 0.0021 |
| Methyl methacrylate | 0.21 |
| Monochlorobenzene | 0.21 |
| Monomethylamine | 0.021 |
| Nitrobenzene | 0.0047 |
| Paracresol | 0.001 |
| Paraxylene | 0.47 |
| Perchloroethylene | 4.68 |
| Phenol | 0.047 |
| Phosgene | 1.0* |
| Phosphine | 0.021 |
| Pyridine | 0.021 |
| Styrene (inhibited) | 0.1 |
| Styrene (uninhibited) | 0.047 |
| Sulfur dichloride | 0.001 |
| Sulfur dioxide | 0.47 |
| Toluene (from coke) | 4.68 |
| Toluene (from petroleum) | 2.14 |
| Toluene diisocyanate | 2.14* |
| Trichloroethylene | 21.4 |

*Exceeds the Threshold Limit Value adopted by the American Conference of Industrial Governmental Hygienists for 1971. Threshold Limit Values refer to airborne concentrations of substances and represent conditions under which it is believed that nearly all workers may be repeatedly exposed day after day with adverse effect."

(c) Agricultural activities are exempt from the provisions of subsection (a), as long as these activities are conducted in a manner as to minimize odors by using good agricultural practices.

(d) The provisions of subsection (a) do not apply to mobile sources and private residences.

Sec. 19-508-24. Connecticut primary and secondary standards

(a) Definitions.

(1) "Ambient air" means that portion of the atmosphere external to buildings, to which the general public has access.

(2) "Reference method" means a method of sampling and analyzing for an air pollutant, as described in subsection (1).

(3) "Equivalent method" means any method of sampling and analyzing for an air pollutant which can be demonstrated to the Commissioner's satisfaction to have a consistent relationship to the reference method.

(b) The concentration of pollutants in the outdoor atmosphere shall conform with levels specified below as the applicable air quality standards for these substances throughout Connecticut. These standards shall not be construed to permit any deterioration of air quality in any portion of the state.

(c) **Reference conditions.** All measurements of air quality are corrected to a reference temperature of 20 degrees C.

and to a reference pressure of 760 millimeters of mercury (1,013.2 millibars).

(d) **Connecticut primary ambient air quality standards for sulfur oxides (sulfur dioxide).** The Connecticut primary ambient air quality standards for sulfur oxides, measured as sulfur dioxide, are:

(1) 80 micrograms per cubic meter (0.03 ppm)—annual arithmetic mean.

(2) 365 micrograms per cubic meter (0.14 ppm)—maximum 24-hour concentration not to be exceeded more than once per year.

(e) **Connecticut secondary ambient air quality standards for sulfur oxides (sulfur dioxide).** The Connecticut secondary ambient air quality standards for sulfur oxides, measured as sulfur dioxide, are:

(1) 60 micrograms per cubic meter (0.02 ppm)—annual arithmetic mean.

(2) 260 micrograms per cubic meter (0.1 ppm)—maximum 24-hour concentration not to be exceeded more than once per year.

(3) 1,300 micrograms per cubic meter (0.5 ppm)—maximum 3-hour concentration not to be exceeded more than once per year.

(f) **Connecticut primary ambient air quality standards for particulate matter.** The Connecticut primary ambient air quality standards for particulate matter are:

(1) 75 micrograms per cubic meter—annual geometric mean.

(2) 260 micrograms per cubic meter—maximum 24-hour concentration not to be exceeded more than once per year.

(g) **Connecticut secondary ambient air quality standards for particulate matter are:**

(1) 60 micrograms per cubic meter—annual geometric mean.

(2) 150 micrograms per cubic meter—maximum 24-hour concentration not to be exceeded more than once per year.

(h) **Connecticut primary and secondary ambient air quality standards for carbon monoxide.** The Connecticut primary and secondary ambient air quality standards for carbon monoxide are:

(1) 10 milligrams per cubic meter (9 ppm)—maximum 8-hour concentration not to be exceeded more than once per year.

(2) 40 milligrams per cubic meter (35 ppm)—maximum 1-hour concentration not to be exceeded more than once per year.

(i) **Connecticut primary and secondary ambient air quality standards for photochemical oxidants.** The Connecticut primary and secondary ambient air quality standard for photochemical oxidants, measured and corrected for interference due to nitrogen oxides and sulfur dioxide

is: 160 micrograms per cubic meter (0.08 ppm)—maximum 1-hour concentration not to be exceeded more than once per year.

(j) **Connecticut primary and secondary ambient air quality standards for hydrocarbons.** The hydrocarbons standard is for use as a guide in achieving oxidant standards. The Connecticut primary and secondary ambient air quality standard for hydrocarbons is: 160 micrograms per cubic meter (0.24 ppm)—maximum 3-hour concentration (6 am to 9 am) not to be exceeded more than once per year.

(k) **Connecticut primary and secondary ambient air quality standard for nitrogen dioxide.** The Connecticut primary and secondary ambient air quality standard for nitrogen dioxide is: 100 micrograms per cubic meter (0.05 ppm)—annual arithmetic mean.

(l) **Reference methods.** The methods to be used are those described in Federal Register Vol. 36, No. 84, Friday, April 30, 1971, PP 8187-8201.

Sec. 19-508-25. Effective date

(a) The effective date of these regulations shall be June 1, 1972.

(b) On June 1, 1972, sections 19-13-G1 through 19-13-G10 inclusive, section 19-13-G13, sections 19-13-G17 through 19-13-G19 inclusive, sections 19-13-G21 through 19-13-G30 inclusive, sections 19-13-G37 and 19-13-G38 shall expire.

(c) On June 1, 1973, sections 19-13-G11 and 19-13-G12, sections 19-13-G14, 19-13-G15, and 19-13-G20, and sections 19-13-G31 through 19-13-G36 inclusive shall expire.

Indirect Sources of Air Pollution

Sec. 19-508-100. Permits for construction and operation of indirect sources.

(a) **Definition of an indirect source and applications for indirect source construction permits.** (a)(1) Notwithstanding the definition of indirect source in section 19-508-1, for the purpose of this section an indirect source of air pollution means

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

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

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

For the purposes of this regulation, the term "state highway system" shall have the same meaning as is provided in chapter 237 of the Connecticut General Statutes as from time to time may be amended. Effective October 1, 1974, no person shall construct, modify, install or cause the construction, modification or installation of any indirect source of air pollutants or part thereof without applying for and obtaining an indirect source construction permit from the Commissioner. No applications for permits for new or modified indirect sources received by or pending before the Commissioner September 1, 1979 shall be affected by any amendments to this section.

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

(a)(3) The Commissioner may publish and from time to time revise guidelines which will assist owners or operators of new or modified indirect sources in determining whether they are required to obtain an indirect source permit under subsections (a)(1), or whether they may be required to furnish information to the Commissioner under subsection (a)(2).

(a)(4) Application for an indirect source permit shall be made by the owner or operator of the proposed indirect source on forms furnished by the commissioner. Each application shall include siting information; descriptions of the structures, facilities or installations involved; the nature, source and quantity of uncontrolled and controlled emissions, traffic flow information; the proximity of the indirect source to existing and projected transportation services; and such other information as the Commissioner may require.

(a)(5) No new or modified indirect source shall be exempt from the permit requirements of this subsection because of a division of ownership or because of the pattern or timing of development.

(a)(6) For the purpose of determining whether construction or modification of an indirect source was commenced prior to October 1, 1974, construction or modification shall be deemed to have commenced for any portion of an indirect source when site preparation, including clearing and grading is complete and the following four steps have also been completed:

(i) Detailed plans of the proposed indirect source are available and have received all necessary approvals required

by federal, state or local statutes, ordinances, regulations or procedures;

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

(iii) All necessary building permits for site preparation and foundation construction have been issued in accordance with state or local statutes, ordinances, regulations or procedures;

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

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

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

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

(b)(2) A stage II indirect source permit review shall be a transportation corridor level review. No stage II indirect source permit shall be granted until the Commissioner finds, upon evidence submitted by the applicant or otherwise made part of the application record, that

(i) The impact of the new or modified source on the corridor in which the source is to be located will meet all applicable state and national ambient air quality standards not addressed in the stage I permit review, for which there is an impact analysis methodology acceptable to the Commissioner, and

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

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

(b)(3) A stage III indirect source permit review shall be a project level review. No stage III indirect source permit shall be granted until the Commissioner finds,

upon evidence submitted by the applicant or otherwise made part of the application record, that a stage II indirect source permit has been granted for the new or modified source and is valid at the time of application for the stage III permit, and that,

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

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

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

(c) **Action on applications for indirect source permits.** (c)(1) An application will not be deemed to have been received by the Commissioner until all information, papers and documents required in support of the application have been submitted in proper form. The Commissioner shall acknowledge the receipt of an application within ten (10) days. In cases in which the Commissioner deems that not all information, papers, and documents required of the application have been submitted in proper form, the Commissioner shall so notify the applicant within ten (10) working days of the submission of such information, papers and documents.

(c)(2)(i) For a stage I indirect source permit, the Commissioner shall render a decision within 5 working days of acknowledgement of receipt of a stage I permit application.

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

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

until the applicant:

(i) Shall have made available for thirty (30) calendar days, in the region in which the proposed construction or modification will be located, a copy of the application and a copy of the Commissioner's preliminary evaluation of the air quality data contained in the application; and shall provide for receipt and consideration of public comment during the thirty (30) calendar day period.

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

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

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

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

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

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

(d) Revocation or modification of indirect source permits. (d)(1) The commissioner may revoke or modify an indirect source permit if:

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

(ii) The construction or modification authorized by the permit is not begun

within five years from the date of issuance of the stage III indirect source construction permit, or such other period as is allowed by the permit; or

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

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

(d)(3) If construction of the new or modified source will not be undertaken within the time period specified in the stage III indirect source permit, the holder of such permit shall apply for renewal of the permit at least forty-five (45) calendar days prior to the expiration date of said permit.

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

(f) Notice of approval, denial, revocation or modification of indirect source permits. (f)(1) Notice of denial, revocation or modification of any indirect source permit shall set forth the reasons for the action taken and such denial, revocation or modification shall take final effect thirty (30) days after the date of service of the notice, unless a hearing is requested prior to the expiration of the thirty (30) days period.

(f)(2) Any party aggrieved by the approval, denial, revocation or modification of a permit may obtain an adjudicative hearing thereon by filing a written answer and request for a hearing in accordance with Section 22a-8-2 of the Rules of Practice of the Department within thirty (30) days of the date of service of the notice.

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

(g) Public information and hearing procedures. (1) In all cases where there is a requirement of legal notice the Commissioner shall cause the applicant for an indirect source permit to publish at his

own expense all notices of hearings and other notices required by law.

(g)(2) The Commissioner shall inform the public of: (i) All indirect source permit applications received; (ii) all decisions approving, denying, revoking, or modifying any indirect source permit.

(g)(3) While a decision is pending on an indirect source permit application any person may file a written comment or may file a written objection setting forth the basis of the objection in detail and opposing the approval of the permit in its entirety or requesting that specific conditions be attached to it. Objection may be accompanied by a request for hearing.

(g)(4) A public hearing on either a stage II or a stage III permit application may be held by the Commissioner: (i) Pursuant to a request for a hearing according to subsection (g)(3);

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

(iii) At the discretion of the Commissioner; or

(iv) Upon the request of any municipality. Any public hearing required by this regulation may be held as part of a public hearing required by other state or federal laws or regulations. Following the close of the hearing, the Commissioner shall make a decision based on all available evidence, including the record of the hearing and the recommendation of the hearing examiner, if any, as to whether to approve or deny the indirect source permit. Notice of such decision shall be published according to subsection (g)(2).

(h) Signature. No indirect source permit issued under this section shall be effective until the applicant or his duly authorized representative shall have signed the permit, which signature constitute an agreement to abide by any terms and conditions therein.

(i) Local and regional participation in indirect source review. (i)(1) Upon the request of the governing body of any municipality or other political subdivision, the Commissioner may designate the municipal planning and zoning agency, the regional planning agency, or any other responsible municipal or regional agency or official as the designee of the municipality for the purpose of making comments and recommendations on applications for indirect source construction permits.

(i)(2) The Commissioner may publish and revise, from time to time, guidelines which shall assist the designated agencies in assessing the impact of any proposed indirect source on the development or

resource allocation goals of the municipality or region.

(i)(3) In addition to the other evaluations made pursuant to this section, the Commissioner may evaluate the effect of the proposed construction or modification upon any plan for development or plan for resource allocation proposed by the municipality or region.

(i)(4) The Commissioner shall submit a copy of the application for an indirect source permit along with his evaluation and analysis, to the designated agency of any affected municipality for its review.

Any designated agency wishing to make comments or recommendations with regard to a pending application must respond within thirty (30) working days following its receipt of the application from the commissioner.

(i)(5) Upon request of any municipality which has a designated agency under the provision of subsection (i)(1), the Commissioner may assist the municipality in formulating a plan for development or a plan for air resource allocation for the purpose of allowing the municipality and region to maximize the benefits of

its utilization of the air resource within the limits imposed by air quality considerations.

