

ARTICLE XII

AIR POLLUTION CONTROL

12.1.0 - Declaration of Policy

It is hereby declared to be the health policy of the Rockland Health District to safeguard the air resources of the County of Rockland from pollution by:

- 12.1.1 Controlling or abating air pollution existing when this Article is enacted; and
- 12.1.2 Preventing new air pollution, under a program which is consistent with the above-stated declaration of policy and in accordance with the provisions of this Article.
- 12.1.3 Furthermore, it is hereby declared to be the health policy of the Rockland Health District to maintain a reasonable degree of purity of its air resources, consistent with the public health, welfare and comfort of the residents of the Rockland Health District, the propagation and protection of flora and fauna of the Rockland Health District, the business and industrial development of the Rockland Health District and the protection of property and other resources of the Rockland Health District and to that end to require the use of all available, practical and reasonable methods to prevent and control air pollution in the Rockland Health District.
- 12.1.4 It is hereby further declared that maximum cooperation of all parties concerned is essential for achieving those goals which would most effectively prevent and control air pollution and that rules and regulations established under the provisions of this Article should be clearly premised upon scientific knowledge of causes as well as of effects.

12.2.0 - Definitions

Whenever used in this Article, unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated:

12.2.1 Aerosol

The term "**aerosol**" means a dispersion of solid or liquid particulates in a gaseous system.

12.2.2 Air Contaminant

The term "**air contaminant**" means any particulate matter or any gas or any combination thereof, including but not limited to dust, smoke, soot, cinders, fly ash, aerosols, vapors, mist, odor, pollen, fumes other than water vapor or natural air.

12.2.3 **Air Contamination Source**

The term "**air contamination source**" means any source, including but not limited to stacks, chimneys, exhausts, vents, ducts, openings, buildings, structures, open fires, portable boilers, vehicles, processes, places or premises which permits the escape or discharge of air contaminants. When more than one apparatus, contrivance or machine is connected to a single exhaust system, air cleaning devices or stack, their combination shall be considered a single air contamination source.

12.2.4 **Air Pollution**

The term "**air pollution**" means the presence in the outdoor atmosphere of one or more air contaminants in quantities, of characteristics, and of a duration which are injurious to human, plant or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life and property throughout the county or throughout such areas of the county as shall be affected thereby.

12.2.5 **Ambient Air Quality Standards**

The term "**ambient air quality standards**" means the numerically prescribed contaminant levels that shall not be exceeded in a specified area of the State.

12.2.6 **Combustion Installation**

The term "**combustion installation**" means one or more furnace, engine or turbine in which fossil fuel and/or wood is burned with air or oxygen and the air contamination emissions include only those products resulting from (a) combustion of fuel, (b) additives or impurities in the fuel and (c) material introduced for the purpose of altering air contaminant emissions.

12.2.7 **Control Equipment**

The term "**control equipment**" means a device or process which is used to reduce the creation of, or the emission of, air contaminants to the atmosphere or both.

12.2.8 **Dust**

The term "**dust**" means solid particles of organic or inorganic material capable of temporary suspension in the atmosphere.

12.2.9 **Emission**

The term "**emission**" means the discharge of an air contaminant into the atmosphere of the health district.

12.2.10 **Emission Source**

The term "**emission source**" means any point at which air contaminants enter the outer air from combustion installations, processes, and exhaust and ventilation systems.

12.2.11 **Exhaust and Ventilation System**

The term "**exhaust and ventilation system**" means any system which transports any gaseous or gas borne products from their point of generation to the outer air.

12.2.12 **Fly Ash**

The term "**fly ash**" means solid particulate matter emitted from combustion operations to the atmosphere and principally of a particle size ranging downward from ten microns to sub-micron.

12.2.13 **Fuel**

The term "**fuel**" means solid, liquid, or gaseous combustible materials used to produce heat.

12.2.14 **Fuel Burning Equipment**

The term "**fuel burning equipment**" means any equipment, or device in which fuel is burned for the purpose of generating heat, power, steam, or hot water.

12.2.15 **Fumes**

The term "**fumes**" means the solid particles formed by condensation from the gaseous stage suspended in the atmosphere.

12.2.16 **Garbage**

The term "**garbage**" means animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

12.2.17 **Gas**

The term "**gas**" means one of the three stages of aggregation of matter, having neither independent shape nor volume and tending to expand indefinitely.

12.2.18 **Incinerator**

The term "**incinerator**" means any structure or furnace in which combustion takes place, and type 0, 1, 2, 3, or 4 refuse is used as fuel, alone or in conjunction with fossil fuel.

12.2.19 **Internal Combustion Engine**

The term "**internal combustion engine**" means a heat engine in which the pressure necessary to produce motion of the mechanism results from the ignition or burning of a fuel-air mixture within the engine cylinder.

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12.2.20 **Motor Vehicle**

The term "**motor vehicle**" means equipment propelled by an internal combustion engine in or upon which a person or material may be transported on the ground.

12.2.21 **Motor Vehicle Exhaust Emission**

The term "**motor vehicle exhaust emission**" means substances emitted to the atmosphere from any opening downstream from the exhaust ports of a motor vehicle engine.

12.2.22 **Opacity**

The term "**opacity**" means the degree to which emissions other than water reduce the transmission of light and obscure the view of an object in the background.

12.2.23 **Open Fire**

The term "**open fire**" means any outdoor fire or outdoor smoke producing process from which the air contaminants are emitted directly into the outdoor atmosphere.

12.2.24* **Outdoor Furnace**

The term "**outdoor furnace**" means any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors as "accessory structure" for the primary purpose of combustion of fuel to provide heat or energy used as a component of a heating system providing heat for interior space. For the purpose of this section, "Accessory Structures" shall mean a detached structure or an attached structure located on or partially on any premises, which is not used or not intended to be used for living or sleeping by human occupants. (*added 4/19/06)

12.2.25 **Outer Air**

The term "**outer air**" means all space outside of buildings, stacks or exterior ducts.

12.2.26 **Particulates**

The term "**particulates**" means any air-borne material, except water, existing in a finely divided form, as a liquid or solid capable of being suspended in a gaseous system.

