

OFFICE OF ADJUDICATIONS

IN THE MATTER OF

:GENERAL PERMIT

**CONSTRUCT AND/OR OPERATE
NEW OR EXISTING EMERGENCY ENGINE
OR DISTRIBUTED GENERATION RESOURCE**

: DECEMBER 21, 2007

PROPOSED FINAL DECISION

**I
SUMMARY**

The Department of Environmental Protection intends to issue a General Permit to Construct and/or Operate a New or Existing Distributed Generation Resource in response to §102 of the 2007 Public Acts, No. 07-242, An Act Concerning Electricity and Energy Efficiency, and in accordance with the provisions of General Statutes §22a-174. The general permit authorizes the construction and operation of new or existing diesel powered emergency engines and distributed generation resources of up to two megawatts for participation in a pilot program developed by the Connecticut Department of Public Utility Control (DPUC).

On November 9, 2007, a hearing was conducted for the purpose of receiving public comment on the proposed general permit. In response to issues raised by the intervenors, comments made at the hearing, and other written comments received before and after the hearing, DEP staff has modified the draft general permit (Attachment A).

I have reviewed the modified draft general permit, the applicable law, and the record, including staff's response to public comments. I find that the modified proposed general permit is consistent with the requirements of P.A. 07-242 §102 and General Statutes §22a-174(k). I therefore recommend that the proposed general permit be issued as modified.

II

DECISION

A

FINDINGS OF FACT

1

Procedural History

1. During its most recent session, the Connecticut legislature passed Public Act 07-242, An Act Concerning Electricity and Energy Efficiency. Section 102 of the Act requires the Commissioner to issue a “notice of intent to issue a general permit for the construction and operation of new or existing emergency engines and distributed generation resources that (1) generate not more than two megawatts of electricity; and (2) are approved by the Department of Public Utility Control to participate in the markets administered by the regional independent system operator....” Section 103 of the act requires the DPUC to implement a pilot program to allow the operation of such generators. (Ex. DEP-1.)

2. On August 3, 2007, the Commissioner issued a Request for Information to inform the general public and owners and operators of diesel powered emergency generators that the DEP intended to develop and issue the general permit. The DEP specifically requested comments on the geographic scope of the proposed general permit, environmental impacts and economic benefits associated with the pilot program, particulate matter (PM) control equipment capable of working in conjunction with Nitrogen Oxide (NOx) control equipment, methods for determining relevant peak day emissions, appropriate limitation on hours of operation, and reporting systems. (Ex. DEP-2.)

3. During the comment period specified in the Request for Information, staff met with control equipment manufacturers and environmental groups. Staff also consulted the regional independent system operator, ISO-NE, Northeast States for Coordinated Air Use Management (NESCAUM) and reviewed California engine

requirements. At the close of the comment period, the DEP considered all relevant information and developed a proposed general permit. (Exs. DEP-5-7, 11; test. S. Amarello.¹)

4. On October 9, 2007, the department published a Notice of Intent to Issue A General Permit² and Notice of Public Hearing to be held on November 9, 2007. The Connecticut Fund for the Environment requested and was granted intervening party status pursuant to General Statutes §22a-19(a) and Regulations of Connecticut State Agencies §22a-3a-6(k)(1)(A). The Connecticut Municipal Electric Energy Cooperative (CMEEC) and its subsidiary, Sustainable Energy Analytics LLC (SEA), requested and were granted intervening party status pursuant to §22a-3a-6(k)(1)(B).³ (Exs. DEP-9, 10.)

5. A hearing was held on November 9, 2007, during which staff from the DEP Bureau of Air Management, Planning and Standards Division, provided an overview of the proposed permit and related background information. Members of the public, including representatives of the intervenors and environmental groups, spoke at the hearing. Written comments were also received before, during and after the hearing, seeking clarification of and recommending certain changes to various provisions of the proposed general permit. (Ex. DEP-12; test. S. Amarello, P. Farrell.)