(i)(6) The commissioner may establish an indirect source advisory committee composed of municipal and regional officials to advise the Commissioner on procedures concerning the evaluation of indirect source permits and to assist the commissioner in fostering increased municipal and regional cooperation in attaining and maintaining applicable ambient air quality standards.

Sec. 22a-6b-100. Title

Section 22a-6b-100 to 22a-6b-900, inclusive, shall be known and may be cited as "Civil Penalty Regulations."

Sec. 22a-6b-101. Enforcement proceedings

(a) If the commissioner has reason to believe that a violation has occurred for which a civil penalty has been established, he may send to the violator by certified mail, return receipt requested or by personal service, a notice which shall include:

- (1) A reference to the section of the statute, regulation or order involved;
- (2) A short and plain statement of the matters asserted or charged;
- (3) A statement of the amount of the civil penalties to be imposed upon finding after hearing that a violation has occurred or upon a default;
- (4) A statement of the party's right to a hearing.

(b) The person to whom the notice is addressed shall have twenty days from the date of receipt of the notice in which to deliver to the commissioner written application for a hearing. If a hearing is requested then, after a hearing and upon a finding that a violation has occurred, the commissioner may issue a final order assessing a civil penalty under this section which is not greater than the penalty stated in the notice. If such a hearing is not so requested, or if such a request is later withdrawn, then the notice shall, on the first day after the expiration of such twenty day period or on the first day after the withdrawal of such request for hearing, whichever is later, become a final order of the commissioner and the matters asserted or charged in the notice shall be deemed admitted unless modified by consent order, which shall be a final order. Any civil penalty may be mitigated by the commissioner upon such terms as he in his discretion deems proper or necessary upon consideration of the factors set forth in section 2(b) of Public Act 73-665.

(c) Final orders assessing civil penalties not appealed pursuant to section 2(f) of Public Act 73-665, as amended, shall be filed for execution pursuant to section 2(h) of Public Act 73-665, as amended. Such final orders do not waive or forsake any other remedies or powers the department may have with regard to the matter in question.

Sec. 22a-6b-102. Conflict and severance

(a) The provisions of this section are in addition to and in no way derogate from any other enforcement provisions contained in any statute administered by the Commissioner. The powers, duties and remedies provided in such other statutes, and the existence of or exercise of any powers, duties, remedies hereunder or thereunder shall not prevent the Commissioner from exercising any other powers, duties or remedies provided herein, therein, at law or in equity.

(b) The invalidity of any word, clause, sentence, section, part or provision of these regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.

Sec. 22a-6b-600. Title

Sections 22a-6b-600 to 22a-6b-900 inclusive, shall be known and may be cited as "Civil Penalty Regulations: Air Compliance."

Sec. 22a-6b-601. Violation of progress report requirements

When, following hearing or default, the Commissioner determines that a person has failed to submit a progress report in compliance with the requirements of section 19-508-12 (f), and that mitigating circumstances do not justify waiver or reduction of penalties, the Commissioner may issue or make final an order, assessing a civil penalty according to the following schedule:

(1) For a first violation of any part of section 19-508-12(f), a civil penalty of fifty (50) dollars;

(2) For each successive violation of any part of section 19-508-12(f), a civil penalty of one-hundred (100) dollars.

missioner, or the "order assessment period" defined in Section 22a-6b-603 (b), or any period before the date on which Sections 22a-6b-602 and 22a-6b-603 of the Civil Penalty regulations become effective.

(2) "Civil penalties final order" means an order of the Commissioner issued pursuant to Sections 22a-6b-101, 22a-6b-602, and 22a-6b-603 of the Civil Penalty Regulations which has become final by the passage of time or by the consent of the regulatee or after hearing.

(3) "Commissioner" means the Commissioner of the Department of Environmental Protection or his lawfully designated agent.

(4) "Compliance timetable" means the schedule of dates by which a person under a final order is to come into compliance with Department regulations.

(5) "Cost of capital" means either: (i) the weighted average of the marginal rates the Commissioner finds a person or class of persons typically must pay per year for debt and owner's equity or (ii) the annual rate of return or of savings that the commissioner finds a person or class of persons could achieve with a sum of money equal to the cost of compliance; as determined by the Commissioner for a person or class of persons.

(6) "Cost of compliance" means the net, after tax, estimated present value of the sum of equipment costs, operating costs, and all other costs and savings the regulatee will experience in order to come into compliance including, but not limited to inflation, depreciation, such replacement costs as will later be necessary to replace capital equipment that has either worn out or become obsolete, and a discount rate equal to the cost of capital.

(7) "Department" means the Department of Environmental Protection.

(8) "Depreciable life" means the time period of useful life expectancy for capital plant and equipment. This period shall be defined as 10 years until and unless the Commissioner finds otherwise pursuant to Section 22a-6b-602 (g)(2) in which case he may consider the depreciation periods allowed for tax purposes by the U.S. Internal Revenue Service and such other guides as he determines are similarly reliable.

(9) "Depreciation" means the amortization of equipment costs over their depreciable life.

(10) "Emit" means the act of releasing or discharging or causing to be released or discharged any air pollutant in violation of the terms of Sections 19-508-9 and 19-508-18 to 19-508-22, inclusive, of the Regulations for the Abatement of Air Pollution. An "emission standard" is any requirement set forth in Section 19-508-9 and 19-508-18 to 19-508-22, inclusive, and an "emissions violation" is a violation of an emissions standard.

(11) "Equipment costs" means the installed capital costs of such equipment as is or may be required to bring an unabated activity into compliance with applicable emission standards. Such costs shall include, but not be limited to, the cost of equipment required to control emissions effectively, auxiliary equipment, technical and engineering services, and all development and start-up costs including labor, materials and necessary testing. For the purpose of estimating the cost of compliance prior to the date that the unabated activity has been brought into compliance with applicable emissions standards, the Commissioner may assume that what he finds to be the most environmentally effective and reliable equipment available will be used. The Commissioner shall, upon petition by the regulatee once the regulatee has come into compliance, correct the penalty due using actual equipment costs pursuant to Section 22a-6b-602 (g)(2).

(12) "Final order" means an order of the Commissioner issued pursuant to Title 19, Chapter 360, Sections 19-508, 19-510, 19-514, 19-515 and/or 19-517 of the Connecticut General Statutes which has become final by the passage of time or by the consent of the regulatee or after hearing.

(13) "Inflation" means the average annual rate of inflation as measured by the changes in the Wholesale Price Index prepared by the United States Department of Labor or such other index of inflation as the Commissioner may determine is most appropriate over the 3 years prior to the year in which the civil penalty is to be assessed.

(14) "Operating costs" means the non-depreciable annual costs for the operation and maintenance of equipment and processes required for the abatement of air pollution which will protect installed control equipment and insure continuous compliance with applicable emission standards.

(15) "Person" includes every individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, and any other legal entity.

(16) "Regulatee" means a person who owns or operates a process or piece of property that has been, is, or may become an unabated activity.

(17) "Unabated activity" means the ownership or operation of any process or piece of property, real or personal, which (i) emits or causes to be emitted, any air pollutant in excess of the emission standards prescribed in Section 19-508-9 and 19-508-18 to 19-508-22, inclusive, of the Regulations for the Abatement of Air Pollution or (ii) is not equipped or operated with the emission controls required by Sections 19-508-18 to 19-508-22. Ownership or operation of each such

CIVIL PENALTY REGULATIONS: EMISSION VIOLATIONS

(Adopted January 2, 1975)

Sec. 22a-6b-602 (a). Title

This section shall be known and may be cited as "Civil Penalty Regulations: Emission Violations."

Sec. 22a-6b-602 (b). Definitions

(1) "Assessment period" means the period of time, expressed in months or portions thereof, during which a regulatee has failed to incur all the expenses necessary to insure immediate and continued compliance with applicable emission standards except that it does not include the time that a person is under a final order of the Com-

process or piece of property is a separate "unabated activity" regardless of the number of identical or closely similar processes or pieces of property owned by the same person or located on the same premises.

Sec. 22a-6b-602(c). Civil penalties for violating emission standards

Any person carrying on an unabated activity shall be liable for a civil penalty assessed by the Commissioner pursuant to Public Act 73-665, Section 2(a)(2), and in accordance with the procedures prescribed in Section 22a-6b-100 to 22a-6b-102, inclusive, of the Civil Penalty Regulations.

Sec. 22a-6b-602(d). Schedule of maximum assessments

(1) Persons maintaining unabated activities may be assessed monthly amounts for each such activity no greater than the amount listed in the following schedule for the combination of equipment costs and operating costs which will be or has been required to bring the unabated activity into compliance with applicable emissions standards.

(2) The maximum monthly amounts set forth in this schedule represent the economic advantages a person responsible for an unabated activity could gain from one month's delay in bringing that activity into compliance assuming economic and tax conditions all tending to increase the value to the regulatee of such delay. These maximum amounts have been calculated in three broad steps: a gross cash flow for each set of compliance expenditures, chief-

ly equipment costs and operating costs, is defined; this gross cash flow is discounted to present value; and the maximum monthly civil penalty is calculated as that amount would, if paid monthly, amortize the gross present value of the project. The Commissioner shall provide a written explanation of these calculations upon request.

(3) The Commissioner shall impose lesser penalties pursuant to Section 22a-6b-602(e)(1-2) if he finds the probable advantages of delay are smaller than indicated in this schedule, and he may further lower these penalties pursuant to Sections 22a-6b-602 (e) (5) and/or 22a-6b-602(g).

(4) In no case shall the assessment exceed \$25,000 plus \$1000 for each day that the unabated activity continues after the regulatee has received a civil penalties final order.

(5) The Commissioner has determined that the remedies provided by this schedule will insure immediate and continued compliance and will protect (i) the public health, safety, and welfare; (ii) the public trust in the air, water, land and other natural resources of the state; and (iii) the reasonable use of property.

Sec. 22a-6b-602(e). Determination of amount in individual cases

(1) The Commissioner shall determine the amount of the monthly civil penalty he may assess for any individual unabated activity based on the actual or probable cost of compliance required of that particular

activity. Individual assessments are calculated in four broad steps: the gross cash flow of the required compliance expenditures, chiefly equipment costs and operating costs, is determined; the net cash flow is established by taking tax and other savings into account; this net cash flow is discounted to present value; and the individual monthly civil penalty is calculated as that amount which would, if paid monthly, amortize the net present value of the project.

(2) The Commissioner shall calculate the total civil penalty by multiplying the monthly civil penalty by the number of months or fractions thereof in the assessment period.

(3) The Commissioner shall provide a written explanation of this methodology upon request. He shall also provide a written summary of the calculations used to determine a particular assessment, except to the extent he is required to maintain the confidentiality of certain information pursuant to Section 22a-6b-602(i), upon written request by an interested party or the affected regulatee.

(4) In no case shall an individual assessment exceed either (i) the maximum civil penalty Section 22a-6b-602(d) would allow per month for an unabated activity with the same equipment costs and operating costs or (ii) for the total civil penalty due during the entire assessment period, \$25,000 plus \$1000 for each day that the unabated activity continues after the regulatee has received a civil penalties final order.