12.2.27 **Process**

The term "**process**" means any action, operation, or treatment (except incineration of type 0, 1, 2, 3, or 4 refuse, open burning and operation of combustion installations), embracing chemical, physical, industrial or manufacturing activities, such as, but not limited to, heat treating furnaces, by-product coke plants, core-baking ovens, mixing kettles, cupolas, blast furnaces, foundries, kilns, stills, driers, roasters and equipment used in

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connection therewith, and all other methods or forms of manufacturing, or production, or processing which may emit air contaminants, such as, but not limited to, crushing, grinding, milling, shoveling, conveying, storing and demolishing.

12.2.28 **Process Weight**

The term "**process weight**" means the total weight of all materials introduced into any specific process which may cause any discharge into the atmosphere. Solid fuels used in the process will be considered as part of the process weight, but liquid and gaseous fuels, uncombined water and combustion air will not.

12.2.29 **Process Weight Per Hour**

The term "**process weight per hour**" means the total process weight divided by the number of hours in one complete operation from the beginning of a cycle to the completion thereof. For continuous processes, process weight should be determined on a daily basis.

12.2.30 **Refuse**

The term "**refuse**" means all waste material, including but not limited to, garbage, rubbish, incinerator residue, street sweepings, dead animals and offal. Refuse is classified in accordance with Table I, of this Section.

12.2.31 **Refuse Disposal Area**

The term "**refuse disposal area**" means land used for depositing of refuse except that it shall not include land used for depositing of refuse from a single family, a member of which is the owner, occupant or lessee of said land, or any part of a farm on which only animal wastes resulting from the operation of such farm are deposited. This definition includes, but is not limited to, those areas commonly referred to as landfills, sanitary landfills, and dumps.

12.2.32 **Rubbish**

The term "**rubbish**" means solid or liquid waste material, including but not limited to, paper and paper products; rags; trees; or leaves, needles, and branches therefrom; vines, lawn and garden debris, furniture, cans, crockery, plastics, cartons, chemicals, paint, greases, sludges, oils, and other petroleum products, wood, sawdust, demolition materials, tires, automobiles and other vehicles and parts, for junk, salvage or disposal. Rubbish shall not include garbage, incinerator residue, street sweepings, dead animals, or offal.

12.2.33 **Smoke**

The term "**smoke**" means an air contaminant consisting of small gas-borne particles emitted by an air contamination source in sufficient number to be observable.

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12.2.34 **Soot**

The term "**soot**" means the agglomeration of particles of carbon impregnated with "tar", formed in the incomplete combustion of carbonaceous material.

12.2.35 **Source Sample**

The term "**source sample**" means a sample of the emission from an air contamination source, collected for analysis from within a stack.

12.2.36 **Stack**

The term "**stack**" means any conduit, chimney, duct, vent, flue or opening of any kind arranged to conduct any gaseous or gas-borne products to the outer air.

12.2.37 **Vapor**

The term "**vapor**" means any material in a gaseous state which is formed from a substance that is normally either liquid or solid at atmospheric temperature and pressure.

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12.3.0 - Powers of the Commissioner

- 12.3.1 The Commissioner shall have the power and duty to enforce the provisions of this Article and of the rules and regulations promulgated thereunder.
- 12.3.2 The Commissioner may take such action as provided and authorized herein and as he may deem necessary and proper to control the emission of an air contaminant which causes or may cause, by itself or in combination with another air contaminant in the open air, detriment to the health, safety, welfare or comfort of the public or to a part thereof, or damage to property or business.
- 12.3.3 The Commissioner may seal any equipment which:
 - 12.3.3.1 Emits an air contaminant of a kind or in an amount which, in the opinion of the Commissioner, is creating an emergency situation detriment to the health, safety, welfare of the public, or to a part thereof; or
 - 12.3.3.2 Cause, or is maintained or operated so as to cause, a violation of this Article, if following such violation, an order of the Commissioner is not complied with in the period of time specified in the order.
 - 12.3.3.3 No person shall tamper with or remove the seal of any installation. The seal may be removed from equipment upon receipt of written notice from the Commissioner stating that the equipment has been corrected to his/her satisfaction and that it may be restored to use or operation.
- 12.3.4 The Commissioner may make or cause to be made, any investigation or study which in his/her opinion is desirable for the purpose of enforcing this Article and the rules and regulations promulgated thereunder.
- 12.3.5 The Commissioner shall have the power to issue permits and operating certificates and renewals thereof; to cancel, suspend and revoke those same permits and operating certificates; to hold hearings and to issue orders in connection therewith; and to institute actions and proceedings for compliance with the provisions hereof.
- 12.3.6 The Commissioner shall have the power and duty to formulate and adopt guides, policies, and procedures as he may deem necessary for the implementation of the provisions of this Article or any of the rules and regulations promulgated pursuant thereto.
- 12.3.7 Any decision of the Commissioner relating to the enforcement of this Article will be final.

12.4.0 - Applicability of Other Standards and Regulations

- 12.4.1 In determining compliance with the provisions of this Article, the Department may be guided by the provisions of Chapter III of Title 6 (Environmental Conservation) of the Official Compilation of Codes, Rules

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and Regulations of the State of New York adopted by the New York State Environmental Board, or the Ambient Air Quality Standards-Classification System adopted by the New York State Environmental Board, or the specific air quality standards assigned to geographical areas of the Rockland County Health District, and any subsequent amendments thereto or revisions thereof, or the provisions of any other rules or code which may be enacted by the Department of Environmental Conservation of the State of New York or by the local municipality in which the installation is located provided that the provisions of such rules or code do not permit lower or less exacting requirements than required by this Article.

- 12.4.2 This Article shall not be construed as precluding a person's responsibility to comply with other state and local rules or code, including, but not limited to the application for permits, certificates, exemptions, waivers, and approvals required by the provisions of Chapter III of Title 6 (Environmental Conservation) of the Official Compilation of Codes, Rules, and regulations of the State of New York.