6. On December 7, 2007, staff submitted a written report that summarizes and responds to public comments, proposes certain changes to the general permit based on those comments, and explains why other recommendations were not followed. Staff's report was accompanied by a revised draft permit, which incorporates the changes discussed in the response. Staff submitted supplemental responses and a final revised draft permit on December 18, 2007. The record was closed on December 20, 2007. (Exs. DEP-13, 13A, 14, 14A.)

¹ All testimony was provided during the public hearing held on November 9, 2007.

² Notice was published in the Connecticut Post, The Day, The Hartford Courant, Journal Inquirer, The New Haven Register, Register Citizen and The Advocate. (Ex. DEP-10.)

³ All documents pertaining to the procedural history of this proceeding are contained in the docket file maintained by the Office of Adjudications and are part of the administrative record in this matter. General Statutes §4-177 (d).

The General Permit

7. The proposed permit applies to engines that are rated at not more than two megawatts of electricity that have received approval from the DPUC to participate in the markets administered by the regional independent system operator. The permit authorizes the operation of such engines in the relevant markets and in emergency situations. The permit specifically defines an emergency engine and the circumstances constituting an emergency, which are consistent with existing regulations. (Exs. DEP-13, 14A.)
8. The permit applies to engines located throughout the state and becomes effective on the date it is issued. The expiration date of the proposed permit is the later of December 31, 2010 or ninety days after the energizing of the Middletown-Norwalk 345 kv transmission line approved by the Connecticut Siting Council. In no event will the permit remain in effect after five years from the date of issuance. (Exs. DEP-13, 14A.)
9. The general permit contains specific registration requirements for owner/operators and establishes a process by which the commissioner approves or disapproves such registrations. Registrants under the permit must, among other things, demonstrate that the engine has been approved by the DPUC, provide manufacturer's specifications for particulate matter (PM) and nitrogen oxides (NOx) air pollution control equipment and design control efficiency. Registrants must also submit documentation of the transfer of two ozone season allowances to the State NOx Retirement Account. (Ex. DEP-14A.)
10. Once operation of a source is authorized, the emissions from such source shall not exceed the general permit emissions limitations. Permitted operating conditions include a requirement for Selective Catalytic Reduction or equivalent NOx emissions controls with a design control efficiency of a minimum of ninety percent for all engines. In lieu of graduated emissions control efficiencies based on setback

distances, new engines are limited to PM emissions of no more than 0.01grams per brake horsepower hour (gr/bhp-hr). PM emissions from existing engines must also be in compliance with these limits or operators must install a diesel particulate filter or equivalent PM controls with a design control efficiency of eighty-five percent. A bypass of the emissions controls is specifically prohibited. (Ex. DEP-14A.)

11. Engines must operate on ultralow sulfur diesel fuel. The hours of operation are limited to 300 hours for emergency engines and 200 hours for engines operating when called upon by the ISO-NE during each and every consecutive twelve-month period. Registrants are also required to comply with opacity limits, state regulations pertaining to the control of PM, NOx and Sulfur Compound emissions, and applicable federal standards for new source performance, hazardous air pollutants and emissions control technology. (Ex. DEP-14A; test. S. Amarello.)

12. The permit requires standard monitoring and record keeping of fuel usage, hours of operation, emissions and kilowatt production. Operators are required to report to the Commissioner by October 1st of each year the hours of operation, fuel usage, NOx and PM emissions, kilowatts produced, type of operation (emergency or non-emergency), duration, type of fuel, and sulfur content of fuel for each operation. Operators are also required to report violations of any permit conditions and associated corrective action to the Commissioner. (Ex. DEP-14A; test. S. Amarello.)

13. Registrants with engines that operate on a day or portion of a day when the cap on NOx emissions is exceeded are required to transfer three ozone season⁴ allowances to the State NOx Retirement Account or to take alternative action that results in a reduction of no less than three tons of NOx emissions during the ozone season. Sanctions, including a ten percent increase in the requisite offsets, may be imposed in the event a registrant fails to timely comply with this requirement. (Ex. DEP-14A; test. S. Amarello.)

⁴ The period from May 1 through September 30 of any year. (Ex. DEP-14A.)