Schedule of Maximum Allowable Monthly Civil Penalties for an Unabated Activity with Specified Costs.

| Operating Costs | Equipment Costs | | | | | | | | | | | | | |
|---------------------|-----------------|-------------|---------------|-----------------|-----------------|-----------------|-----------------|------------------|-------------------|-------------------|-------------------|-------------------|---------------------|-----------------------|
| | \$0-2500 | \$2501-5000 | \$5001-10,000 | \$10,001-20,000 | \$20,001-35,000 | \$35,001-50,000 | \$50,001-70,000 | \$70,001-100,000 | \$100,001-150,000 | \$150,001-200,000 | \$200,001-300,000 | \$300,001-500,000 | \$500,001-1,000,000 | \$1,000,000 and above |
| \$0-1000 | 188. | 263. | 415. | 717. | 1170. | 1623. | 2227. | 3134. | 4645. | 6155. | 9177. | 15220. | 30329. | * |
| \$1001-2500 | 357. | 432. | 583. | 885. | 1339. | 1792. | 2396. | 3303. | 4813. | 6324. | 9346. | 15339. | 30496. | * |
| \$2501-5000 | 633. | 713. | 864. | 1166. | 1620. | 2073. | 2677. | 3584. | 5094. | 6605. | 9627. | 15670. | 30777. | * |
| \$5001-7500 | 919. | 994. | 1145. | 1448. | 1901. | 2354. | 2953. | 3865. | 5375. | 6886. | 9908. | 15951. | 31058. | * |
| \$7501-10,000 | 1200. | 1275. | 1426. | 1720. | 2182. | 2635. | 3239. | 4146. | 5657. | 7167. | 10189. | 16232. | 31340. | * |
| \$10,001-15,000 | 1762. | 1837. | 1989. | 2299. | 2744. | 3197. | 3801. | 4708. | 6219. | 7729. | 10751. | 16794. | 31902. | * |
| \$15,001-20,000 | 2324. | 2400. | 2551. | 2853. | 3306. | 3759. | 4364. | 5270. | 6781. | 8292. | 11313. | 17356. | 32464. | * |
| \$20,001-25,000 | 2886. | 2962. | 3113. | 3415. | 3868. | 4321. | 4926. | 5832. | 7343. | 8854. | 11875. | 17918. | 33026. | * |
| \$25,001-35,000 | 4011. | 4086. | 4237. | 4539. | 4993. | 5446. | 6050. | 6957. | 8467. | 9978. | 13000. | 19043. | 34150. | * |
| \$35,001-50,000 | 5697. | 5772. | 5924. | 6226. | 6679. | 7132. | 7736. | 8643. | 10154. | 11664. | 14686. | 20729. | 35837. | * |
| \$50,001-75,000 | 8508. | 8583. | 8734. | 9036. | 9490. | 9943. | 10547. | 11454. | 12964. | 14475. | 17497. | 22540. | 38647. | * |
| \$75,001-100,000 | 11318. | 11394. | 11545. | 11847. | 12300. | 12754. | 13358. | 14264. | 15775. | 17286. | 20307. | 26350. | 41458. | * |
| \$100,001-200,000 | 22561. | 22637. | 22798. | 23090. | 23543. | 23996. | 24601. | 25507. | 27018. | 28528. | 31550. | 37593. | 52701. | * |
| \$200,001-350,000 | 39425. | 39501. | 39652. | 39954. | 40407. | 40861. | 41465. | 42371. | 43882. | 45393. | 48415. | 54458. | * | * |
| \$350,001-and above | * | * | * | * | * | * | * | * | * | * | * | * | * | * |

* No more than \$25,000 plus \$1000 for each day that the unabated activity continues after the regulatee has received a civil penalties final order.

(5) In setting a civil penalty in a particular case, the Commissioner shall consider all factors which he deems relevant, including, but not limited to those listed below; and he may, as a result of considering and balancing these factors, lower the civil penalty. The factors he shall consider include:

(i) The amount of the assessment necessary to insure immediate and continued compliance;

(ii) The character and degree of impact the unabated activity has on the public trust in the air, water, and land and on the natural resources of the state, especially any rare or unique natural phenomena;

(iii) The character and degree of injury to, or interference with, public health, safety or welfare which is caused or threatened to be caused by the unabated activity;

(iv) The conduct of the person incurring the civil penalty in taking all feasible steps or procedures necessary or appropriate to comply or to correct the unabated activity;

(v) Any prior violations by such person of statutes, regulations, orders or permits administered, adopted or issued by the Commissioner;

(vi) The economic and financial conditions of such person;

(vii) The character and degree of injury to, or interference with reasonable use of property which is caused or threatened to be caused by such unabated activity.

Sec. 22a-6b-602(f). Enforcement proceedings

(1) **Warning letter.** If the Commissioner finds that an emissions violation has probably occurred, he shall send the responsible regulatee a civil penalties warning letter by certified mail or by personal delivery or service. This letter shall notify the regulatee that the Commissioner has reason to believe a violation has occurred. For those cases to which Sections 22a-6b-602(g)(4)(i) and 22a-6b-602(g)(4)(ii) apply, this warning letter shall also notify the regulatee that it may be able to avoid the imposition of civil penalties under Section 22a-6b-602 if it takes prompt and effective action pursuant to the terms of Section 22a-6b-602(g)(4).

(2) **Hearings.** (i) Any person in receipt of a notice violation issued pursuant to Section 22a-6b-101(a) of the Civil Penalty Regulations may apply to the Commissioner for a hearing pursuant to Section 22a-6b-101(b).

(ii) Such hearing shall be conducted by the Commissioner, a Deputy Commissioner, or a hearing officer from the Office of Adjudication of the Department. Such hearing shall be conducted pursuant to Sections 4-177 to 4-185, inclusive, of the General Statutes and to the Rules of Practice of the Department.

(iii) The Department shall have the burden of producing evidence to prove the emissions violation that provides the basis for imposing the penalty and the reasonableness of the proposed assessment, and the risk of non-persuasion by a preponderance of the evidence shall fall upon the Department.

(iv) If the Commissioner, Deputy Commissioner, or hearing officer presiding at the hearing determines that information important to an accurate determination of all or part of the civil penalty amount is not available at the time of the hearing but will become available later, he may defer determining the amount of the civil penalty due until he establishes that the previously missing information is available, at which time he shall promptly hold a hearing pursuant to Section 22a-6b-602(g)(2) regarding the amount of the civil penalty due. He may not collect any portion of the civil penalty until this hearing is held and a civil penalties final order issued.

(3) **Appeals.** Any person may appeal a civil penalty final order of the Commissioner issued after a hearing pursuant to Section 2(f) of Public Act 73-665.

Sec. 22a-6b-602(g). Mitigation

(1) **General.** The Commissioner may mitigate any civil penalty upon such terms as he in his discretion deems proper or necessary upon consideration of the factors set forth in Sections 2(b) and 2(c) of Public Act 73-665.

(2) **Correction of penalties.** (i) A regulatee in receipt of a notice of violation issued pursuant to Section 22a-6b-101(a) of the Civil Penalty Regulations may petition the Commissioner for correction of the civil penalty assessed against him at any time up to two years after the Commissioner finds that the regulatee has come into compliance. Such petition shall set forth in writing any evidence that the cost of compliance has been or will be less than the Commissioner had initially determined in assessing the civil penalty, and it shall be sent by certified mail or personal service to the Commissioner or the Director of Air Compliance.

(ii) The Commissioner may, in response to such a petition or at his own initiative, lower an assessment he determines was excessive. If the Commissioner takes no action in response to such a petition, or if his response is not satisfactory to the regulatee, the regulatee may obtain a hearing of right once it has come into compliance or at any other time specified in a final order or a civil penalties final order. Following such a hearing the Commissioner shall mitigate civil penalty if and to the extent that the actual cost of compliance has been less than he had initially determined.

(ii) Refunds shall be made with interest calculated from the time of payment and at the cost of capital rate used to assess the civil penalty.

(3) **Reduction of the assessment period for delays beyond the regulatee's control.** The Commissioner shall exclude from the assessment period such periods of non-compliance as the regulatee proves have been caused by strikes or lockouts; riots, wars, or other acts of violence; floods, hurricanes, or other Acts of God; or other equally severe, unforeseeable and uncorrectable accidents; where such acts or events were occasioned directly upon the regulatee or a person under contract to the regulatee. In addition, the Commissioner shall exclude from the assessment period such periods of non-compliance as were occasioned by delays attributable to the Air Compliance Unit of the Department in excess of routine processing times. Nothing in this section shall prohibit a regulatee from proposing, or the Department from accepting, a compliance timetable which excludes from the assessment period periods of non-compliance caused by other acts or events beyond the control of the regulatee, such as contractors' or suppliers' delays.

(4) **Nonimposition during prompt compliance.** (i) If, upon receipt of a warning letter defined in Section 22a-6b-602(f)(1) and continuously thereafter until (a) the end of ninety days or such longer period as the Commissioner may allow or (b) at the end of the assessment period, whichever occurs first, the regulatee takes all steps necessary to bring the unabated activity promptly and effectively into continuing compliance with applicable emissions standards, the Commissioner shall not impose the civil penalty assessable under section 22a-6b-602 before (a) the end of the ninety day period or such longer period as the Commissioner may allow or (b) the end of the assessment period, whichever occurs first.

(ii) If the warning letter requests preparation of a compliance plan, the regulatee shall be deemed to have taken prompt and effective action during the period between receipt of such a request and submission of the requested plan if (a) the plan is a detailed written plan of action including a timetable which, once implemented, will achieve compliance as promptly and effectively as possible and if (b) it is submitted no later than forty days after receipt of such a request. The regulatee shall also be deemed to have taken prompt and effective action, even though it takes no further steps, during the subsequent period between its submission of such a satisfactory plan of action and five days after it has been notified that the Department has completed its review of

the plan and/or has issued a compliance order. Thereafter — and, if the warning letter does not request the preparation of a compliance plan, from the time the regulatee receives the warning letter — the regulatee must take all steps necessary to achieve continuing compliance as promptly and effectively as possible if it is to meet the standard of performance required in Section 22a-6b-602(g)(4)(i).

(iii) Sections 22a-6b-602(g)(4)(i) and 22a-6b-602(g)(4)(ii) shall not apply to persons to whom the Department has, within the preceding 5 years, issued a written order under Section 19-508-12(b)(2) of the Regulations for the Abatement of Air Pollution; or a warning letter under Section 22a-6b-602(f)(1) of this regulation; or actual written notice that person has been found in violation of one or more emissions standards; or actual written notice both of the duty to comply with the relevant requirements of Sections 19-508-9 and 19-508-18 to 19-508-22, inclusive, and of the potential liability to civil penalties for failure to do so; provided that such prior order, warning letter, or actual notice (1) refers to the same section(s) of the Department's Regulations for the Abatement of Air Pollution that are the subject of the current action and (2) was given by certified mail or by personal delivery or service.

(5) Notice. (1) The Commissioner shall report every case in which he lowers a civil penalty pursuant to Section 22a-6b-602(e) or in which he mitigates a civil penalty pursuant to Section 22a-6b-602(g)(1-3), if the monthly civil penalty without such lowering or mitigation would be greater than three hundred dollars, in the Monthly Report of Activities of the Air Compliance Unit. This report shall state the name and address of the regulatee, the amount of the reduction, the amount of the civil penalty still to be assessed, and the grounds for such lowering or mitigation.

(ii) The Commissioner shall also send written notice to all persons who have, within the preceding, twelve months, requested copies of this Monthly Report, either through the Monthly Report or otherwise, of any hearings to be held regarding such cases where the amount of the civil penalty may be an issue at least ten days prior to the hearing.

Sec. 22a-6b-602(h). Limited inclusion of past failure to abate in the assessment period

If the Commissioner finds that it is reasonable to infer that the emissions violation(s) for which a civil penalty is being assessed are the result of a regulatee's past failure to make the control expenditures necessary to bring the similar activities into compliance with applicable emissions standards, and if the regulatee is

not protected from the imposition of civil penalties pursuant to Section from the imposition of civil penalties pursuant to Section 22a-6b-602(g)(4), the Commissioner may include the period of such pre-violation failure in the assessment period used to calculate the civil penalty as prescribed in Section 22a-6b-602(e) subject to the following limitations:

(1) No assessment period shall begin before the date on which this regulation becomes effective;

(2) No assessment period shall include a pre-detection period greater than two years.

Sec. 22a-6b-602(i). Request for information by the commissioner

(1) The Commissioner may require the regulatee to provide such additional information, including information regarding costs, as he deems necessary to effectuate the purposes of Section 22a-6b-602.

(2) Any person who files any statement, record or report with the Commissioner containing false or misleading information or other claims will be liable to criminal prosecution for a Class A misdemeanor punishable by imprisonment for a period of up to one year and a fine of up to one thousand dollars (\$1000) for each violation pursuant to Section 53a-157 of the Connecticut General Statutes.

(3) Any information disclosing trade secrets and commercial or financial information provided by a regulatee pursuant to this section will remain confidential if the regulatee so requests in a letter sent by certified mail or personal service to the Commissioner or the Director of Air Compliance, except that such information may be disclosed to other officers, employees, or authorized representatives of the state concerned with carrying out these regulations or when relevant in any hearing conducted under the authority of these regulations by the Department of Environmental Protection or in any judicial proceeding, subject to such safeguards as the hearing officer or presiding judge may impose.

Sec. 22a-6b-602(j). Collection

(1) Payment of the civil penalties assessed under this section may be required monthly, or at such time or time intervals as the Commissioner determines will most effectively limit the Department's administrative costs and further the objectives defined in Section 22a-6b-602(d).

(2) The present value of the total civil penalty assessed, calculated at the time the notice of violation is issued, shall be held constant regardless of timing of its collection.

Sec. 22a-6b-603(a). Title

This section shall be known and may be cited as "Civil Penalty Regulations: Violation of the Terms of an Order to Abate an Emissions Violation."

Sec. 22a-6b-603(b). Definitions

Except for the following terms, the definitions of Section 22a-6b-602(b) will apply to these regulations:

(1) "Order assessment period" means the period of time, expressed in months or portions thereof, that a person under a final order is behind in conforming to that order's compliance timetable as measured by the time that elapsed between the date of a scheduled deadline and the date that the abatement, control or compliance measures called for in the scheduled deadline are actually completed.

(2) "Scheduled deadline" means the date in a compliance timetable by which an abatement, control, or compliance measure is scheduled to be completed; such deadline may be for any of the intermediate steps in the compliance timetable or for the final step at which compliance is to be completed.

