

# STATE OF CONNECTICUT GENERAL STATUTES

## TITLE 22a “ENVIRONMENTAL PROTECTION”

### CHAPTER 446c “AIR POLLUTION CONTROL”

#### **Section 22a-174. (Formerly Sec. 19-508). Powers of the commissioner. Regulations. Fees. Exemptions. General permits. Appeal of commissioner’s action re permit applications.**

(f) The commissioner shall allow the open burning of brush on residential property, provided the burning is conducted by the resident of the property or the agent of the resident and a permit for such burning is obtained from the local open burning official of the municipality in which the property is located, and the open burning of brush in municipal landfills, transfer stations and municipal recycling centers, provided a permit for such burning is obtained from the fire marshal of the municipality where the facility is located, except that no open burning of brush shall occur (1) when national or state ambient air quality standards may be exceeded; (2) where a hazardous health condition might be created; (3) when the forest fire danger in the area is identified by the commissioner as extreme and where woodland or grass land is within one hundred feet of the proposed burn; (4) where there is an advisory from the commissioner of any air pollution episode; (5) where prohibited by an ordinance of the municipality; and (6) in the case of a municipal landfill, when such landfill is within an area designated as a hot spot on the open burning map prepared by the commissioner. A permit for the burning of brush at any municipal landfill, municipal transfer station or municipal recycling center shall be issued no more than six times in any calendar year. The proposed permit to burn brush at any municipal landfill, municipal transfer station or municipal recycling center shall be submitted to the commissioner by the fire marshal, with the approval of the chief elected official of the municipality in which the municipal landfill, municipal transfer station or municipal recycling center is located. The commissioner shall approve or disapprove the fire marshal’s proposed permitting of burning of brush at a municipal landfill, municipal transfer station or municipal recycling center within a reasonable time of the filing of such application. The burning of leaves, demolition waste or other solid waste deposited in such landfill shall be prohibited. The burning of nonprocessed wood for campfires and bonfires is not prohibited if the burning is conducted so as not to create a nuisance and in accordance with any restrictions imposed on such burning. Nothing in this subsection or in any regulation adopted pursuant to this subsection shall affect the power of any municipality to regulate or ban the open burning of brush within its boundaries for any purpose.

Notwithstanding any other provision of this section, fire breaks for the purpose of controlling forest fires and controlled fires in saltwater marshes to forestall uncontrolled fires are not prohibited. Open burning may be engaged in for any of the following purposes if the open burning official with jurisdiction over the area where the burning will occur issues an open burning permit: Fire-training exercises; eradication or control of insect infestations or disease; agricultural purposes; clearing vegetative debris following a natural disaster; and vegetative management or enhancement of wildlife habitat or ecological sustainability on municipal property or on any privately owned property permanently dedicated as open space. Open burning for such purposes on state property may be engaged in with the written approval of the commissioner. Local burning officials nominated for the purposes of this subsection shall be nominated only by the chief executive officer of the municipality in which the official will serve and shall be certified by the commissioner. The chief executive officer may revoke the nomination. The commissioner may adopt regulations, in accordance with the provisions of chapter 54, governing open burning and may authorize or prohibit open burning consistent with this section. The regulations may require the payment of an application fee and inspection fee and may establish a certification procedure for local burning officials.