12.5.0 - General Prohibitions and Provisions

- 12.5.1 No person shall operate or maintain any building, equipment, vessel, stationary or locomotive engine, device, container, pipe line, vehicle, process, place or premises, so as to cause, suffer or allow the escape or discharge into the atmosphere of air contaminants in such quantities and in such a place or manner to endanger the public health, safety or welfare. The discharge or escape of such quantities of air contaminants in such a place or manner as to cause or have a natural tendency to cause injury or damage to business or property, may be considered by the department as presumptive evidence that such discharge pollutes the atmosphere in violation of this section. Upon the determination that such violations exist, the Commissioner may issue an order requiring the treatment or abatement of such discharge.
- 12.5.2 No person shall grow, or permit to grow plants on his/her premises, including but not limited to short (common) and giant ragweed, which yield sufficient quantities of windborne pollen to cause, or have a natural tendency to cause, undue discomfort to residents of the immediate area. Upon determination that such a nuisance does exist, the Commissioner may issue an order requiring the owner of the property to destroy the plants in such a manner that may be acceptable to the Commissioner.
- 12.5.3 Any person who shall refuse to comply with or who shall assist in the violation of any provisions of this Article, or who hinders, obstructs, delays, resists, prevents or in any way interferes or attempts to interfere with the Commissioner or his/her representatives in the performance of his/her duties, or shall refuse to permit such personnel, after proper identification, to perform their duty by refusing them entrance at reasonable hours to any premises in which the provisions of this Article are being, have been or are suspected of being violated, or refuse to permit the inspection or examination of this Article, shall be liable for penalties as prescribed by law, and the provisions of this code.

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- 12.5.4 All persons owning, operating, in charge of or in control of any equipment who shall cause, permit or participate in any violation of this Article shall be individually and collectively liable for penalties as prescribed by law and the provisions of this code.
- 12.5.5 Any person violating any of the provisions of this Article, or knowingly making any false statement or false report in connection therewith, shall be liable for penalties as prescribed by law and the provisions of this code.
- 12.5.6 Information pertaining to manufacture, production or secret processes submitted in connection with applications, reports, plans and specifications or testing and designation by the person submitting such information as secret or proprietary, shall be kept confidential except at a hearing or court proceeding authorized under law. The quantity and physical and chemical characteristics of actual and allowable air contaminant emissions shall be considered public information.
- 12.5.7 No person shall engage in or allow surface coating by the spraying of asbestos or asbestos-containing materials.
- 12.5.8 No person shall operate or maintain any building, equipment, vessel, stationary or locomotive engine, device, container, pipe line, vehicle, process, place or premises, so as to cause, suffer or allow the escape or discharge into the atmosphere of air contaminants in such quantities so as to cause offensive or noxious odors in such a place or manner as to endanger the comfort and response, health or safety, or so as to cause nuisance or annoyance. The escape or discharge into the atmosphere of air contaminants in such quantities creating such odors may be considered by the department as presumptive evidence that such discharge pollutes the atmosphere in violation of this section. Upon the determination that such violation exists, the Commissioner may issue an order requiring the treatment or abatement of such discharge or escape of air contaminants creating such odors.
- 12.5.9* No person shall operate or maintain an outdoor furnace with a firebox volume larger than five cubic feet unless and until such time as guidelines and standards are promulgated by the New York State Department of Environmental Conservation or the United States Environmental Protection Agency for the performance of outdoor wood boilers. (*amended 4/16/08)

12.6.0 - New or Modified Emission Sources

12.6.1 Submission of Applications, Reports, Plans and Specifications

- 12.6.1.1 No person shall undertake to construct a new installation which will or may reasonably be expected to contribute to air pollution, or make modifications to an existing installation which will or may reasonably be expected to increase the amount or change the effects or characteristics of air contaminants discharged, or install air pollution control equipment, without first submitting an application, report, plans and specifications and other pertinent information concerning the operation and anticipated emissions of the installation to the Commissioner and without obtaining a Permit to Construct for such new installation, modification to an

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existing installation; or air pollution control equipment issued by the Commissioner, except as hereinafter provided.

- 12.6.1.2 Applications, reports, plans and specifications and other pertinent information and data for such new installations, modifications to existing installations or installation of air pollution control equipment shall be submitted in accordance with the standards, guides, rules and regulations duly promulgated by the Commissioner.
- 12.6.1.3 A fee shall be paid for permits to construct new installations, modifications to existing installations or installations of air pollution control equipment. The fee shall be paid by either cash, certified check or money order made payable to the Rockland County Department of Health.

12.6.2 Approvals and Permits to Construct

- 12.6.2.1 The Commissioner shall acknowledge receipt of applications, reports, plans and specifications, and other pertinent information and data; and he shall notify the applicant in writing of his/her approval, or denial after due consideration.
- 12.6.2.2 Applications, reports, plans and specifications, and other pertinent information and data shall be approved and a Permit to Construct issued by the Commissioner, only when it appears that they are in accordance with the rules and regulations promulgated by the Commissioner or within modifications of and exceptions to such rules and regulations, in the case of a particular installation.
- 12.6.2.3 A Permit to Construct shall be valid for one year from the date of issuance unless extended or suspended by the Commissioner.
- 12.6.2.4 For good cause shown by the applicant, the Commissioner may extend the Permit to Construct issued pursuant to this Article. Each application for such extension shall be in writing stating the reasons for the request. Extensions may be granted for a period of not more than six (6) months.
- 12.6.2.5 A written approval and Permit to Construct issued pursuant to this Article shall not be transferable either from one person to another, from one location to another or from one piece of equipment to another.
- 12.6.2.6 In the event of the denial of an application for a Permit to Construct pursuant to this Article, the applicant shall be notified in writing of the reasons therefore. All denials shall be without prejudice to the applicant's request for an appeal hearing before the Commissioner or for filing a further application, report, plans and specifications after revisions are made to meet the objections specified as the reasons for the denial. The Commissioner may cancel such application if the applicant fails to resubmit an amended application within ninety (90) days of notification.