Sec. 22a-6b-603(c). Civil penalties for violating the terms of an order

Any person subject to a final order of the Commissioner to abate an emissions violation who is not in compliance with the terms of that order shall be liable to a civil penalty assessed by the Commissioner pursuant to Public Act 73-665, Section 2(a)(3), in accordance with the procedures prescribed in Section 22a-6b-101 to 22a-6b-102 of the Civil Penalty Regulations, inclusive.

Sec. 22a-6b-603(d). Schedule of maximum assessments

(1) Persons responsible for an unabated activity that is under but not in compliance with the terms of a final order may be assessed a civil penalty no larger than the product of (a) the maximum monthly civil penalty the Commissioner may assess under the schedule of maximum assessments of Section 22a-6b-602(d) against a person for an unabated activity with the same equipment costs and operating costs and (b) the number of months and/or fractions thereof the Commissioner determines are in the order assessment period.

(2) The Commissioner shall provide a written explanation of how these maximum assessments are calculated to any regulatee upon request.

(3) The Commissioner shall impose lesser penalties pursuant to Section 22a-6b-603(e)(1-2) if he finds the probable advantages of delay are smaller than indicated in this schedule, and he may further lower these penalties pursuant to Section 22a-6b-603(e)(5) and/or 22a-6b-603(g).

(4) In no case shall the assessment exceed \$25,000 plus \$1000 for each day that the unabated activity continues after the regulatee has received a civil penalties final order.

(5) The Commissioner has determined that the maximum remedies provided in

this schedule will insure immediate and continued compliance and will protect (i) the public health, safety, and welfare; (ii) the public trust in the air, water, land and other natural resources of the state; and (iii) the reasonable use of property.

Sec. 22a-6b-603(e). Determination of amount in individual cases

(1) The Commissioner shall determine the amount of the monthly civil penalty he may assess for each individual case of an unabated activity not conforming to or complying with the terms of a final order based on the actual or probable cost of compliance required of that particular activity. Individual assessments are calculated in four broad steps: the gross cash flow of the required compliance expenditures, chiefly equipment costs and operating costs, is determined; the net cash flow is established by taking tax and other savings into account; this net cash flow is discounted to present value; and the individual monthly civil penalty is calculated as that amount which would, if paid monthly, amortize the net present value of the project.

(2) The Commissioner shall calculate the total civil penalty by multiplying the monthly civil penalty by the number of months or fractions thereof in the order assessment period.

(3) The Commissioner shall provide a written explanation of this methodology upon request. He shall also provide a written summary of the calculations used to determine a particular assessment, except to the extent he is required to maintain the confidentiality of certain information pursuant to Section 22a-6b-603(h), upon written request by an interested party or the affected regulatee.

(4) In no case shall an individual assessment exceed either (i) the maximum civil penalty Section 22a-6b-602(d) would allow per month for an unabated activity with the same equipment costs and operating costs, or (ii) for the total civil penalty due during the entire order assessment period, \$25,000 plus \$1000 for each day that the unabated activity continues after the regulatee has received a civil penalties final order.

(5) In setting a civil penalty in a particular case, the Commissioner shall consider all factors which he deems relevant, including but not limited to those listed below; and he may, as a result of considering and balancing these factors, lower the civil penalty. The factors he shall consider include:

(i) The amount of the assessment necessary to insure immediate and continued compliance;

(ii) The character and degree of impact the unabated activity has on the public

trust in the air, water, and land and on the natural resources of the state, especially any rare or unique natural phenomena;

(iii) The character and degree of injury to, or interference with, public health, safety or welfare which is caused or threatened to be caused by the unabated activity;

(iv) The conduct of the person incurring the civil penalty in taking all feasible steps or procedures necessary or appropriate to comply or to correct the unabated activity;

(v) Any prior violations by such person of statutes, regulations, orders or permits administered, adopted or issued by the Commissioner;

(vi) The economic and financial conditions of such person;

(vii) The character and degree of injury to, or interference with reasonable use of property which is caused or threatened to be caused by such unabated activity.

Sec. 22a-6b-603(f). Enforcement proceedings

(1) **Hearings.** (i) Any person in receipt of a notice of violation issued pursuant to Section 22a-6b-101(a) of the Civil Penalty Regulations may apply to the Commissioner for a hearing pursuant to Section 22a-6b-101(b).

(ii) Such hearing shall be conducted by the Commissioner, a Deputy Commissioner, or a hearing officer from the Office of Adjudication of the Department. Such hearing shall be conducted pursuant to Sections 4-177 to 4-185 of the General Statutes and to the Rules of Practice of the Department.

(iii) The Department shall have the burden of producing evidence to prove the basis for imposing the penalty and the reasonableness of the proposed assessment, and the risk of non-persuasion by a preponderance of the evidence shall fall upon the Department.

(iv) If the Commissioner, Deputy Commissioner, or hearing officer presiding at the hearing determines that information important to an accurate determination of all or part of the civil penalty amount is not available at the time of the hearing but will become available later, he may defer determining the amount of the civil penalty due until he establishes that the previously missing information is available, at which time he shall promptly hold a hearing pursuant to Section 22a-6b-603(g)(2) regarding the amount of the civil penalty due. He may not collect any portion of the civil penalty until this hearing is held and a civil penalties final order issued.

(2) **Appeals.** Any person may appeal a civil penalties final order of the Commissioner issued after a hearing pursuant to Section 2(f) of Public Act 73-665.

Sec. 22a-6b-603(g). Mitigation

(1) **General.** The Commissioner may mitigate any civil penalty upon such terms

as he in his discretion deems proper or necessary upon consideration of the factors set forth in Sections 2(b) and 2(c) of Public Act 73-665.

(2) **Correction of penalties.** (i) A regulatee in receipt of a notice of violation issued pursuant to Section 22a-6b-101(a) of the Civil Penalty Regulations may petition the Commissioner for correction of the civil penalty assessed against him at any time up to two years after the Commissioner finds that the regulatee has come into compliance. Such petition shall set forth in writing any evidence that the cost of compliance has been or will be less than the Commissioner had initially determined in assessing the civil penalty, and it shall be sent by certified mail or personal service to the Commissioner or the Director of Air Compliance.

(ii) The Commissioner may, in response to such a petition or at his own initiative, lower an assessment he determines excessive. If the Commissioner takes no action in response to such a petition, or if his response is not satisfactory to the regulatee, the regulatee may obtain a hearing of right once it has come into compliance or at any other time specified in a final order or a civil penalties final order. Following such a hearing the Commissioner shall mitigate the civil penalty if and to the extent that the actual cost of compliance has been less than he had initially determined.

(iii) The Commissioner shall also mitigate the civil penalty if and to the extent that the regulatee comes into actual final compliance with less delay than the total number of days of delay for which assessments have previously been made while the regulatee was under a final order.

(iv) Refunds shall be made with interest calculated from the time of payment and at the cost of capital rate used to assess the civil penalty.

(3) **Reduction of the order assessment period for delays beyond the regulatee's control.** The Commissioner shall exclude from the order assessment period such periods of non-compliance as the regulatee proves (i) have been caused by strikes or lockouts; riots, wars, or other acts of violence; floods, hurricanes, or other Acts of God; or other equally severe, unforeseeable and uncorrectable accidents; where such acts or events were occasioned directly upon the regulatee or a person under contract to the regulatee. In addition, the Commissioner shall exclude from the order assessment period such periods of noncompliance as were occasioned by delays attributable to the Air Compliance Unit of the Department in excess of routine processing times. Nothing in this section shall prohibit a regulatee from proposing, or the Department from accept-

ing, a compliance timetable which excludes from the order assessment period periods of noncompliance caused by other acts or events beyond the control of the regulatee, such as contractors' or suppliers' delays.

(4) **Notice.** (i) The Commissioner shall report every case in which he lowers a civil penalty pursuant to Section 22a-6b-603(e) or in which he mitigates a civil penalty pursuant to Section 22a-6b-603(g)(1-3), if the monthly civil penalty without such lowering or mitigation would be greater than three hundred dollars, in the Monthly Report of Activities of the Air Compliance Unit. This report shall state the name and address of the regulatee, the amount of the reduction, the amount of the civil penalty still to be assessed, and the grounds for such lowering or mitigation.

(ii) The Commissioner shall also send written notice to all persons who have, within the preceding twelve months requested copies of this Monthly Report, either through the Monthly Report or otherwise, of any hearings to be held regard-

ing such cases where the amount of the civil penalty may be an issue at least ten days prior to the hearing.

Sec. 22a-6b-603(h). Request for information by the commissioner

(1) The Commissioner may require the regulatee to provide such additional information, including information regarding costs, as he deems necessary to effectuate the purposes of Section 22a-6b-603.

(2) Any person who files any statement, record or report with the Commissioner containing false or misleading information or other claims will be liable to criminal prosecution for a Class A misdemeanor punishable by imprisonment for a period up to one year and a fine of up to one thousand dollars (\$1000) for each violation pursuant to Section 53a-157 of the General Statutes.

(3) Any information disclosing trade secrets and commercial or financial information provided by a regulatee pursuant to this section will remain confidential if the regulatee so requests in a letter sent by certified mail or personal service to the Com-

missioner or the Director of Air Compliance, except that such information may be disclosed to other officers, employees, or authorized representatives of the state concerned with carrying out these regulations or when relevant in any hearing conducted under the authority of these regulations by the Department of Environmental Protection or in any judicial proceeding, subject to such safeguards as the hearing officer or presiding judge may impose.

Sec. 22a-6b-603(i). Collection

(1) Payment of the civil penalties assessed under this section may be required monthly, or at such time or time intervals as the Commissioner determines will most effectively limit the Department's administrative costs and further the objectives defined in Section 22a-6b-603(d).

(2) The present value of the total civil penalty assessed, calculated at the time the notice of violation is issued, shall be held constant regardless of the timing of its collection.

Errata

On page 30, add subsections (b) and (c) to 19-508-22, Control of Nitrogen Oxides Emissions.

(b) Nitric acid manufacture. No person shall cause or permit the emission of nitrogen oxides, calculated as nitrogen dioxide, from nitric acid manufacturing plants in excess of 5.5 pounds per ton (2.8 kg./metric ton) of 100 percent acid produced.

(c) Other sources. No non-fuel burning source shall emit nitrogen oxides, calculated as nitrogen dioxide, in excess of 700 parts per million by volume.

Amendments

| | | |
|-----------|-------|-----------------|
| 19-508-3 | ----- | page 48 |
| 19-508-4 | ----- | page 43 |
| 19-508-8 | ----- | pages 49-50 |
| 19-508-20 | ----- | pages 43-48, 53 |
| 19-508-24 | ----- | page 48, 53 |
| 19-508-18 | ----- | pages 51, 53 |
| 19-508-19 | ----- | page 51 |

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Abatement of Air Pollution

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Abatement of Air Pollution

Subdivision 19-508-4(b)(1) of the Regulations of Connecticut State Agencies is amended as follows:

(b) Smoke and Opacity Monitoring.

(b)(1) Effective January 1, 1976 the owner or operator of any of the following sources shall install, maintain, and operate a smoke and opacity monitor approved in accordance with subsection (d)(1):

- (i) Fuel-burning equipment burning coal;
- (ii) Fuel-burning equipment burning liquid or solid fuels having a maximum rated heat input of two hundred fifty million (250,000,000) BTU per hour or more;
- (iii) Incinerators having a maximum rated input in excess of two thousand (2,000) pounds per hour;
- (iv) A process source that will emit in excess of twenty-five (25) pounds per hour of particulate matter as determined after the application of control equipment, when operated at maximum rated capacity.

Statement of Purpose: To permit small commercial industrial and institutional fuel burning sources to operate without a smoke and opacity monitor.

Be it known that the foregoing regulations are amended as hereinabove stated by the aforesaid agency pursuant to Sec. 19-508 of the General Statutes, after publication in the Connecticut Law Journal on May 8, 1979, of the notice of the proposal to amend such regulations, and the holding of an advertised public hearing on the 12th day of June, 1979.

Wherefore, the foregoing regulations are hereby amended as hereinabove stated, effective when filed with the Secretary of the State.

In Witness Whereof: August 4, 1980, Stanley J. Pac, Commissioner.

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, General Statutes: August 14, 1980.

Approved by the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes: September 30, 1980.

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Sec. 4-172, as amended, of the General Statutes, Secretary of the State: October 10, 1980.

Section 1: Subparagraph 19-508-20 (f)(9)(i) of the Regulations of Connecticut State Agencies is amended as follows:

(i) The use of equipment for which other requirements are specified by subsections (a) through (e) inclusive and subsections (m) through (v) inclusive or which are exempt from air pollution control requirements under those subsections.

Section 2: Subsection 19-508-20 (k) of the Regulations of Connecticut State Agencies is amended as follows:

(k) Restrictions on cutbacks asphalt

(1) Definitions:

As used in this subsection:

"Asphalt" means a dark-brown cementitious material which is solid, semisolid, or liquid in consistency and in which the predominating constituents are bitumens which occur in nature as such or which are obtained as residue in refining petroleum.