(1967, P.A. 754, S. 4; 1969, P.A. 758, S. 4; 1971, P.A. 872, S. 17; P.A. 75-453, S. 1, 2; P.A. 76-232, S. 1, 3; P.A. 77-252; 77-604, S. 16, 84; P.A. 79-177; P.A. 81-127, S. 1, 2; 81-385, S. 1, 2; P.A. 83-159, S. 2, 3; 83-555, S. 2; 83-587, S. 74, 96; P.A. 84-5, S. 1, 2; 84-120, S. 1; 84-546, S. 133, 173; P.A. 85-515, S. 2; 85-571, S. 15; P.A. 87-165; P.A. 88-122; P.A. 90-231, S. 1, 28; 90-247, S. 1; P.A. 91-183; 91-369, S. 13, 36; P.A. 92-162, S. 5, 25; P.A. 93-428, S. 17, 19, 39; P.A. 95-165, S. 1; 95-218, S. 12; P.A. 96-64; P.A. 97-124, S. 4, 16; P.A. 98-112, S. 1, 2; P.A. 99-225, S. 2; P.A. 00-1, S. 1, 2; June Sp. Sess. P.A. 00-1, S. 31, 46; P.A. 01-204, S. 11, 29; June Sp. Sess. P.A. 01-9, S. 73, 131; June 30 Sp. Sess. P.A. 03-6, S. 124, 125; P.A. 04-151, S. 1; P.A. 08-98, S. 8; June Sp. Sess. P.A. 09-3, S. 464; Sept. Sp. Sess. P.A. 09-8, S. 34; P.A. 11-80, S. 1; P.A. 14-122, S. 39.)

History: 1969 act required that regulations be consistent with federal act and qualify state and municipalities for federal aid, changed effective date of regulations, amendments or repeals from 60 to 30 days after publication, deleted provision protecting right to burn fuel or buildings under supervision and control of firemen's training center instructors, gave commission power to administer oaths, take testimony and issue subpoenas and added Subsecs. (c) to (e); 1971 act replaced "commission", i.e. clean air commission, with "commissioner", i.e. commissioner of environmental protection, deleted Subsec. (b) re hearing powers and relettered remaining Subsecs. accordingly; P.A. 75-453 added Subsec. (e); P.A. 76-232 added Subsec. (f); P.A. 77-252 required that indirect source operating permit renewal be mandatory only when indirect source no longer conforms to plans etc. submitted to commissioner in Subsec. (e); P.A. 77-604 corrected reference to Sec. 22a-6 in Subsec. (a); P.A. 79-177 added Subsec. (g); P.A. 81-127 amended Subsec. (f) to add provisions re burning of brush in municipal landfills; P.A. 81-385 added Subsec. (h) allowing the commissioner to require payment of a fee by the operator of a source of air pollution to be applicable for any visual test of an air pollution control device conducted or monitored by the department; Sec. 19-508 transferred to Sec. 22a-174 in 1983; P.A. 83-159 amended Subsec. (h) by requiring that the visual test fee reflect the average rather than the actual cost; P.A. 83-555 amended Subsec. (g) to authorize increasing fee by amount