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12.6.3 Relocations, Minor Alterations and Other Exceptions

- 12.6.3.1 The Commissioner shall be notified in writing of each relocation or minor alteration of an installation; and after making the determination that such relocation or minor alteration does not change significantly the amount, the effects or characteristics of air contaminants discharged, the Commissioner shall notify the applicant in writing that such relocations or minor alteration may be excepted from the provisions of Subsection 12.6.1 of this Article.
- 12.6.3.2 Whenever it is considered by the department, upon receipt of a written description of the operation and anticipated emissions, that a new installation or modification to an existing installation is not likely to significantly contribute to air pollution, or is not likely to increase the amount or change the effects or characteristics of air contaminants discharged, the Commissioner shall notify the applicant in writing that such installation or modification may be excepted from the provisions of Subsection 12.6.1 of this Article.
- 12.6.3.3 New fuel burning equipment installations or modifications to existing fuel burning equipment installations have an input capacity of less than 500,000 BTU per hour are excepted from the provisions of Subsection 12.6.1 of this Article.

12.7.0 - Certificates to Operate Emission Sources

12.7.1 Prohibitions

- 12.7.1.1 No person shall cause, allow or permit the use of operation of an air contamination source, until such air contamination source has been issued a Certificate to Operate by the Commissioner.
- 12.7.1.2 A person who owns an air contamination source shall be permitted to operate such source without a Certificate to Operate provided he has applied for a Certificate to Operate. Such person shall terminate operation of such source upon receipt of written notification that his/her application has been disapproved.

12.7.2 Issuance and Removal of Certificates to Operate

- 12.7.2.1 The owner of an installation for which a Permit to Construct has been issued by the Commissioner pursuant to this Article, shall notify the Commissioner in writing not more than thirty (30) days after the completion of the installation stating that such installation is completed and placed or will be placed in operation. The Commissioner may consider this written notification as formal application for a Certificate to Operate.
- 12.7.2.2 No certificates to operate or renewals thereof shall be issued by the Commissioner unless:

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- 12.7.2.2.1 The installation is constructed and/ or installed in accordance with the approved application, report, plans and specifications; and,
- 12.7.2.2.2 The sampling and analytical determinations if required, made in accordance with methods and procedures acceptable to the Commissioner ascertain compliance with all provisions of this Article or of the rules and regulations promulgated by the Commissioner.
- 12.7.2.3 Before a Certificate to Operate or any renewal thereof is issued, the Commissioner may require the applicant to conduct such tests as are deemed necessary or desirable by the Commissioner to determine the kind or amount of the air contaminant emitted from the installation. Such tests shall be made at the expense of the applicant and shall be conducted in a manner approved by the Commissioner.
- 12.7.2.4 A Certificate to Operate or any renewal thereof issued pursuant to this Article shall be valid for a period not to exceed five (5) years from the date of issuance, unless sooner as required by the Commissioner, or revoked, and may be renewed upon application to the Commissioner.
- 12.7.2.5 A Certificate to Operate or any renewal thereof issued pursuant to this Article shall not be transferable either from one person to another, or from one location to another or from one piece of equipment to another.
- 12.7.3 **Suspension or Revocations**
 - 12.7.3.1 The Commissioner may suspend or revoke a Certificate to Operate or any renewal thereof, issued pursuant to this Article, for violation of the provisions of this Article and of the rules and regulations promulgated hereunder.
 - 12.7.3.2 Suspension or revocation of a Certificate to Operate or any renewal thereof, issued pursuant to this Article shall become final five (5) days after service of notice thereof upon the holder of the Certificate to Operate.
 - 12.7.3.3 In the event of the suspension or revocation of a Certificate to Operate or renewal thereof, issued pursuant to this Article, the holder shall be notified in writing of the reasons thereof. The holder or other aggrieved party affected by such suspension or revocation may formally request in writing within five (5) days following the service of notice of suspension or revocation, the Commissioner to reconsider his/her action and shall set forth the reasons for such request.
 - 12.7.3.4 Unless the Commissioner orders that the Certificate to Operate or renewal thereof, issued pursuant to this Article, be

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suspended or revoked during the pendency of reconsideration, such suspension or revocation shall be stayed for a period specified by the Commissioner by effective service of such notice of reconsideration until final determination.

12.7.4 Exceptions

12.7.4.1 Certificate to Operate may not be required for those installations which the Commissioner has determined to be excepted from the filing of an application, report, plans and specifications under the provisions of Subsection 12.7.1 of this Article.

12.7.4.2 Certificate to Operate shall not be required for fuel burning equipment installations having an input capacity of less than 500,000 BTU per hour.

12.7.5 A fee shall be paid for such certificates to operate or renewal thereof, issued pursuant to this Article. The fee shall be paid by either cash, certified check or money order, made payable to the Rockland County Department of Health.

12.8.0 - Testing of Installations

12.8.1 If the Commissioner has reason to believe that an air contamination source may not be in compliance with the provisions of this Article, he may require the person who owns such air contamination source to submit an acceptable stack test report within a stated time demonstrating that the source is in compliance with this Article. Such person shall bear the cost of stack testing and preparing the stack test report. Failure of such person to submit a report acceptable to the Commissioner within the time stated shall be sufficient reason for the Commissioner to suspend or deny a Certificate to Operate.

12.8.2 A person who is required by the Commissioner to submit stack test report shall notify the Commissioner, in writing, not less than thirty (30) days prior to the test, of the time and date of the test. Such notification shall also include the acceptable procedures to be used to stack test including sampling and analytical procedures. A representative of the department shall be permitted to witness the test or tests to be conducted on the installation. Where a representative of the department is to witness the test or tests and the stipulated time is inconvenient, the representative of the department may request a postponement to some other time that is mutually agreeable.

12.8.3 Tests shall be conducted in a manner acceptable to and approved by the Commissioner and the results of such tests shall be submitted to the Commissioner within thirty (30) days after the completion of tests.

12.8.4 Nothing herein concerning tests conducted by and paid for by the owner shall be deemed to abridge the rights of the Commissioner to conduct separate or additional tests of these installations at a time which is mutually agreeable and at the expense of the department. When these additional tests are found necessary by the Commissioner in order to make

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a determination of contaminant emissions, sampling holes and pertinent allied facilities as needed shall be requested in writing by the Commissioner and shall then be provided by and at the expense of the owner at such points as the Commissioner may request. In such instances, the owner shall provide a suitable power source to the point of testing so that sampling instruments can be operated as required. Analytical results of the source samples collected by the Commissioner shall be furnished to the owner of the installation.

- 12.8.5 Sampling and analytical determinations to ascertain compliance with this Article shall be made in accordance with methods and procedures acceptable to and approved by the Commissioner.