"Class 8 Bituminous Concrete" means material specified as Class 8 Bituminous Concrete in the most current version of the state of Connecticut, Department of Transportation Standard Specifications for Roads, Bridges, and Incidental Construction.

"Cutback Asphalt" means asphalt which has been liquefied by blending with more than seven percent organic compounds by volume.

"Medium-Curing Cutback Asphalt" means the material which meets the specifications of the American Society for Testing and Materials Designation D 2028.

"Penetrating Prime Coat" means an application of low-viscosity liquid asphalt to an absorbent surface which is used to prepare an untreated base prior to the application of an asphalt surface.

(2) After October 1, 1985 no person shall store, use or apply cutback asphalt during the months of June, July, August and September except that:

(a) Medium-Curing Cutback Asphalt may be used solely as a penetrating prime coat for aggregate bases prior to paving.

(b) Medium-Curing Asphalt may be used for the manufacture of materials for long-period storage or stockpiling of patching mixes used in pavement maintenance.

(c) Class 8 Bituminous Concrete may be used at any time for surface treatments under one inch, for crack filling, relief joints, minor leveling or pothole patching.

Section 3: Subdivision 19-508-20 (l) (2) of the Regulations of Connecticut State Agencies is amended as follows:

(l) (2) The provisions of this subsection apply with the following exceptions.

(i) Open top vapor degreasers with an open area similar than one (1) square meter (10.8 square feet) are exempt from the provisions of subparagraph (l)(4)(iii);

(ii) Conveyorized degreasers with an air/vapor interface smaller than 2.0 square meters (21.6 square feet) are exempt from the provisions of subdivision (l)(5)(i);

(iii) Metal cleaning equipment in operation prior to July 1, 1980 which meets the requirements of subsection (f);

(iv) Metal cleaning equipment which uses 1,1,1 trichloroethane, methylene-chloride, or trichlorotrifluoroethane.

Section 4: Subsection 19-508-20 (s) of the Regulations of Connecticut State Agencies is amended as follows:

(s) **Miscellaneous metal parts and products**

(s)(1) Definitions for the purpose of this subsection:

"Air dried coating" means coatings which are dried by the use of air or forced warm air at temperatures up to 90°C (194°F);

"Clear coat" means a coating which lacks color and opacity or is transparent and uses the undercoat as a reflectant base or undertone color;

"Coating application system" means all operations and equipment which applies, conveys, and dries a surface coating, including, but not limited to, spray booths, flow coaters, flashoff areas, air dryers and ovens;

"Extreme environmental conditions" means, exposure to any of; the weather all of the time, temperatures consistently above 95°C, detergents, abrasive and scouring agents, solvents, corrosive atmospheres, or similar environmental conditions as determined by the commissioner.

"Extreme performance coatings" means coatings designed for harsh exposure or extreme environmental conditions;

"Heat sensitive material" means materials which cannot consistently be exposed to temperature greater than 95°C (203°F) for more than 30 seconds;

"Low solvent coating" means coatings which contain 0.4 to 4.4 lbs. of solvent/gal. or 20% by weight or less. Low solvent coatings include water-borne, higher solids, electrodeposition and powder coatings;

"Prime coat" means the first of two or more films of coating applied to a metal surface;

"Single coat" means one film of coating applied to a metal surface;

"Topcoat" means the final film or series of films of coating applied in a two-coat (or more) operation;

"Transfer efficiency" means the portion of coating solids which adheres to the metal surface during the application process, expressed as a percentage of the total volume of coating solids delivered by the applicator;

(s)(2) **Applicability.** For the purpose of this subsection:

"Miscellaneous metal parts and products" includes the following industrial categories;

"Large farm machinery (harvesting, fertilizing and planting machines, tractors, combines, etc.);

Small farm machinery (lawn and garden tractors, lawn mowers, rototillers, etc.);

Small appliances (fans, mixers, blenders, crock pots, dehumidifiers, vacuum cleaners, etc.);

Commercial machinery (office equipment, computers and auxiliary equipment, typewriters, calculators, vending machines, etc.);

Industrial machinery (pumps, compressors, conveyor components, fans, blowers, transformers, etc.);

Fabricated metal products (metal covered doors, frames, etc.); and

Any other industrial category which coats metal parts or products under the Standard Industrial Classification Code of Major Group 33 (primary metal industries), Major Group 34 (fabricated metal products), Major Group 35 (nonelectric machinery), Major Group 36 (electrical machinery), Major Group 37 (transportation equipment), Major Group 38 (miscellaneous instruments), Major Group 39 (miscellaneous manufacturing industries), Major Group 40 (Railroad Transportation) and Major Group 41 (Transit Passenger Transportation).

The following categories are not included;

automobiles and light-duty trucks;

metal cans;

flat metal sheets and strips in the form of rolls or coils;

plastic and glass objects;

small metal components having a lacquer surface less than 10 square inches;

magnet wire for use in electrical machinery;

metal furniture;

interior and exterior of airplanes;

automobile refinishing;

customized top coating of automobiles and trucks, if production is less than 5 vehicles per day; and exterior of marine vessels.

(s)(3) **Emission standards.** No owner or operator of a facility engaged in the surface coating of miscellaneous metal parts and products may operate a coating application system subject to this regulation that emits volatile organic compounds in excess of:

(i) 0.52 kg/l (4.3 lb/gal) of coating, excluding water, delivered to a coating applicator that applies clear coatings;

(ii) 0.42 kg/l (3.5 lb/gal) of coating, excluding water, delivered to a coating applicator in a coating application system that is air dried or forced warm air dried at temperatures up to 90°C (194°F);

(iii) 0.42 kg/l (3.5 lb/gal) of coating, excluding water, delivered to a coating applicator that applies extreme performance coatings; and,

(iv) 0.36 kg/l (3.0 lb/gal) of coating, excluding water, delivered to a coating applicator for all other coatings and coating application systems.

(s)(4) This subsection applies to all application areas, flashoff areas, air and forced air driers, and ovens used in the surface coating of the metal parts and products listed in subdivision (s)(2). This regulation also applies to prime coat, top coat, and single coat operations.

(s)(5) If more than one emission limitation is subsection (s)(3) applies to a specific coating, then the least stringent emission limitation shall be applied.

(s)(6) All volatile organic compound emissions from solvent washings shall be considered in the emission limitations in subdivision (s)(3) unless the solvent is directed into containers that prevent evaporation into the atmosphere.

Section 5: Subsection 19-508-20(t) of the Regulations of Connecticut State Agencies is amended as follows:

(t) **Manufacture of synthesized pharmaceutical products.**

(t) (1) Definitions for the purpose of this subsection:

"Condenser" means a device which cools a gas stream to a temperature which removes specific volatile organic compounds by condensation;

"Control system" means any number of control devices, including condensers, which are designed and operated to reduce the quantity of volatile organic compounds emitted to the atmosphere;

"Process equipment exhaust system" means a device for collecting or directing out of the work area, air laden with fugitive emissions of volatile organic compounds from reactor openings, centrifuge openings, and other vessel openings for the purpose of protecting workers from excessive volatile organic compounds exposure.

"Reactor" means a vat or vessel, which may be jacketed to permit temperature control, designed to contain chemical reactions;

"Separation operation" means a process that separates a mixture of compounds and solvents into two or more components. Specific mechanisms include extraction, centrifugation, filtration, decantation, and crystallization;

"Synthesized pharmaceutical manufacturing" means manufacture of pharmaceutical products and intermediates by chemical syntheses. The production and recovery of materials produced via fermentation, extraction of organic chemicals from vegetative materials or animal tissues, and formulation and packaging of the product are not covered by this regulation.

(t)(2) The owner or operator of a synthesized pharmaceutical manufacturing facility shall control the volatile organic compound emissions from all operations including but not limited to all reactors, distillation operations, crystallizers, extraction equipment, centrifuges, decanters, and vacuum dryers. Surface condensers or equivalent controls shall be used, provided that:

(i) If surface condensers are used, the condenser outlet gas temperature at the condenser must not exceed:

(1) -25°C when condensing volatile organic compounds having a vapor pressure of 40.0 kPa (5.8 psi) or greater at 20°C ,

(2) -15°C when condensing volatile organic compounds having a vapor pressure of 20.0 kPa (2.9 psi) or greater at 20°C ,

(3) 0°C when condensing volatile organic compounds having a vapor pressure of 10.0 kPa (1.5 psi) or greater at 20°C ,

(4) 10°C when condensing volatile organic compounds having a vapor pressure of 7.0 kPa (1.0 psi) or greater at 20°C , or

(5) 25°C when condensing volatile organic compounds having a vapor pressure of 3.50 kPa (0.5 psi) or greater at 20°C , or

(ii) If equivalent controls are used, the volatile organic compound emissions must be reduced by at least as much as they would be by using a surface condenser which meets the requirements of subparagraph (t)(2)(i).

(t)(3) The owner or operator of a synthesized pharmaceutical manufacturing facility subject to this regulation shall reduce the volatile organic compound emissions from each air dryer and each process equipment exhaust system;

(i) by at least 90 percent if emissions are 150 kg/day, (330 lb/day) or more of volatile organic compounds; or,

(ii) to 18.2 kg/day (40 lb/day) or less if emissions are less than 150 kg/day (330 lb/day) of volatile organic compounds.

(t)(4) The owner or operator of a synthesized pharmaceutical manufacturing facility subject to this regulation shall:

(i) Provide a vapor balance system or equivalent control so that the amount of volatile organic compounds released to the ambient air is less than 80 milligrams per liter of liquid loaded from truck or railcar deliveries to storage tanks with capacities greater than 7,500 liters (2,000 gallons) that store volatile organic compounds with vapor pressures of 28.0 kPa (4.1 psi) or greater at 20°C ; and,

(ii) Install pressure/vacuum conservation vents on all storage tanks that store volatile organic compounds with vapor pressures of 10.0 kPa (1.5 psi) or greater at 20°C , unless a more effective control system is used which meets state fire marshal standards.

(t)(5) The owner or operator of a synthesized pharmaceutical facility subject to this regulation shall enclose all centrifuges, rotary vacuum filters, and other filters having an exposed liquid surface, where the liquid contains volatile organic compounds and has a vapor pressure of 3.50 kPa (0.5 psi) or more at 20°C .

(t)(6) The owner or operator of a synthesized pharmaceutical facility subject to this regulation shall install covers on all in-process tanks containing a volatile organic compound at any time. These covers must remain closed, unless production, sampling, maintenance, or inspection procedures require operator access.

(t)(7) The owner or operator of a synthesized pharmaceutical manufacturing facility subject to this regulation shall repair all leaks from which a liquid, containing volatile organic compounds can be observed running or dripping immediately or as subject to the conditions of Sec. 19-508-7.

Section 6: Subsection 19-508-20(u) of the Regulations of Connecticut State Agencies is amended as follows:

(u) **Manufacture of pneumatic rubber tires**

(u)(1) For the purpose of this subsection;

"Bead dipping" means the dipping of an assembled tire bead into a solvent based cement;

"Green tires" means assembled tires before molding and curing have occurred.

"Green tire spraying" means the spraying of green tires, both inside and outside, with release compounds which help remove air from the tire during molding and prevent the tire from sticking to the mold after curing.

"Passenger type tire" means agricultural, airplane, industrial, mobile home, light and medium duty truck, and passenger vehicle tires with a bead diameter up to 20.0 inches and cross section dimension up to 12.8 inches.

"Pneumatic rubber tire manufacture" means the production of pneumatic rubber, passenger type tire on a mass production basis;

"Tread end cementing" means the application of a solvent based cement to the tire tread ends.

"Undertread cementing" means the application of a solvent based cement to the underside of a tire tread;

"Water based sprays" means release compounds, sprayed on the inside and outside of green tires, in which solids, water, and emulsifiers have been substituted for organic solvents so that the volatile organic compound content is less than four percent by weight for an inside spray and less than twelve percent by weight for an outside spray.

(u)(2)(a) The owner or operator of an undertread cementing, tread end cementing, or bead dipping operation subject to this regulation shall:

(1) Install and operate a capture system, designed to achieve maximum reasonable capture, up to 70 percent by weight of volatile organic compounds emitted, from all undertread cementing, tread end cementing and bead dipping operations. Maximum reasonable capture shall be consistent with the following documents:

(i) Industrial ventilation, a manual of recommended practices, 14th edition, American Federation of Industrial Hygienists.

(ii) Recommended industrial ventilation guidelines, U.S. Department of Health, Education and Welfare, National Institute of Occupational Safety and Health.

(2) Install and operate a control device that meets the requirements of one of the following:

(i) A carbon adsorption system designed and operated in a manner such that there is at least a 90.0 percent removal of volatile organic compounds by weight from the gases ducted to the control device; or,

(ii) An incineration system that oxidizes at least 90.0 percent of the nonmethane volatile organic compounds (measured at total combustible carbon) which enter the incinerator to carbon dioxide and water.

(iii) An alternative volatile organic compounds emission reduction system certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system, and has been approved by the commissioner.