sufficient to cover the cost of monitoring compliance with the terms of a state or federal permit; P.A. 83-587 made a technical amendment to Subsec. (h); P.A. 84-5 amended Subsec. (f) by increasing the maximum number of permits for burning brush in municipal landfill from three to six; P.A. 84-120 added Subsec. (c)(5) and (6), requiring permits for source which is subject to high risk hazardous air pollutants, burns waste oil or is allowed to exceed sulfur emission limits and requiring registration of sources not permitted, and substituted reference to Sec. 14-164c for reference to 14-100c; P.A. 84-546 made technical changes in Subsecs. (c) and (d), substituting references to Sec. 14-164c for references to Sec. 14-100c; P.A. 85-515 added Subsec. (i) re amount of fees paid by municipalities; P.A. 85-571 made no changes; P.A. 87-165 amended Subsec. (c) to require persons violating air pollution control regulations to obtain a permit; P.A. 88-122 amended Subsec. (c) to authorize the commissioner of environmental protection to require that sources obtain a permit if they violate a regulation; P.A. 90-231 amended Subsec. (f) to require commercial applicants to pay a \$250 application fee and a \$250 inspection fee, required municipal applicants to pay a \$125 inspection fee, required the fees to be prescribed by regulations after July 1, 1995, amended Subsec. (g) to require persons obtaining permits pursuant to said subsection to pay a permit fee equal to twice the fee established by regulations, required a permit application fee of \$100, required that said fees to be prescribed by regulations on and after July 1, 1992, added Subsec. (j) re registration of sources of air pollution and added Subsec. (k) exempting residential property from fees; P.A. 90-247 amended Subsec. (c)(5)(E) to include a violation of this chapter, a violation of an order and a violation of a permit; P.A. 91-183 amended Subsec. (c) to authorize the commissioner to adopt regulations concerning operating permits for sources of air pollution under the federal Clean Air Act amendments of 1990; P.A. 91-369 amended Subsec. (h) to modify the method by which payments received by the commissioner shall be deposited; P.A. 92-162 added new Subsec. (l) re general permits for certain minor activities regulated under this section; P.A. 93-428 amended Subsec. (l) to delete a minor inconsistent provision and added new Subsec. (m) re appeal of the commissioner's actions re permit applications, effective July 1, 1993; P.A. 95-165 amended Subsec. (l)(2) to provide for a public hearing on a general permit upon the request of any person if the permit regulates an activity regulated under the federal Clean Air Act; P.A. 95-218 amended Subsec. (l)(1) to delete a prohibition on general permits for activities which will emit more than 25 tons of air pollutant per year; P.A. 96-64 amended Subsec. (f) to add provision re affect of subsection on municipal power to regulate open burning; P.A. 97-124 amended Subsec. (c) to authorize the commissioner to require air pollution sources to comply with certain regulations under the federal Clean Air Act and moved provision requiring renewal of certain registrations under this section, effective June 6, 1997; P.A. 98-112 added new Subsec. (n) re a two-year moratorium on permits for certain asphalt manufacturing facilities, effective May 5, 1998; P.A. 99-225 amended Subsec. (f) to require approval of municipal fire marshal for open burning by persons on residential property, to allow open burning at municipal transfer stations and recycling centers and to authorize open burning for certain fire control purposes; P.A. 00-1 amended Subsec. (f) to permit the burning of nonprocessed wood for campfires and bonfires, to allow local open burning officials to issue permits for open burning on residential property and for fire training, insect control, agricultural purposes, natural disaster clean-up, wildlife habitat and vegetative management and ecological sustainability, to establish a process for nominating and certifying local open burning officials, to allow open burning on state property with approval of the commissioner, to authorize the commissioner to adopt regulations governing open burning, and to make conforming and technical changes, effective March 30, 2000; June Sp. Sess. P.A. 00-1 amended Subsec. (n) to extend moratorium on issuance of permits from July 1, 2000, to July 1, 2001, effective June 21, 2000; P.A. 01-204 amended Subsec. (n) to extend moratorium on issuance of permits from July 1, 2001, to July 1, 2004, to add exception for commissioner's determination that permit issuance will result in improvement of environmental performance, to provide that section shall not apply to the replacement of an existing facility, and to add provisions re upgrade, replacement, consolidation or alteration resulting in an improvement in environmental performance or in reduced total emissions of air pollutants, effective July 11, 2001; June Sp. Sess. P.A. 01-9 revised effective date of P.A. 01-204 but without affecting this section; June 30 Sp. Sess. P.A. 03-6 amended Subsec. (g) to increase permit application fee from \$100 to \$200 and to delete provision re fees as

prescribed by regulation and amended Subsec. (j) to increase biennial registration fee from \$75 to \$150, to increase maximum registration fee for a premise from \$5,000 to \$7,500 and to delete provision re fees as prescribed by regulation, effective August 20, 2003; P.A. 04-151 deleted former Subsec. (j) re biennial registration, redesignated existing Subsecs. (k) to (n) as new Subsecs. (j) to (m), respectively, and made technical changes in Subsecs. (c) and (k)(1), effective May 21, 2004; P.A. 08-98 amended Subsec. (b) to add Subdivs. (1) and (2) re commissioner's power to enter into contracts and serve on certain boards of directors, effective June 2, 2008; June Sp. Sess. P.A. 09-3 amended Subsec. (h) to delete "Except as specified in section 22a-27g"; Sept. Sp. Sess. P.A. 09-8 amended Subsec. (h) to add "Except as specified in section 22a-27u", effective October 5, 2009; pursuant to P.A. 11-80, "Department of Environmental Protection" was changed editorially by the Revisors to "Department of Energy and Environmental Protection" in Subsec. (h), effective July 1, 2011; P.A. 14-122 made a technical change in Subsec. (f).