§ 19-0321. Permits to construct and operate certain municipally sponsored major facilities.

1. For the purposes of this section only:

a. "Major facility" means an air contamination source which directly emits, or has the potential to emit, twenty-five tons per year of either oxides of nitrogen or volatile organic compounds.

b. "Municipally sponsored facility" means a facility for which a city with a population of one million or more or a political subdivision or agency thereof was an applicant or co-applicant as of November fifteenth, nineteen hundred ninety-two.

c. "Emission offset" means an emission reduction credit, as established by the commissioner, required to be obtained from a severe nonattainment area by an air contamination source prior to the issuance of a permit to construct, at a ratio of 1.3 tons of reductions for each ton of new emissions of oxides of nitrogen and volatile organic compounds; provided that the emission offset requirement for oxides of nitrogen may be met by oxides of nitrogen or an equivalent number of tons of volatile organic compounds.

2. The provisions of this section shall apply only to permits to construct and operate issued on or after November fifteenth, nineteen hundred ninety-two for a municipally sponsored major facility located in a city with a population of more than one million for which the permit application was deemed complete by the department before November fifteenth, nineteen hundred ninety-two.

3. No permit to construct shall be issued or shall be valid for a new or modified major facility until after the applicant has obtained emission offsets for such facility. For purposes of this section, in addition to any other available emission offsets, emission reductions from the following sources shall be eligible as emission offsets:

a. emission reductions that result from the closure or modification of

any solid waste incineration facilities within such city which were operating in nineteen hundred ninety-one; and

b. emission reductions that result from the cessation of operation, removal or sealing of any refuse burning equipment in such city pursuant to any local law which took effect in nineteen hundred ninety-three.

Provided, that the commissioner shall have authority to establish the amount of credit attributed to any emission reduction used to create an emission offset to satisfy the requirements of this section.

4. Prior to the operation of a facility which as been issued a permit to which subdivision three of this section applies, such city shall conduct a base-line health study on a statistically representative sample of residents within the areas most affected by the facility. No later than one hundred eighty days after the commencement of operation of such facility, the city shall, in conjunction with the department, conduct stack tests of the facility and assess the health risks from expose to such emissions; such stack tests shall be performed in accordance with the department's rules and the results of such assessment shall be delivered to the department within thirty days after completion of the health risk assessment report for appropriate action. After operation of such facility is commenced, such city shall implement a follow-up health study that monitors on a regular basis the health impacts from such facility with an emphasis on at-risk populations. Such study and monitoring shall be conducted in consultation with an advisory committee appointed by the commissioner of health which shall include representatives of the parties to the permit proceeding for such facility. Such study and monitoring shall be designed to avoid duplication of efforts otherwise required by permit or by law.

5. Notwithstanding the provisions of subdivision two of this section, any action deemed to have a significant impact on the environment pursuant to article eight of this chapter, if such action involves a municipally sponsored facility within a three-mile radius of a permitted facility for which emission offsets were required pursuant to this section, shall require an environmental impact statement which shall

include an analysis of the cumulative air impacts of such action in conjunction with other actions involving facilities that have been constructed or are planned within such three-mile radius.