(u)(2)(b) The owner or operator of a green tire spraying operation subject to this regulation must implement one of the following means of reducing volatile organic compound emissions:

(1) Substitute water-based sprays for the normal solvent-based mold release compound; or,

(2) Install a capture system designed and operated in a manner that will capture and transfer at least 70.0 percent of the volatile organic compounds emitted by the green tire spraying operation to a control device, and, in addition, install and operate a control device that meets the requirements of one of the following: 45

(i) a carbon adsorption system designed and operated in a manner such that there is at least 90.0 percent removal of volatile organic compounds by weight from the gases ducted to the control device; or,

(ii) An incineration system that oxidizes at least 90.0 percent of the nonmethane volatile organic compounds (measured as total combustible carbon) to carbon dioxide and water; or

(iii) an alternative volatile organic compound emission reduction system certified by the owner or operator to have at least a 90.0 percent reduction efficiency, measured across the control system, that has been approved by the commissioner.

(u)(2)(c) The provisions of this regulation do not apply to the production of specialty tires for antique or other vehicles when produced on an irregular basis or with short production runs. This exemption applies only to tires produced on equipment separate from normal production lines for passenger type tires.

(u)(2)(d) The provisions of subdivision (u)(2)(a) shall not apply to the following operations, provided that the total volatile organic compound emissions from all such operations within a facility, as determined before the application of control equipment is less than:

- (i) 200 pounds per day for undertread cementing;
- (ii) 200 pounds per day for tread end cementing;
- (iii) 200 pounds per day for green tire spraying;
- (iv) 100 pounds per day for bead cementing.

Section 7: Subsection 19-508-20 (v) of the Regulations of Connecticut State Agencies is amended as follows:

(v) Graphic arts rotogravers and flexography

(v)(1) For the purpose of this subsection:

"Flexographic Printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials;

"Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels for articles to be sold.

"Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials;

"Roll printing" means the application of works, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

"Rotogravure printing" means the application of words, designs, and pictures to a substrate by means of a roll printing technique which involves an intaglio or recessed image areas in the form of cells.

(v)(2) The owner or operator of a packaging rotogravure, publication rotogravure or flexographic printing facility subject to this regulation and employing solvent containing ink shall not cause, or permit the discharge into the atmosphere, of any volatile organic compounds unless;

(i) The volatile fraction of ink, as it is applied to the substrate, contains 25.0 percent by volume or less of organic solvent and 75.0 percent by volume or more of water; or

(ii) The ink as it is applied to the substrate, less water, contains 60.0 percent by volume or more nonvolatile material; or,

(iii) The owner or operator installs and operates;

(1) A carbon adsorption system which reduces the volatile organic emissions from the capture system by at least 90.0 percent by weight; or

(2) An incineration system provided that 90.0 percent of the nonmethane volatile organic compounds (measured as total combustible carbon) which enter the incinerator are oxidized to carbon dioxide and water; or,

(3) A system demonstrated to have control efficiency equivalent to or greater than the above and approved by the commissioner.

(v)(3) A capture system must be used in conjunction with the emission control systems in part (v)(2)(iii). The design and operation of a capture system must be consistent with good engineering practice, and shall be required to provide for an overall reduction in volatile organic compound emissions of at least:

(i) 75.0 percent where a publication rotogravure process is employed;

(ii) 65.0 percent where a packaging rotogravure process is employed; or,

(iii) 60.0 percent where a flexographic printing process is employed.

Section 8: Subsection 19-508-20(w) of the Regulations of Connecticut State Agencies is amended as follows:

(w) Dry cleaning facilities

(w)(1) For the purpose of this subsection:

"Dry cleaning facility" means a facility engaged in the cleaning of fabrics in an essentially nonaqueous solvent by means of one or more washes in solvent, extraction of solvent by spinning, and drying by tumbling in an airstream. The facility includes but is not limited to any washer, dryer, filter and purification systems, waste disposal systems, holding tanks, pumps, and attendant piping and valves. Dry cleaning facility includes those which are coin-operated and intended for general public use.

(w)(2) Dry cleaning facilities using perchloroethylene

(w)(2)(i) The owner or operator of a dry cleaning facility which uses perchloroethylene shall;

(1) vent all dryer exhausts through carbon adsorption systems or equally effective control devices and maintain emissions of volatile organic compounds at all times no greater than 100 ppmv as measured before dilution.

(2) maintain all system components so as to prevent the leaking of liquid volatile organic compounds and where applicable, prevent excessive vapor losses from gaskets, seals, ducts and related equipment;

(3) treat all diatomaceous earth filters so that the residue contains no greater than 25 Kg of volatile organic emissions per 100 Kg of wet waste material;

(4) reduce the volatile organic compounds from all solvent stills to no greater than 60 Kg of wet waste material; and

(5) drain all filtration cartridges, in the filter housing, for at least 24 hours before discarding the cartridges.

(w)(2)(ii) The provisions of subsection (2)(i)(1) shall not apply to dry cleaning facilities which lack adequate space or sufficient steam capacity to accommodate adsorber systems, or any facility which could demonstrate economic hardship due to compliance with this subsection. An exemption pursuant to this subsection shall be approved at the discretion of the Commissioner after demonstration by the owner or operator of applicability to the conditions of this exemption.

(w)(2)(iii) Compliance with this section shall be determined by:

(1) a visual inspection, for subsections (2)(i)(2) and (2)(i)(5); and

(2) a test consistent with EPA Guideline series document, "Measurement of Volatile Organic Compounds," EPA-450/2-78-041 or use of a system which has been demonstrated to meet the emission limits for sub-section (2)(i)(1); and

(3) use of the procedure in the American National Standards Institute paper, "Standard Method of Test for Dilution of Gasoline Engine Crankcase Oils" for subsections (2)(i)(3) and (2)(i)(4).

Section 9: Subsections 19-508-20 (aa) thru (dd) inclusive of the Regulations of Connecticut State Agencies are amended as follows:

(aa) Applicability. The provisions of subsections (m) through (v) inclusive apply to any article, machine, equipment or other contrivance which emits volatile organic compounds in excess of 8 pounds in any one hour or in excess of 40 pounds in any one day.

(bb) Compliance methods. The owner or operator of a stationary source subject to subsections (m) through (v) inclusive shall achieve the emission limit under the appropriate paragraph by:

(i) The application of low solvent content coating technology; or,

(ii) Incineration, provided that 90 percent of the non-methane volatile organic compounds (measured as total combustible carbon) which enter the incinerator are oxidized to carbon dioxide and water; or,

(iii) A system demonstrated to have control efficiency equivalent to or greater than the above and approved by the commissioner.

(cc) Alternative emission reductions.

(cc)(1) The owner or operator of a stationary source subject to the provisions of subsections (m) through (v) inclusive may submit for the consideration of the commissioner an alternative emission reduction plan which would achieve the same net emission reduction as the owner or operator would achieve by having each emission source comply with the prescribed emission limitations provided in these regulations. Approval of the alternative plan is discretionary with the commissioner, but at a minimum, the owner or operator of the stationary source must demonstrate that:

(i) By means of an approved material balance or acceptable emission test, sufficient reductions in volatile organic compound emissions will be obtained by controlling other existing emission sources of similar volatile organic compounds within the stationary source to the extent necessary to compensate for all excess emissions which result from one or more emission sources not achieving the prescribed emission limitation. This demonstration must be submitted in writing and must include:

(a) A description of the emission source or sources which will not comply with the prescribed emission limitations,

(b) Pounds per hour of volatile organic compounds emitted which are in excess of permissible emissions for each emission source,

(c) A description of each emission source and the related control system's if any, for those emission sources within the stationary source where emissions will be decreased to compensate for excess emissions from each emission source,

(d) Pounds per hour of volatile organic compounds, for each emission source both before and after the improvement or installation of any applicable control system, or any physical or operational changes at the facility to reduce emissions and the date on which these reductions will be achieved; and

(e) A description of the procedures and methods used to determine the emissions of volatile organic compounds; and

(ii) The alternative emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution regulations. The alternative emission reduction plan may include decreases

in emissions accomplished through installation or improvement of a control system or through physical or operational changes at the stationary source such as increased transfer efficiencies;

(iii) The alternative emission reduction plan does not include provisions for the trade off of any volatile organic compound such as benzene which the administrator has determined to be a hazardous material;

(iv) The alternative emission plan does not delay or defer the compliance deadlines for any emission source or sources.

(cc)(2) The implementation of an alternative emission reduction plan instead of compliance with the emissions limitation prescribed in subsections (m) through (v) must be expressly approved by the commissioner through the issuance of an order in accordance with the provisions of section 19-508-12. After approval, any emissions in excess of those established for each emission source under the plan will be a violation of these regulations.

(cc)(3) Where it can be shown to the satisfaction of the commissioner that an emission source cannot be controlled to comply with subsections (m) through (v) inclusive of this section for reasons of technological and economic feasibility, the commissioner may accept a lesser degree of control upon the submission of satisfactory evidence that the stationary source owner has applied reasonably available control technology and has a plan to develop the technologies necessary to comply with the above subsections.

(dd) Seasonal operation of afterburners.

(dd)(1) The owner or operator of any stationary source which uses a natural gas-fired afterburner to meet the requirements of subdivisions (f)(1), (f)(2), (f)(4) or subsections (m) through (v) inclusive may petition the commissioner for permission to discontinue the operation of the afterburner during the months of December, January, and February. The owner or operator shall submit the petition in writing and shall include the following information:

(i) Information on the nature and location of the facility of process for which the application is made;

(ii) The type and quantity of emissions that will occur during the period of shutdown;

(iii) The quantity of natural gas saved as a result of the shutdown;

(iv) Any other relevant information the commissioner may request in order to make a determination regarding the petition.

(dd)(2) The owner or operator of any stationary source for which a petition has been submitted in accordance with subdivision (dd)(1) shall:

(i) Publish by prominent advertisement in the region affected a notice that the petition has been submitted;

(ii) Have made available for public inspection for thirty (30) days a copy of the petition.

(dd)(3) The commissioner shall not grant a petition to discontinue the operation of a gas-fired afterburner which:

(i) Is required to meet the requirements of any other section of these regulations; or

(ii) Will prevent or interfere with the attainment or maintenance of any federal or state ambient air quality standard;

(iii) Has not met the requirements of subsection (dd)(2).

(dd)(4) The commissioner may attach any reasonable conditions he deems necessary or desirable to any approval of a petition under this subsection, including but not limited to:

(i) Requirements for special control measures to be taken by the owner or operator to minimize emissions during the period of the petition;

(ii) Requirements for periodic reports submitted by the owner or operator relating to emissions, to compliance with any other conditions under which the petition is granted, or to any other relevant information the commissioner deems necessary.

(dd)(5) Following his decision to approve or deny the petition the commissioner shall cause an order to be issued in accordance with the provisions of section 19-508-12.

Statement of Purpose: To establish standards to control the emission of volatile organic compounds from certain industries and to make technical amendments to implement these regulations.

Be it known that the foregoing regulations are amended as hereinabove stated by the aforesaid agency pursuant to Sec. 19-508 of the General Statutes, after publication in the Connecticut Law Journal on March 25, 1980, of the notice of the proposal to amend such regulations, and the holding of an advertised public hearing on the 25th day of April, 1980.

Wherefore, the foregoing regulations are hereby amended as hereinabove stated, effective when filed with the Secretary of the State.

In Witness Whereof: August 4, 1980, Stanley J. Pac, Commissioner.

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, General Statutes: August 14, 1980.

Approved by the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes: September 30, 1980.

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Sec. 4-172, as amended, of the General Statutes, Secretary of the State: October 10, 1980.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Abatement of Air Pollution

Section 1: Subparagraph 19-508-3(l)(1)(vi) of the Regulations of Connecticut State Agencies is amended as follows:

Sec. 19-508-3.

(vi) The requirements of paragraphs (l)(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 particulate matter, lead, nitrogen dioxide, or sulfur dioxide and would produce a significant net environmental improvement to the satisfaction of the 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.

Section 2: Subparagraph 19-508-3(l)(3)(ii)(h) of the Regulations of Connecticut State Agencies is amended as follows:

(ii)(h) The offsets must be transacted on a pounds per hour allowable basis. The 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.

Statement of Purpose: To require resource recovery facilities to obtain available offsets and to change the basis for calculating offsets from actual emissions to emissions allowed under these regulations.

Be it known that the foregoing regulations are amended as hereinabove stated by the aforesaid agency pursuant to Sec. 19-508 of the General Statutes, after publication in the Connecticut Law Journal on March 25, 1980, of the notice of the proposal to amend such regulations, and the holding of an advertised public hearing on the 25th day of April, 1980.

Wherefore, the foregoing regulations are hereby amended as hereinabove stated, effective when filed with the Secretary of the State.

In Witness Whereof: August 4, 1980, Stanley J. Pac, Commissioner.

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, General Statutes: August 14, 1980.

Deemed approved in accordance with Sec. 4-170, as amended, of the General Statutes: October 8, 1980.