B

CONCLUSIONS OF LAW

Section 102 of Public Act 07-242 requires the Commissioner to develop and issue a general permit for the construction and operation of new or existing emergency engines and other distributed generation resources in accordance with the provisions of General Statutes §22a-174(k). Specifically, §102 requires the following general permit terms:

- (1) eligible resources that generate no more than two megawatts of electricity;
- (2) engines that are approved by the DPUC to participate in a pilot program;
- (3) an expiration date of December 31, 2010 or ninety days after the Middletown-Norwalk 345kv transmission line is energized;
- (4) minimum setback provisions;
- (5) limitations on hours of operation;
- (6) requirements for air pollution controls certified to achieve a minimum reduction in emissions of nitrogen oxides (NO_x) of ninety percent;
- (7) requirements for directionally correct NO_x offsets from Connecticut sources at a ratio determined by the Commissioner;
- (8) requirements for emissions control equipment; and
- (9) requirements for monitoring, reporting and record keeping.

The permit terms and conditions are consistent with the requirements of Public Act 07-242, §102 and relevant regulations governing the resources that are the subject of this general permit. The record also demonstrates that the Commissioner has complied with all procedural requirements for notice and hearing and receipt of public comments applicable to the issuance of this general permit. §22a-174(k).

III

RECOMMENDATION

I recommend that the Commissioner issue the modified proposed General Permit to Construct and/or Operate a New or Existing Distributed Generation Resource (Attachment A).

/s/ Jean F. Dellamarggio
Jean F. Dellamarggio
Hearing Officer

P A R T Y L I S T

Proposed Final Decision re: General Permit to Construct and/or Operate
New or Existing Distributed Generation Resource

PARTY

REPRESENTED BY

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**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF AIR MANAGEMENT
ENGINEERING & ENFORCEMENT DIVISION
860-424-4152**

General Permit to Construct and/or Operate a New or Existing Distributed Generation Resource

Issuance Date: XX, 2007

Printed on recycled paper

General Permit to Construct and/or Operate a New or Existing Distributed Generation Resource

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General Permit to Construct and/or Operate a New or Existing Distributed Generation Resource

Section 1. Authority

This general permit is issued under the authority of section 22a-174(k) of the Connecticut General Statutes, as directed by section 102 of Public Act 07-242, An Act Concerning Electricity and Energy Efficiency.

Section 2. Definitions

Any term not expressly defined in this general permit shall be defined as in section 22a-2 of the Connecticut General Statutes, section 22a-174-1 of the Regulations of Connecticut State Agencies, *et seq.*, and 40 CFR Part 70.2.

As used in this general permit:

“*Actual emissions*” means actual emissions as defined by section 22a-174-1 of the Regulations of Connecticut State Agencies.

“*Administrator*” means the administrator of the United States Environmental Protection Agency or his agent.

“*Air pollution control equipment*” means any equipment which is designed to reduce emissions of air pollutants from a stationary source.

“*API*” means the American Petroleum Institute.

“*Approval of registration*” means a written approval of registration issued by the Commissioner under Section 3 of this general permit.

“*Authorized activity*” means any activity authorized by this general permit.

“*CAIR*” means Clean Air Interstate Rule as defined by 40 CFR Part 96.

“*CFR*” means the Code of Federal Regulations.

“*Commissioner*” means Commissioner as defined by section 22a-2(b) of the Connecticut General Statutes.

“*Day*” means any twenty-four hour period measured from midnight to midnight on a calendar day. If any date specified in this general permit falls on a Saturday, Sunday, or legal holiday, such date shall be the next business day thereafter.

“*Distributed generation resource*” means an engine that has been approved by the Department of Public Utility Control to participate in the markets administered by the regional system operator pursuant to section 103 of Public Act 07-242.

"DPUC" means the Department of Public Utility Control.