12.9.0 - Air Pollution Control Equipment

- 12.9.1 All air pollution control equipment, if required, used to effect compliance shall be installed in accordance with the approved application, report, plans and specifications, and/or Permit to Construct, and maintained and operated in such a manner so as not to create a violation of this Article and existing laws.
- 12.9.2 Air pollution control equipment, if required, shall be selected so as to afford the highest efficiency or the lowest discharge rate that is reasonable and practicable. Reasonableness and practicability shall take into account cost, the air contaminant concentration in the emission gas stream, particle characteristics and other properties of the contaminant and of the emission gas stream.
- 12.9.3 Collected air contaminants shall be removed and disposed of in conformity with this code and existing laws and at such intervals as may be necessary to maintain the equipment at the required operating efficiency. Collection and disposal shall be performed in a manner so as not to reintroduce contaminants to the outer air or otherwise create a public health hazard or nuisance.

12.10.0 - Emissions From Processes and Exhaust and Ventilation Systems

- 12.10.1 No person shall cause, permit or allow the emission of air contaminants from an emission source of a process and/or exhaust and ventilation system which exceeds the permissible emission rates certified for that emissions source by the Department of Environmental Conservation of the State of New York, or as otherwise required by law.
- 12.10.2 The provisions of this section shall not be construed to allow or permit any person to emit air contaminants in quantities which alone or in combination with other sources would contravene any established ambient air quality standards and/or cause air pollution.
- 12.10.3 No process and/or exhaust and ventilation system shall be operated so as to emit air contaminants with an opacity equal to or greater than 20% for any time period, under normal operating conditions.

12.11.0 - Open Fires

12.11.1 Prohibitions

Except as permitted by Subsections 12.12.2 and 12.12.3, of this Article, no person shall burn, cause, suffer, allow or permit the burning in an open fire:

- 12.11.1.1 Of garbage;
- 12.11.1.2 Of rubbish for salvage;
- 12.11.1.3 For on-site disposal, of rubbish generated by residential activities;
- 12.11.1.4 For on-site disposal of rubbish generated by industrial or commercial activities;
- 12.11.1.5 Of rubbish generated by land clearing or demolition for the erection of any structure; for the construction or modification of any highway, railroad, pipeline, or power communication line; or for the development or modification of a recreational area or park;
- 12.11.1.6 Of refuse during an air pollution episode, in an area for which such air pollution episode has been designated.

12.11.2 Exempted Open Burning

The following types of burning in an open fire may be exempted from the provisions of Subsections 12.11.3 and 12.11.4, of this Article, when upon the determination of the Commissioner that such burning is not prohibited by Subsection 12.11.1 of this Article, and is not contrary to other local rules, regulations or ordinances.

- 12.11.2.1 Burning in outdoor grills, fireplaces or campfires for the purpose of preparing food;
- 12.11.2.2 Burning of solid or liquid fuels, refuse or structures at a permanently designated fire training center when under the direct control and supervision of qualified instructors for the instruction and training of firemen. This burning shall not be permitted during a period of high air pollution potential in an area for which such high air pollution potential has been announced.

12.11.3 Restricted Open Burning

- 12.11.3.1 The Commissioner, upon receipt and approval of a written application, may issue a permit for restricted open burning for the following types of burning in an open fire, provided it is not contrary to other law:

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- 12.11.3.1.1 Burning of solid or liquid fuels, rubbish or structures at any temporary designated fire training site when under the direct control and supervision of qualified instructors for the instruction and training of firemen; provided that such burning is in accordance with the permit issued by the Commissioner;
- 12.11.3.1.2 Burning of rubbish, principally tree trimmings derived from commercial agricultural operations during the period December 1st through March 31st; provided that such burning is in accordance with the permit issued by the Commissioner. (Amended 12/21/94)
- 12.11.3.1.3 Burning of rubbish, limited to paper products, wood and wood products in fires used solely for recreation purposes not involving the preparation of food; provided that such burning is in accordance with the permit issued by the Commissioner.
- 12.11.3.1.4 **Repealed 12.21.94**
- 12.11.3.1.5 Burning at an appropriate designated site of toxic, explosive, or dangerous materials; provided that such burning is done only in accordance with the permit issued by the Commissioner, if it is determined that there is no other safe or economical method of disposal.

12.11.3.2 Burning under the provisions of Subsection 12.11.3.1 shall not be permitted during a period of high air pollution potential, in an area for which such high air pollution potential has been announced.

12.11.3.3 The provisions of Subsection 12.11.3.1 shall not be construed to allow or permit any person to create an open fire which would emit air contaminants in quantities which alone or in combination with other sources would contravene any established ambient air quality standards and/or cause air pollution.

12.11.4 Permits for Restricted Open Burning

12.11.4.1 An application for a permit for restricted open burning required by Subsection 12.12.3.1 of this Article, shall include the reasons why such burning should be permitted and such other information as may be required by the Commissioner to insure that such burning will be unlikely to result in contravention of ambient air quality standards and/or to cause air pollution.

12.11.4.2 Any permit to open burn which may be issued for restricted open burning pursuant to this Article, shall be for a specified

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period of time and shall contain such conditions as are deemed necessary by the Commissioner to minimize air pollution and contravention of ambient air quality standards.

- 12.11.4.3 A permit to open burn which may be issued for restricted open burning pursuant to this Article shall not be transferable either from one person to another or from one location to another.
- 12.11.4.4 Any permit to open burn issued for restricted open burning pursuant to this Article, may be revoked by the Department if there is:
 - 12.11.4.4.1 A failure to comply with its conditions; or
 - 12.11.4.4.2 A violation of this Article in connection with the burning; or
 - 12.11.4.4.3 The occurrence, or likely occurrence of either air pollution or contravention of ambient air quality standards as a result of the burning. Before revocation of a permit, the permittee shall have the right to be heard, but where prompt action is necessary because of danger to the public health or safety, or to prevent serious air pollution, the permit may be suspended pending a hearing.
- 12.11.4.5 A fee will be charged for each open burning permit application. This fee shall be paid by either cash, certified check or money order made payable to the Rockland County Department of Health.