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Sec. 4-172, as amended, of the General Statutes, Secretary of the State: October 10, 1980.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Abatement of Air Pollution

Section 19-508-24 of the Regulations of Connecticut State Agencies is amended as follows:

Sec. 19-508-24. Connecticut primary and secondary standards

(a) Definitions.

(1) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(2) "Reference method" means a method of sampling and analyzing for an air pollutant, as described in Title 40 Code of Federal Regulations part 50, as from time to time may be amended.

(3) "Equivalent method" means any method of sampling and analyzing for an air pollutant that has been designated in accordance with Title 40 of Federal Regulations part 53, as from time to time may be amended.

(4) "Acceptable method" means a reference method, an equivalent method, or any other method determined by the commissioner.

(b) The concentration of pollutants in the ambient air, as measured by an acceptable method, shall conform with levels specified below as the applicable air quality standards for these substances throughout Connecticut.

(c) Reference conditions. All measurements of air quality are corrected to a reference temperature of 20° C. and to a reference pressure of 760 millimeters of mercury (1,013.2 millibars or 29.92 inches of mercury).

(d) Connecticut primary ambient air quality standards for sulfur oxides (sulfur dioxide). The Connecticut primary ambient air quality standards for sulfur oxides, measured as sulfur dioxide, are:

(1) 80 micrograms per cubic meter (0.03 ppm) - annual arithmetic mean.

(2) 365 micrograms per cubic meter (0.14 ppm) - maximum 24-hour concentration not to be exceeded more than once per year.

(e) Connecticut secondary ambient air quality standards for sulfur oxides (sulfur dioxide). The Connecticut secondary ambient air quality standards for sulfur oxides, measured as sulfur dioxide, are:

(1) 60 micrograms per cubic meter (0.02 ppm) - annual arithmetic mean.

(2) 260 micrograms per cubic meter (0.1 ppm) - maximum 24-hour concentration not to be exceeded more than once per year.

(3) 1,300 micrograms per cubic meter (0.5 ppm) - maximum 3-hour concentration not to be exceeded more than once per year.

(f) Connecticut primary ambient air quality standards for particulate matter. The Connecticut primary ambient air quality standards for particulate matter are:

(1) 75 micrograms per cubic meter - annual geometric mean.

(2) 260 micrograms per cubic meter - maximum 24-hour concentration not to be exceeded more than once per year.

(g) Connecticut secondary ambient air quality standards for particulate matter are:

(1) 60 micrograms per cubic meter - annual geometric mean.

(2) 150 micrograms per cubic meter - maximum 24-hour concentration not to be exceeded more than once per year.

(h) Connecticut primary and secondary ambient air quality standards for carbon monoxide. The Connecticut primary and secondary ambient air quality standards for carbon monoxide are:

(1) 10 milligrams per cubic meter (9 ppm) - maximum 8-hour concentration not to be exceeded more than once per year.

(2) 40 milligrams per cubic meter (35 ppm) - maximum 1-hour concentration not to be exceeded more than once per year.

(i) Connecticut primary and secondary ambient air quality standards for photochemical oxidants. The Connecticut primary and secondary ambient air quality standard for photochemical oxidants, measured and corrected for interferences due to nitrogen oxides and sulfur dioxide, is: 235 micrograms per cubic meter (0.12 ppm) - maximum 1-hour concentration not to be exceeded more than once per year.

(j) Connecticut primary and secondary ambient air quality standards for hydrocarbons. The hydrocarbons standard is for use as a guide in achieving oxidant standards. The Connecticut primary and secondary ambient air quality standard for hydrocarbons is: 160 micrograms per cubic meter (0.24 ppm) - maximum 3-hour concentration (6 am to 9 am) not to be exceeded more than once per year.

(k) Connecticut primary and secondary ambient air quality standard for nitrogen dioxide. The Connecticut primary and secondary ambient air quality standard for nitrogen dioxide is: 100 micrograms per cubic meter (0.05 ppm) - annual arithmetic mean.

(l) Connecticut primary and secondary ambient air standards for lead. The Connecticut primary and secondary ambient air quality standard for lead and its compounds, measured as elemental lead is: 1.5 micrograms per cubic meter, maximum arithmetic mean averaged over three consecutive calendar months.

Statement of Purpose: To amend Connecticut's photochemical oxidant standard and adopt a lead standard to conform with the National Ambient Air Quality Standards.

Be it known that the foregoing regulations are amended as hereinabove stated by the aforesaid agency pursuant to Sec. 19-508 of the General Statutes, after publication in the Connecticut Law Journal

on March 25, 1980, of the notice of the proposal to amend such regulations, and the holding of an advertised public hearing on the 25th day of April 1980.

Wherefore, the foregoing regulations are hereby amended as hereinabove stated, effective when filed with the Secretary of the State.

In Witness Whereof: August 4, 1980, Stanley J. Pac, Commissioner.

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, General Statutes: August 14, 1980.

Deemed approved in accordance with Sec. 4-170, as amended, of the General Statutes: October 8, 1980.

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Sec. 4-172, as amended, of the General Statutes, Secretary of the State: October 10, 1980.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Abatement of Air Pollution

Section 19-508-8 of the Regulations of Connecticut State Agencies is amended as follows:

Sec. 19-508-8. Compliance plans and schedules

(a) All new sources must comply with all regulations as of startup of operations.

(b)(1) Existing sources must comply with subsections 19-508-17 (b), 19-508-18 (b), 19-508-18 (d), and 19-508-23 (a) by June 1, 1972.

(b)(2) Existing sources must comply with subsections 19-508-18(a), 19-508-18(c), 19-508-18(e), 19-508-18(f), 19-508-19(b) through (f) inclusive, 19-508-20(a) through (e) inclusive, subdivisions 19-508-20 (f) (1), 19-508-20 (f) (2), 19-508-20 (f) (5), 19-508-20 (f) (6), 19-508-20 (f) (7), 19-508-20 (f) (8), 19-508-20 (f) (9), 19-508-20 (f) (10), 19-508-21 (a) and (b) and 19-508-22 (a) through (c) inclusive as expeditiously as practicable but not later than June 1, 1973.

(b)(3) Sources subject to subdivision 19-508-20 (f) (4) must submit to the Commissioner a proposed compliance plan and schedule by November 1, 1972, which plan must provide for compliance with appropriate regulations as expeditiously as practicable but not later than April 1, 1975. Sources that do not submit such a plan must be in compliance by June 1, 1973.

(b)(4) Fuel merchants must comply with subdivision 19-508-19 (a) (2) by September 1, 1972, and fuel users must comply with that section by April 1, 1973.

(b)(5) Paint merchants must comply with subdivision 19-508-20 (g) (1) by January 1, 1974, and paint users must comply with subdivisions 19-508-20 (g) (2) and (g) (3) by January 1, 1975.

(b)(6) The owner or operator of a source subject to the requirements of subsections 19-508-20 (l) through (r) must comply by October 1, 1980.

(b)(7) The owner or operator of a source subject to the requirements of subsections 19-508-20 (s) through (w) must comply by October 1, 1981.

(c)(1) Any existing source required to comply with subdivision (b) (2) which is unable to comply by the date specified therein must submit to the Commissioner a proposed compliance plan and schedule by October 1, 1972, which plan must provide for compliance with appropriate regulations as expeditiously as practicable but not later than April 1, 1974.

(c)(2) The owner or operator of any source which cannot comply with the requirements of subdivision (b)(6) shall submit a compliance plan by July 1, 1980 which provides for compliance as expeditiously as practicable but not later than July 1, 1982.

(c)(3) The owner or operator of any source which cannot comply with the requirements of subdivision (b)(7) shall submit a compliance plan by July 1, 1981 which provides for compliance as expeditiously as practicable but not later than July 1, 1982.

(c)(4) Notwithstanding the provisions of subdivision (b)(7) the owner or operator of a source subject to the requirements of subsection 19-508-20 (v) which has actual emissions of one hundred tons or less per year shall submit a compliance plan by July 1, 1984 which provides for compliance by July 1, 1985.

(c)(5) Notwithstanding the provisions of subdivisions (c)(2) and (c)(3) the commissioner may accept a compliance plan with a final date of compliance no later than July 1, 1985 if he determines that the plan calls for new or innovative technology such as the use of low solvent coatings.

(d) Compliance plans and schedules pursuant to subdivision (b) (3) and (c) must:

(d)(1) be submitted on forms furnished or prescribed by the Commissioner;

(d)(2) set forth a proposed date for compliance with each applicable regulation; and

(d)(3) specify in detail the manner in which compliance will be achieved. Said schedule shall also include dates for achievement of increments of progress toward compliance and provide for the source to verify completion of each increment to the Commissioner as it is achieved.

(e) The Commissioner may approve, approve with conditions or disapprove a proposed compliance plan and schedule. The Commissioner shall approve such plan and schedule if he determines that:

(e)(1) The source cannot comply with the regulation at any earlier time, even using the best available control technology, or cannot install such technology any earlier;

(e)(2) Adherence to such plan and schedule will not jeopardize the attainment or maintenance of a national standard by the required time;

(e)(3) The plan and schedule provide for the earliest possible compliance by the source; and

(e)(4) The plan and schedule provide for interim control measures to be taken before the compliance date.

(f) If the Commissioner rejects a proposed plan and schedule or portion thereof, then the source or sources involved must be in compliance with applicable regulations not later than October 1, 1980.

(g) All decisions of the Commissioner regarding a proposed plan and schedule shall be in writing and shall briefly state the basis for the decision.

(h) The commissioner shall issue periodic reports at intervals of not less than once a month, available on request to any interested party, which shall contain information regarding:

(h)(1) proposed compliance schedules received; and

(h)(2) determinations of the Commissioner regarding such schedules.

(i) Following submission to the Commissioner of a proposed compliance plan and schedule, any person may file written objections to the plan, in whole or in part, specifying the basis for those objections. The Commissioner may, at his discretion and after appropriate notice, hold public hearings upon proposed compliance plans and schedules.

(j) The commissioner shall, if petitioned by a minimum of twenty-five (25) persons or by an association having not less than twenty-five members, hold an investigative hearing once each calendar year beginning January 1,

1980 for the purpose of determining the feasibility of expanding the applicability of the provisions of subsection 19-508-20 (cc) concerning alternative emission reduction plans for volatile organic compounds to other sections of these regulations to permit owners and operators of stationary sources to submit alternative emission reduction plans for other pollutants consistent with the requirements of the administrator. The hearing shall be conducted in accordance with section 22a-4-8 of the regulations of Connecticut state agencies.

Statement of Purpose: To allow sources to develop a timetable to comply with new requirements.

Be it known that the foregoing regulations are amended as hereinabove stated by the aforesaid agency pursuant to Sec. 19-508 of the General Statutes, after publication in the Connecticut Law Journal on March 25, 1980, of the notice of the proposal to amend such regulations, and the holding of an advertised public hearing on the 25th day of April 1980.

Wherefore, the foregoing regulations are hereby amended as hereinabove stated, effective when filed with the Secretary of the State

In Witness Whereof: August 4, 1980, Stanley J. Pac, Commissioner.

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, General Statutes: August 14, 1980

Approved by the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes: September 30, 1980.

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Sec. 4-172, as amended, of the General Statutes, Secretary of the State: October 10, 1980.

NOVEMBER 17, 1981

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Abatement of Air Pollution

Subsection 19-508-18 (d) of the Regulations of Connecticut State Agencies is amended as follows:

(d) Fuel-burning equipment. (d) (1) No person shall cause or permit the emission from fuel-burning equipment of particulate matter in excess of the limitations listed in table 18-D-1 below.

TABLE 18-D-1

| Pounds of Particulate Matter per Million BTU of Heat Input | Type of Fuel | Type of Source |
|--|-------------------------|---|
| 0.10 | All | Permit required under section 19-508-3 (except subsection (3)(g)(6)) |
| 0.14 | Residual oil | Required to register under section 19-508-2 or to receive a permit under 19-508-3(g)(6) |
| 0.20 | All except residual oil | All others |

(d) (2) For purposes of this section, the heat input value used shall be the actual firing rate of the fuel-burning equipment.

(d) (3) Fuel-burning sources which, as of the effective date of these regulations, have particulate control equipment in place must maintain such control equipment in proper operation.

Statement of Purpose: To amend the particulate emission limit for fuel-burning sources using oil to require Reasonably Available Control Technology.

Be it known that the foregoing regulations are amended as hereinabove stated by the aforesaid agency pursuant to Sec. 19-508 of the General Statutes, after publication in the Connecticut Law Journal on June 30, 1981, of the notice of the proposal to amend such regulations, and the holding of an advertised public hearing on the 5th and 6th days of August, 1981.

Wherefore, the foregoing regulations are hereby amended as hereinabove stated, effective when filed with the Secretary of the State.

In Witness Whereof: August 28, 1981, Dennis P. DeCarli, Deputy Commissioner.

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, General Statutes: August 31, 1981.