"Emergency" means an unforeseeable condition that is beyond the control of the owner or operator of an emergency engine and that:

- (A) Results in an interruption of electrical power from the electricity supplier to the premises;
- (B) Results in a deviation of voltage from the electricity supplier to the premises of three percent above or five percent below standard voltage in accordance with subsection (a) of section 16-11-115 of the Regulations of Connecticut State Agencies;
- (C) Requires an interruption of electrical power from the electricity supplier to the premises enabling the owner or operator to perform emergency repairs;
- (D) Requires operation of the emergency engine to minimize damage from fire, flood, or any other catastrophic event, natural or man-made; or
- (E) Notwithstanding section 22a-174-22(a)(3) of the Regulations of Connecticut State Agencies, requires operation of the emergency engine under an agreement with the New England region system operator during the period of time the New England region system operator is implementing voltage reductions or involuntary load interruptions within the Connecticut load zone due to a capacity deficiency.

"Emergency engine" means a stationary reciprocating engine or a turbine engine which is used as a means of providing mechanical or electrical power only during *periods of testing and scheduled maintenance or during either an emergency or in accordance with a contract intended to ensure an adequate supply of electricity for use within the state of Connecticut during the loss of electrical power derived from nuclear facilities*. The term does not include an engine for which the owner or operator of such engine is party to any other agreement to sell electrical power from such engine to an electricity supplier, or otherwise receives any reduction in the cost of electrical power for agreeing to produce power during periods of reduced voltage or reduced power availability.

"Existing" means, in relation to an distributed generation resource, constructed or installed on a premises prior to the effective date of this general permit.

"Forward Reserve Market" means the market within which ISO-NE purchases Ten Minute Non-Spinning Reserve and Thirty Minute Operating Reserve capacity on a forward basis on behalf of market participants as provided in section III.9 in the ISO-NE Market Rule 1.

"Individual permit" means a permit issued to a named permittee under section 22a-174 of the Connecticut General Statutes.

"ISO-NE" means Independent System Operator, New England.

“Municipality” means a city, town or borough of the state.

“New” means, in relation to an distributed generation resource, constructed or commenced construction or operation on or after the effective date of this general permit.

“Ozone season” means the period from May 1 through September 30 of any year.

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

“Operator” means the person legally responsible for the operation of the engine covered by this general permit. If the person legally responsible for operation of the engine when it is participating in the markets administered by the regional independent system is different than the person legally responsible for operation of the engine when it is operating as an emergency engine, an engine covered by this general permit may have two operators. If this occurs, the person legally responsible for operation of the engine when it is participating in the markets administered by the regional independent system operator shall not be responsible for compliance with requirements when the engine is operating as an emergency engine and visa versa.

“Particulate matter” means particulate matter as defined by section 22a-174-1 of the Regulations of Connecticut State Agencies.

“Permittee” means a person to whom the Commissioner has issued an approval of registration under this general permit.

“Person” means person as defined by section 22a-2(c) of the Connecticut General Statutes.

“PM 2.5” means PM 2.5 as defined by section 22a-174-1 of the Regulations of Connecticut State Agencies.

“Potential emissions” means potential emissions as defined by section 22a-174-1 of the Regulations of Connecticut State Agencies.

“Premises” means premises as defined by section 22a-174-1 of the Regulations of Connecticut State Agencies.

“Registrant” means a person who files a registration pursuant to Section 4 of this general permit. Registrant shall include the on-site operator as well as any remote operator of the distributed generation resource.

“Registration” means a registration form filed with the Commissioner pursuant to Section 4 of this general permit.

“Stationary source” means stationary source as defined by section 22a-174-1 of the Regulations of Connecticut State Agencies.

“*Subject activity*” means any operation of a subject engine in accordance with this general permit.

“*Subject engine*” means engine that is the subject of this general permit.

Section 3. Authorization Under this General Permit

(a) Eligible Sources

This general permit applies to an engine that is:

- (1) rated at no more than two megawatts of electricity; and
- (2) has received approval from the Department of Public Utility Control (DPUC) to participate in the markets administered by the regional independent system operator in accordance with subsection (b) of section 103 of Public Act 07-242; and
- (3) not a major modification or a major stationary source as defined by section 22a-174-1 of the Regulations of Connecticut State Agencies.