12.12.0 - Internal Combustion Engines

12.12.1 Prohibitions

- 12.12.1.1 No person who owns, operates or leases a stationary or portable internal combustion engine, or a motor vehicle propelled by an internal combustion engine, except a marine internal combustion engine, or who owns, leases or occupies land and has actual or apparent dominion or control over the operation of a stationary or portable internal combustion engine, or a motor vehicle propelled by an internal combustion engine, except a marine internal combustion engine, which is present on said land, shall operate it or allow or permit it to be operated, in such a manner that smoke is produced for a continuous period of more than five (5) seconds.
- 12.12.1.2 No person who owns, operates or leases a motor vehicle propelled by an internal combustion engine, except for a marine internal combustion engine, or who owns, leases or occupies land and has actual or apparent dominion or control over the operation of a vehicle propelled by an internal combustion engine, except a marine internal combustion engine, which is

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present on said land, shall operate, allow or permit the internal combustion engine of such motor vehicle to idle for more than three (3) consecutive minutes when the motor vehicle is not in motion, except as otherwise permitted by Subsection 12.12.2 of this Article.

12.12.2 Exceptions

- 12.12.2.1 When a motor vehicle, the motive power for which is provided by an internal combustion engine, is forced to remain motionless because of traffic conditions over which the operator thereof has no control, the idling time may exceed the limitation set forth in Subsection 12.12.1.2 of this Article.
- 12.12.2.2 When regulations adopted by a federal, state or local agency having jurisdiction requires the maintenance of a specific temperature for passenger comfort, the idling time set forth in Subsection 12.12.1.2 of this Article may be increased, but only to the extent necessary to comply with such regulations.
- 12.12.2.3 When an internal combustion engine is being used to provide power for an essential auxiliary purpose, such as: loading, discharging, mixing or processing cargo; controlling cargo temperature; construction; lumbering; oil or gas well servicing; farming operations; or when operation of the engine is required for the purpose of maintenance, it shall not be considered to be idling within the meaning of Subsection 12.12.1.2 of this Article.
- 12.12.2.4 The idling provisions of Subsection 12.12.1.2 of this Article shall not apply to fire trucks and other emergency vehicles while performing essential services.

12.13.0 - Incinerators

12.13.1 Prohibitions

- 12.13.1.1 No person shall cause, allow or permit the installation or construction of an incinerator except:
 - 12.13.1.1.1 When regulations adopted by a federal or state agency having jurisdiction require the installation or construction of an incinerator to dispose of contaminated or infectious materials from hospitals, nursing homes, biological laboratories or veterinary hospitals; or,
 - 12.13.1.1.2 When regulations adopted by a federal or state agency having jurisdiction require the installation

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or construction of an incinerator to dispose of secret documents or United States currency; or,

12.13.1.1.3 When such incinerator is installed or constructed for the purpose of cremation of human or animal remains; or,

12.13.1.1.4 When substantial proof is submitted to the Department showing that no alternate means of disposal of such materials acceptable to the Department is available and when the design and construction of the incinerator is shown by actual emission sampling and analysis conducted by and at the expense of the owner or manufacturer under actual operating conditions and with routine maintenance, to produce emissions that do not exceed smoke and particulate emission limits set forth elsewhere in this Article.

12.13.1.2 No person shall cause, or allow or permit the installation or construction of an incinerator without first obtaining written approval and a Permit to Construct issued by the Commissioner as required by the provisions of Section 12.6.0 of this Article.

12.13.2 Emission Limits and Operation

12.13.2.1 No person shall cause, allow or permit the use or operation of an incinerator without first obtaining a Certificate to Operate issued by the Commissioner as required by the provisions of Section 12.7.0 of this Article.

12.13.2.2 All incinerators shall be operated so that particulate emissions do not exceed the emission limits shown in Figure I of this Subsection 12.13.2.6 or shall be equipped with adequate control devices or redesigned and rebuilt so as to meet the aforementioned particulate emission limit.

12.13.2.3 No incinerator shall be operated so as to emit smoke of an opacity equal to or greater than 20% for any time period, under normal operating conditions.

12.13.2.4 No person shall use or permit the use of an incinerator for a purpose or in a manner which causes it to function improperly or other than in accordance with its design.

12.13.2.5 No person shall cause or permit the operation of an incinerator at any time other than between the hours of 7:00 a.m. and 5:00 p.m. of the same day, except with the written approval of the Commissioner. Any person seeking approval to cause or permit the operation of an incinerator at any time other than as heretofore provided shall submit a written request to the Commissioner stating:

12.13.2.5.1 The full name and address of the applicant;

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12.13.2.5.2 The location of the incinerator;

12.13.2.5.3 A brief description of the incinerator and its apparatus;

12.13.2.5.4 The reason for requesting such approval;

12.13.2.5.5 The hours during which the applicant seeks to operate the incinerator; and

12.13.2.5.6 The length of time for which the approval is requested.

12.13.2.6 "Incinerator Emission Guide" Figure 1 of 6 NYCRR 222

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- 12.13.2.7 No person shall construct, install, use or cause to be used any continuous fed incinerator unless the gas temperature at the furnace outlet is designed to be automatically maintained and is automatically maintained at not less than 1400°F while the incinerator is in operation.
- 12.13.2.8 No person shall construct, install, use or cause any batch fed incinerator unless the gas temperature at the furnace outlet is designed to be automatically maintained and is automatically maintained at not less than 1400°F during ninety percent (90%) of the burning period.
- 12.13.2.9 Incinerators with a capacity of 2000 pounds per hour or less of refuse charged shall be equipped with a sensing device indicating the gas temperature at the furnace outlet. Incinerators with a capacity of greater than 2000 pounds per hour of refuse charged shall be equipped with a sensing device and recorder to measure and record the temperature at the furnace outlet. A person who owns, operates, or maintains an incinerator with a capacity greater than 2000 pounds per hour of refuse charged shall retain recorder chart temperature records for a period of three (3) years and shall make such charts available for inspection by the Commissioner or his/her representative during normal business hours.
- 12.13.2.10 Upon application, the Commissioner may modify the provisions of this section where the applicant can show to the satisfaction of the Commissioner that the odorous emission from his/her incinerator can be and is controlled with equivalent effectiveness.

