§ 70-0109. Time periods for department action on permit applications.

1. (a) On or before fifteen calendar days after the receipt of an application for a permit which has been filed in a manner and in a form prescribed by the department, the department shall mail written notice to the applicant of its determination whether or not the application is complete.

(b) If the department fails to mail written notice to an applicant of its determination whether or not an application is complete within such fifteen calendar day period, the application shall be deemed complete.

(c) If the department determines the application is not complete, the notice shall include a concise statement of the respects in which the application is incomplete.

(d) The resubmission of the application or the submission of such additional information shall commence a new fifteen calendar day period for department review of the additional information for purposes of determining completeness.

(e) If the department determines the application is complete, the notice shall so state.

2. (a) Immediately upon determining that an application is complete, the department shall cause a notice of application to be published in the next available environmental notice bulletin which shall be not later than ten calendar days after the date of such determination and not less than once during the fifteen calendar day period following such determination in a newspaper having general circulation in the area in which the project is proposed to be located, and shall provide notice to the chief executive officer of each municipality in which the proposed project is located, and may direct the applicant to provide such reasonable notice and opportunity for comment to the public as the department deems appropriate. Newspaper publications shall be provided by the applicant.

(b) The time period for public comment on a permit application shall be stated in the notice of application.

3. (a) Within the time periods specified in subparagraphs (i) and (ii) of this subdivision and subject to the provisions of subdivisions four,

five and six of this section, the department shall make a decision on an application for a permit by mailing the applicant a permit, a permit with conditions or a statement that the permit applied for has been denied.

(i) In the case of an application for a permit for which no public hearing has been held, such decision shall be mailed on or before ninety calendar days after the department mails written notice to the applicant that the application is complete or on or before ninety calendar days after the application is deemed complete pursuant to the provisions of this article.

(ii) In the case of an application for a permit for which a public hearing has been held, the department shall mail its decision to the applicant and to all parties to the hearing on or before sixty calendar days after receipt by the department of a complete record, as that term is defined in paragraphs (a) through (e) of subdivision one of section three hundred two of the state administrative procedure act.

(b) If the department fails to mail a decision on an application for a permit within the time periods specified, the applicant may cause notice of such failure to be made to the department by means of certified mail return receipt requested addressed to the commissioner. If, within five working days after the receipt of such notice, the department fails to mail a decision, the application shall be deemed approved and a permit deemed granted subject to any standard terms or conditions applicable to such a permit. However, no permit shall be deemed approved where such permit is issued in lieu of a federal permit pursuant to an authorization granted to the state pursuant to either Public Law 94-580, the "Federal Resource Conservation and Recovery Act of 1976", or Title V of Public Law 101-549, the "Clean Air Act", and where the issuance of a permit in such a manner is contrary to such authorization.

4. The time periods for a department decision on an application for a permit as specified in subdivision three of this section shall be suspended pending receipt by the department of any final environmental impact statement and any explicit findings related to a proposed project as may be required pursuant to article eight (environmental quality review) of this chapter when the department is not the lead agency as that term is used in rules and regulations adopted by the department

pursuant to section 8-0113 of said article.

5. The department shall make no decision and no permit shall be deemed granted until the applicant has paid all applicable fees and costs.

6. Any time period specified in this article may be waived and extended for good cause by written request by the applicant with the consent of the department, or by the written request of the commissioner or his designee with the consent of the applicant.