Approved by the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes: September 22, 1981

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Sec. 4-172, as amended, of the General Statutes, Secretary of the State: November 2, 1981.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Abatement of Air Pollution

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

Sec. 19-508-19. Control of sulfur compound emissions:

(a) Fuel combustion. (a) (1) Definitions. As used in subsections (a) through (f) inclusive:

"Combustible" means the heat-producing constituents of a fuel.

"Combustion" means the rapid chemical combination of oxygen with the combustible element of a fuel resulting in the production of heat.

"Fuel" means a substance containing combustibles used for producing heat, light, power or energy.

"Fuel merchant" means any person who offers for sale or sells, transfers, or provides in retail or wholesale trade, fuel, including agents, brokers, wholesalers, distributors, or producers who sell commercial or non-commercial fuel.

"Fuel user" means any person who stores or utilizes commercial or non-commercial fuel for the purpose of creating by combustion heat, light, power, or energy.

"Gross heat input" means the total energy requirement for a premise for twelve (12) consecutive months.

"Heat input" means the actual firing rate of the fuel burning equipment.

"Premise" means the grouping of all air pollutant emitting activities or sources at any one location and owned or under the control of the same person or persons.

"Stack" or "chimney" means a flue, conduit or opening permitting particulate or gaseous emission into the open air, or constructed or arranged for such purpose.

"Sulfur dioxide (SO₂)" means a colorless gas at standard conditions which has the molecular formula SO₂.

"Sulfur oxides (SO_x)" means any compound made up only of sulfur and oxygen which for the purpose of this regulation will be calculated as sulfur dioxide (SO₂).

(a) (2) Fuel users

(a) (2) (i) No person, except as provided in subparagraphs (a) (2) (ii), (a) (3) (i) and (a) (3) (ii), shall use or burn fuel which contains sulfur in excess of a maximum of one percent (1.0%) by weight (dry basis). Additionally, no fuel user shall cause or permit the installation or operation of any fuel burning equipment with a heat input of 250,000 BTU per hour or more which uses fuel containing any solid fuel without first obtaining the commissioner's approval by the issuance of a stationary source operating permit for this purpose, unless the fuel user demonstrates to the commissioner's satisfaction that the emissions of sulfur compounds (expressed as sulfur dioxide) from such equipment are 1.1 pounds per million BTU of heat input or less.

(ii) Under conditions of fuel shortage emergency, as determined by the commissioner, higher percentages of sulfur may be permitted by express approval of the commissioner for temporary periods.

(a) (3) Use of fuel containing other than one percent (1%) sulfur.

(a) (3) (ii) Air pollution control/energy trade program. Notwithstanding the provisions of subsection (a) (2), the commissioner may approve: (i) combustion of a mixture of

fuels, or (ii) combustion of a single fuel, which contain(s) more than one percent (1.0 percent) sulfur by weight (dry basis) provided that:

(A) The emissions of sulfur compounds (expressed as sulfur dioxide) from a given premise do not exceed 0.55 pounds per million BTU of gross heat input;

(B) The owner or operator of the premise applies for and obtains, prior to the burning of such fuel, a stationary source operating permit for this purpose; and

(C) The emissions do not prevent or interfere with either the attainment or maintenance of any applicable air quality standard.

(a) (3) (ii) Emission limitation. Notwithstanding the provisions of subdivision (a) (2) the commissioner may approve the combustion of a single fuel or a mixture of fuels which contain(s) more than one percent (1%) sulfur by weight (dry basis) for any fuel burning equipment provided that the emissions of sulfur compounds (expressed as sulfur dioxide) from such equipment do not exceed 1.1 pounds per million BTU of heat input.

(a) (3) (iii) Ambient impact. Notwithstanding the provisions of subdivision (a) (2) or subparagraphs (a) (3) (i) and (ii) the commissioner shall, by permit or order, limit the emission of sulfur compounds (expressed as sulfur dioxide) from any fuel burning equipment on a given premise to less than 1.1 pounds per million BTU of heat input for any source which interferes with the attainment or maintenance of any applicable air quality standard.

(a) (4) Fuel merchants

(a) (4) (i) No fuel merchant, except as provided in subparagraphs (a) (4) (ii) and (iii) shall store, offer for sale, sell, make available, deliver for use or exchange in trade for use in Connecticut fuel which contains in excess of one percent (1.0%) sulfur by weight (dry basis).

(a) (4) (ii) In other than conditions of fuel shortage emergency described under subsection (a) (2) (ii), fuel merchants seeking to store, offer for sale, sell, deliver for use or exchange in trade, for use in Connecticut, and fuel users seeking to create by combustion heat, light, power, or energy from fuels containing sulfur in excess of the maximums set by subsection (a) (2) under the conditions specified in subsection (a) (3) shall obtain the prior approval of the commissioner.

(a) (4) (iii) The commissioner may allow a fuel merchant to store, sell, or deliver fuel, which contains more than one percent (1%) sulfur by weight (dry basis) to any fuel user who has been authorized to use such fuel by:

(A) A variance pursuant to 19-508-13; or

(B) A permit pursuant to 19-508-3; or

(C) Approval pursuant to 19-508-19 (a) (2) (ii); or

(D) Approval pursuant to 19-508-19 (a) (3); or

(E) Authorization as a result of any other action taken by the commissioner.

The commissioner may take such action under this subparagraph without requiring any notice or hearing.

(a) (5) The commissioner may require submission of fuel analyses, results of stack sampling, or both, prepared at the expense of the merchant or user, to ensure compliance with the provisions of subsections (a) (1) through (a) (7) inclusive, and no person shall fail to submit such data when requested to do so by the commissioner.

(a) (6) Persons selling fuels in Connecticut shall maintain records of sales of all fuel containing sulfur and shall make these records available for inspection by the commissioner or his representative during normal business hours. This section shall not apply to any of the following fuels which have sulfur contents below two-tenths of one percent (0.2%) by weight (dry basis): distillate oil, motor vehicle fuel, aircraft fuel, or gaseous fuel.

(a) (7) The provisions of subsections (a) (1) through (a) (6) inclusive shall not apply to fuels used by oceangoing vessels.

(a) (8) No person shall cause or permit the flaring or combustion of any refinery process gas stream or any other process gas stream that contains sulfur compounds measured as hydrogen sulfide in concentrations greater than 10 grains per 100 standard cubic feet (23 gm/100 scm) of gas.

(a) (9) (i) The provisions of subsections (a) (2) (i) above shall not apply to any coal burning equipment used primarily for educational or historical demonstrations or exhibits provided that the emissions from such fuel burning equipment do not interfere with either the attainment or maintenance of any applicable air quality standard. These sources shall include, but are not limited to, blacksmith's forges, steam locomotives, and steamboats, provided, however, that such sources do not use or burn fuel which contains sulfur in excess of one and one-half percent (1.5%) by weight (dry basis).

(ii) As a prerequisite for exemption under the provisions of subsections (a) (9) (i), owners shall notify the commissioner prior to commencement of said operation.

(iii) The commissioner may revoke or modify an exemption under subsection (a) (9) if he determines that operation of the source will (1) prevent or interfere with the attainment or maintenance of any applicable air quality air standards, or (2) create a substantial health problem.

(iv) All fuel merchants are authorized to sell fuel to any owner or operator granted an exemption pursuant to subsection (a) (9) above. In addition to the requirements of subsection (a) (7) above, all records shall include the sulfur content of the fuel.

(b) Sulfuric acid plants. No person shall cause or permit sulfur oxides emissions which exceed 6.5 pounds per ton (3.25 kg/ metric ton) of one hundred percent (100%) acid produced.

(c) Sulfur recovery plants. No person shall cause or permit the emission of sulfur oxides from a sulfur recovery plant to exceed 0.01 pounds (kg) per pound (kg) of sulfur processed.

(d) Nonferrous smelters. No person shall cause or permit the emission of sulfur oxides from primary non-ferrous smelters to exceed that set forth according to the following equations.

Copper smelters: $Y = 0.2 X$

Zinc smelters: $Y = 0.564 X^{0.85}$

Lead smelters: $Y = 0.98 X^{0.77}$

Where X is the total sulfur fed to the smelter in lb/hr and Y is the allowable sulfur dioxide emissions in lb/hr.

(e) Sulfite pulp mills. No person shall cause or permit the total sulfite pulp mill emissions of sulfur oxides from blow pits, washer vents, storage tanks, digester relief, recovery system, etc., to exceed 9.0 pounds per air-dried ton (4.5 kg/metric ton) of pulp produced.

(f) Other process sources. Notwithstanding the provisions of section 19-508-18 (e), process sources not covered in subsections (b) through (e) inclusive shall not emit sulfur oxides (expressed as sulfur dioxide) in the stack effluent in concentrations which exceed 500 parts per million at standard temperature and pressure.

Statement of Purpose: To allow fuel users in Connecticut to save money by using fuel which contains 1% sulfur without causing a violation of the health-related air quality standards.

Be it known that the foregoing regulations are amended as hereinabove stated by the aforesaid agency pursuant to Sec. 19-508 of the General Statutes, after publication in the Connecticut Law Journal on June 30,

DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Abatement of Air Pollution

Subsection 19-508-18 (f) of the Regulations of Connecticut State Agencies is amended as follows:

(f) Process industries - specific. (f) (1) Emission standards (iron cupolas). No person shall cause or allow the operation of any iron foundry cupola unless such cupola is equipped with gas-cleaning devices and so operated as to remove ninety percent (90%) by weight of all particulate matter in the cupola discharge gases, or to release not more than one and seven-tenths (1.7) of a pound of particulate matter per ton of iron produced, whichever is more stringent. Gases, vapors and gas-entrained effluents from such cupolas shall be incinerated at a minimum temperature of 1300 degrees Fahrenheit for a period of not less than three-tenths of a second.

(f) (2) Emission standards (hot mix asphalt plants). No person shall cause or allow the emission of particulate matter from hot mix asphalt plants in excess of one tenth of a pound per ton of asphalt produced. In addition, the process must conform to subsection (b) of this regulation.

(f) (3) Emission standards (foundry sand). No person shall cause or allow the operation of a foundry sand process unless such process conforms to subsection (b) of this regulation and is equipped with dust control facilities and so operated as to remove ninety percent (90%) of the particulate matter from the foundry sand process, or to emit not more than seventy-five hundredths (0.75) of a pound of particulate matter per ton of material cast.

(f) (4) Emission standards (concrete batching). No person shall cause or allow the operation of a concrete batching process unless such process conforms to subsection (b) of this regulation and is equipped with fugitive dust control facilities with a collection efficiency of 90 percent or 0.02 pounds per cubic yard of concrete, whichever results in less emission.

Statement of Purpose: To amend Connecticut's emission limitations for particulate matter to require Reasonably Available Control Technology consistent with EPA requirements.

Be it known that the foregoing regulations are amended as hereinabove stated by the aforesaid agency pursuant to Sec. 19-508 of the General Statutes, after publication in the Connecticut Law Journal on June 30, 1981, of the notice of the proposal to amend such regulations, and the holding of an advertised public hearing on the 5th and 6th days of August, 1981.

Wherefore, the foregoing regulations are hereby amended as hereinabove stated, effective when filed with the Secretary of the State.

In Witness Whereof: August 11, 1981, Stanley J. Pac, Commissioner.

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, General Statutes: August 13, 1981.

Approved by the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes: October 29, 1981.

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Sec. 4-172, as amended, of the General Statutes, Secretary of the State: November 2, 1981.

DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Abatement of Air Pollution

Subdivision 19-508-20 (dd) (1) of the Regulations of Connecticut State Agencies is amended as follows:

(dd) Seasonal operation of afterburners.

(dd) (1) The owner or operator of any stationary source which uses a natural gas-fired afterburner to meet the requirements of subdivisions (f) (1), (f) (2), (f) (4) or subdivisions (m) through (v) inclusive may petition the commissioner for permission to discontinue the operation of the afterburner during the months of November, December, January, February, and March. The owner or operator shall submit the petition in writing and shall include the following information:

(i) Information on the nature and location of the facility of process for which the application is made;

(ii) The type and quantity of emissions that will occur during the period of shutdown;

(iii) The quantity of natural gas saved as a result of the shutdown;

(iv) Any other relevant information the commissioner may request in order to make a determination regarding the petition.

Statement of Purpose: To allow the operator of a natural gas-fired afterburner to shut the equipment off during the winter, thereby saving energy.

DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Abatement of Air Pollution

Subsection 19-508-24 (e) of the Regulations of Connecticut State Agencies is amended as follows:

(e) Connecticut secondary ambient air quality standards for sulfur oxides (sulfur dioxide). The Connecticut secondary ambient air quality standard for sulfur oxides, measured as sulfur dioxide, is:

(1) 1,300 micrograms per cubic meter (0.5 ppm) - maximum 3-hour concentration not to be exceeded more than once per year.

Statement of Purpose: To amend the State's ambient air quality standards to be consistent with the National Ambient Air Quality Standards as adopted by the U.S. Environmental Protection Agency.