12.13.3 Abatement

- 12.13.3.1 The Commissioner may order the installation of appropriate control equipment to reduce particulate emissions to a level meeting the particulate emission limits as provided by this Article, or the Commissioner may seal the incinerator if such equipment is not installed within the time limit specified by the Commissioner.
- 12.13.3.2 The Commissioner may order the cleaning, repair, replacement or alteration of any equipment or control equipment which causes or is operated so as to cause a violation of this Article.
- 12.13.3.3 The Commissioner may order a change in the manner of operation of any incinerator which is operated so as to cause a violation of this Article.

12.14.0 - Combustion Installations, Fuel Composition and Use

12.14.1 Prohibitions

- 12.14.1.1 No person shall construct, install or modify or cause to be constructed, installed or modified, any combustion installation without first obtaining written approval and a Permit to Construct issued by the Commissioner as required by the provisions of Section 12.6.0 of this Article.
- 12.14.1.2 No person shall construct, install or modify or cause to be constructed, installed or modified, any combustion installation to use fuels having a sulfur content of more than 0.37 percent by weight except as otherwise permitted by Subsection 12.14.2 of this Article.
- 12.14.1.3 No person shall purchase for use in, or use in, stationary combustion installations fuels having a sulfur content more than 0.37 percent by weight, except as otherwise permitted by Subsection 12.14.2 of this Article.
- 12.14.1.4 No person shall cause, allow or permit the use or operation of any combustion installation without first obtaining a Certificate to Operate issued by the Commissioner as required by the provisions of Section 12.7.0 of this Article.
- 12.14.1.5 The provisions of this section shall not be construed to allow or permit any person to emit air contaminants in quantities which alone or in combination with other sources would contravene any established ambient air quality standards and/or cause air pollution.

12.14.2 Exceptions

- 12.14.2.1 Upon written applications, the commissioner may permit the use of fuels having sulfur contents in excess of that permitted in Subsection 12.14.1 of this Article when the installation:
 - 12.14.2.1.1 Provides for an approved air pollution control equipment which limits the emission rate of sulfur compounds (expressed as sulfur dioxide) to an emission level equivalent to the burning of the mandated fuels, without such air pollution control equipment; **or**,
 - 12.14.2.1.2 Is a steam or electric power generating station in operation or under construction prior to January 1, 1968, producing steam or electric power for sale, when such installation simultaneously burns a mixture of fuels such that the emission rate of sulfur compounds (expressed as sulfur dioxide) will not exceed an emission level equivalent to the burning of the mandated fuels; **or**

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12.14.2.1.3 Is one where fuel is used as a process constituent;
or

12.14.2.1.4 Is a trial installation of air pollution control equipment to remove sulfur compounds from stack effluents where there is a reasonable possibility that the trial installation will be effective; **or**

12.14.2.1.5 Is a combustion installation producing heat or power, or both, where a substantial portion of the sulfur content of the fuel is retained in the ash and not emitted to the outer air.

12.14.2.2 Upon application, the Commissioner may permit the continued, but not increased, use of anthracite where anthracite has been the regular source of fuel prior to January 1, 1968, but such continued use shall not extend beyond June 30, 1977.

12.14.2.3 Upon written application, the Commissioner may permit the continued, but not increased, use of coke where coke has been the regular source of fuel prior to January 1, 1968, but such continued use shall not extend beyond June 30, 1977.

12.14.3 Compliance

12.14.3.1 The Commissioner may require submission of fuel analyses, monthly quantities of fuels received or burned and/or results of stack sampling, and other procedures to ensure compliance with the provisions of this section and no person shall fail to submit such information when requested to do so by the Commissioner.

12.14.3.2 Persons selling fuels in the health district shall maintain records or sales of all fuels containing sulfur and shall make these records available for inspection by the Commissioner during normal business hours.

12.14.3.3 Sampling, compositing and analyses of fuel samples shall be carried out in accordance with methods acceptable to the Commissioner.

12.15.0 - Stationary Combustion Installations

12.15.1 Bituminous Coal

No person shall construct, install, or modify, or cause to be constructed, installed or modified, within the health district, any stationary combustion installation designed to burn bituminous coal, hand fired.

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12.15.2 Particulate Emissions

12.15.2.1 Except as required under Subsection 12.15.2.2 no person shall cause, permit or allow to be emitted into the outdoor atmosphere from any stationary combustion installation burning coal and/or wood, particulates in excess of the permissible emission rates specified in Subsection 12.15.3 of this Article. The total heat input under normal operating conditions shall be used to determine the permissible emission rate.

12.15.2.2 No person shall cause, permit, or allow a two-hour average emission into the outdoor atmosphere of particulates in excess of 0.10 pounds per million BTU heat input from:

12.15.2.2.1 Any stationary combustion installation using fuel oil other than distillate oil; or

12.15.2.2.2 Any coal fired stationary combustion installation of more than 250 million BTU per hour total heat input for which an application for a Permit to Construct is submitted subsequent to August 11, 1972.

12.15.2.3 Upon written application, the Commissioner may exempt a person from the provisions of this Section, when in view of the properties of the emissions, isolated conditions, stack height and other factors, it is clearly demonstrated that the emission thus permitted will not cause a contravention of established ambient air quality standards or cause air pollution.

12.15.3 Permissible Emission Rates TABLE #3

TOTAL INPUT * (Million BTU/hr)	MAXIMUM WEIGHT DISCHARGE ** (1b/hr)
0.5	0.3
1	0.6
5	3
10	6
20	11
30	15
40	18
50	22
60	25
70	28
80	31
90	34
100	37
200	64
300	88

TOTAL INPUT * (Million BTU/hr)	MAXIMUM WEIGHT DISCHARGE ** (1b/hr)
400	110
500	131
600	151
700	170
800	189
900	207
1,000	225
2,000	386
3,000	530
4,000	663
5,000	790
6,000	911
7,000	1,030
8,000	1,140
9,000	1,250
10,000	1,360

* Installations having a total input less than 500,000 BTU/hr are exempted.

** Total input between 0.5-10 million BTU/hr: Maximum weight discharge shall be .6 lb per million BTU/hr input.

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12.15.3.1 Total input between 10-10,000 million BTU/hr: Use $E=1.02P^{(0.78)}$ to determine the maximum weight discharge where: E=Maximum weight discharge in lb/hr P=Total input in million BTU/hr.

12.15.3.2 The heat content of the coal shall be determined by a method acceptable to the department.

12.15.4 Smoke Emissions

12.15.4.1 No person shall operate a stationary combustion installation so as to produce, emit or permit the escape of smoke:

12.15.4.1.1 Of an opacity equal to or greater than twenty (20) percent for a period of three (3) or more minutes during any continuous sixty (60) minute period; or

12.15.4.1.2 Of an opacity equal to or greater than forty (40) percent for any time period.

12.15.4.2 Startup an emergency emissions in excess of those allowed under this Subsection 12.15.4.1 may be excepted by the Commissioner upon demonstration by the source owner that such excessive emissions were not preventable.

12.15.4.3 Any fuel burning equipment with an input capacity equal to or greater than 5,000,000 BTU per hour which has repeatedly produced, emitted, or permitted the escape of smoke exceeding the permissible opacity as determined by the department, shall be equipped with an air contaminant detector which will automatically cause an audible alarm and a visible flashing red light to be activated when smoke emissions of an opacity equal to or greater than 20% is produced by the fuel burning equipment.

12.15.4.3.1 The audible alarm shall be sufficiently loud so as to be heard by a person of normal hearing at a distance of twenty feet from the detector.

12.15.4.3.2 The audible alarm and the flashing red light shall continue to operate until manually reset.

12.15.4.3.3 The audible alarm and flashing red light shall be located at the principal work location of the person operating the equipment.

12.15.4.3.4 If an air contaminant detector fails to operate properly, the detector shall automatically cause an audible signal sufficiently loud to be heard by a person of normal hearing twenty feet from the detector and a readily visible flashing red light which shall continue until manually reset.

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12.15.4.3.5 The air contaminant detector and alarm device shall be maintained in good operating order, shall be regularly inspected and cleaned and shall be promptly repaired when necessary.

12.15.5 Nitrogen Oxides

No person shall cause or allow to be emitted into the outdoor atmosphere from any stationary combustion installation, except gas turbines, of more than 250 million BTU per hour total heat input and for which an application for a Permit to Construct is submitted subsequent to August 11, 1972 more than:

- 12.15.5.1 0.70 pounds of nitrogen oxides (expressed as NO₂) per million BTU heat input for a maximum two-hour average when solid fuel is burned;
- 12.15.5.2 0.30 pounds of nitrogen oxides (expressed as NO₂) per million BTU heat input for a maximum two-hour average when fuel oil is burned;
- 12.15.5.3 0.20 pounds of nitrogen oxides (expressed as NO₂) per million BTU heat input for a maximum two-hour average when gaseous fuel is burned.

12.15.6 Stack Monitoring

- 12.15.6.1 Any person who owns a stationary combustion installation of more than 250 million BTU per hour total heat input shall install and operate in accordance with manufacturer's instructions, instruments, approved by the Commissioner, for continuously monitoring and recording smoke from such installations at all times that the combustion installation is in service. Where gas is the only fuel burned, monitoring and recording of smoke is not required.
- 12.15.6.2 Any person required to control nitrogen oxides in accordance with Subsection 12.16.5 shall install and operate in accordance with manufacturer's instructions, instruments approved by the Commissioner for continuously monitoring and recording nitrogen oxides from such installations at all times that the combustion installation is in service.
- 12.15.6.3 Any person required under this section to monitor stack emissions shall determine the average rate of each fuel burned daily and shall determine at least once per week, the gross heating value and ash content of each fuel burned. In the case of combustion installations producing electricity for sale, the average electrical output and the minimum and maximum hourly generation rate shall also be measured.
- 12.15.6.4 Any person subject to the provisions of this section shall record and maintain a file of such measurements and operating data, as may be required by the Commissioner, and shall tabulate

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and summarize such measurements and operating data in format acceptable to the Commissioner. Such person shall retain records and summaries for at least three years, and upon request of the Commissioner shall furnish such records and summaries.

12.15.6.5 If the sum of the total heat input of all furnaces, which are operated simultaneously and are connected to a common air cleaning device and/or common stack exceeds 250 million BTU per hour total heat input, stack monitoring shall be required for this combustion installation in accordance with this Section.

12.15.7 Corrective Action

12.15.7.1 The Commissioner may order:

12.15.7.1.1 The installation of air pollution control equipment, devices to control, or devices to record emissions from any fuel burning equipment or from any combustion installation which constitutes a violation of this Article.

12.15.7.1.2 A change in the manner operation of any fuel burning equipment, combustion installation or air pollution control equipment which is operated so as to cause a violation; of this Article;

12.15.7.1.3 The cleaning, repair, replacement or alteration of any fuel burning equipment, combustion installation or air pollution control equipment which causes or is operated so as to cause a violation of this Article.

12.15.7.2 The Commissioner may seal any fuel burning equipment or combustion installation or air pollution control equipment which does not conform to the provisions of this Article. The seal may be removed from equipment only upon receipt of written notice from the Commissioner stating that the equipment has been corrected to his/her satisfaction and that it may be restored to use or operation. No person shall cause, permit or allow operation of any combustion installation sealed by the Commissioner in accordance with this Section.

12.15.7.3 Any person who owns or operates a stationary combustion installation described in Subsection 12.15.2 and Subsection 12.15.5 shall provide pertinent data concerning emission, when so requested by the Commissioner.

12.15.8 Notwithstanding the provisions of this section, no person shall cause, suffer, permit or allow the emission of air contaminants in quantities which alone or in combination with emissions from other sources, would contravene any established ambient air quality standards and/or cause air pollution.

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12.16.0 - Variance

12.16.1 The Commissioner may, after submission of an application on a form provided by the Commissioner, grant a variance from a specific provision of this Article concerning a particular air pollution emission source subject to appropriate conditions where such variance is in harmony with the general purpose and intent of this Article.

12.16.2* A fee, as specified by the Commissioner, shall be submitted with each variance application. This fee shall be paid either by cash, check or money order, made payable to the Commissioner of Finance.

12.17.0 – Effective Date

The effective date of this Article is November 18, 1987

Revised: 8/97, 4/19/06, 6/20,07, 4/16/08