(b) Eligible Activities

- (1) This general permit applies to the operation of engines approved by the Department of Public Utility Control to participate in markets administered by the regional independent system operator.
- (2) This general permit also applies to any such engine approved by the Department of Public Utility Control pursuant to section 103 of Public Act 07-242, when such engine is operating in an emergency as an emergency engine.
- (3) An emergency engine not approved by Department of Public Utility Control pursuant to section 103 of Public Act 07-242, remains subject to section 22a-174-3a of the Regulations of Connecticut State Agencies.

(c) Requirements for Authorization

This general permit applies to the sources of air pollution listed in Section 3(a) of this general permit provided the requirements of this general permit are satisfied and meets the following requirements for authorization:

- (1) **Registration**
A completed registration has been filed with the Commissioner and the Commissioner has issued a written approval of such registration with respect to such source.
- (2) **Coastal Area Management**
The activities authorized by this general permit are consistent with all applicable goals and policies in section 22a-92 of the Connecticut General Statutes, and will not cause adverse impacts to coastal resources as defined by section 22a-93 of the Connecticut General Statutes.

(3) Endangered and Threatened Species

New activities authorized by this general permit do not threaten the continued existence of any species listed pursuant to section 26-306 of the General Statutes as endangered or threatened and will not result in the destruction or adverse modification of habitat designated as essential to such species.

(4) Aquifer Protection

A new activity, if it is located within an aquifer protection area as mapped under section 22a-354b of the General Statutes, complies with regulations adopted pursuant to section 22a-354i of the General Statutes.

(d) Geographic Area

This general permit applies throughout the state of Connecticut.

(e) Effective Date and Expiration Date of this General Permit

This general permit is effective on the date it is issued by the Commissioner and expires on the later of December 31, 2010 or ninety days after the energizing of the Middletown-Norwalk 345 kv transmission line approved by the Connecticut Siting Council. In no event shall this general permit expire later than five years from the date of issuance. This general permit may be renewed.

(f) Effective Date of Authorization

An activity is authorized by this general permit on the date the Commissioner issues a written approval of registration with respect to such activity.

(g) Revocation of an Individual Permit

If an activity meets the requirements of authorization of this general permit and such activity is presently authorized by an individual permit, the existing individual permit may be revoked by the Commissioner. If the Commissioner revokes such individual permit in writing, such revocation shall take effect on the effective date of authorization of such activity by this general permit.

Section 4. Registration Requirements

(a) Who Must File a Registration

Any person approved by the Department of Public Utility Control to participate in the markets administered by the regional independent system operator in accordance with subsection (b) of section 103 of Public Act 07-242.

(b) Scope of Registration

A person shall register each engine for which the registrant seeks authorization under this general permit on a separate registration form. Multiple engines at one or more sites may not be registered on one registration form.

(c) *Contents of Registration*

(1) A registration shall not be deemed complete unless it is filed by the person(s) who will operate the engine when:

- (A) in non-emergency situations, it is participating in the markets administered by the regional independent system operator; and
- (B) when it is operating as an emergency engine.

A registration shall not be deemed complete unless it is signed by all applicable operators.

(2) Fee

(A) A registration fee of \$5,000.00 for any person other than a municipality, or \$2,500.00 for any municipality, shall be submitted with a registration form. A registration shall not be deemed complete and no activity shall be authorized by this general permit unless the registration fee has been paid in full.

(B) The registration fee shall be paid by check or money order payable to the **Department of Environmental Protection**, or by such other method as the Commissioner may allow.

(C) The registration fee is non-refundable.

(3) Registration Form

The registration shall be filed on forms prescribed and provided by the Commissioner for each engine and shall include, but not be limited to, the following:

(A) Legal name, address, and telephone number of the registrant(s). If such registrant is an entity transacting business in Connecticut, provide the exact name as registered with the Connecticut Secretary of the State;

(B) Legal name, address, and telephone number of the owner of the premises on which the subject engine will operate;

(C) Identification of each person legally responsible for operating the subject engine (the operator) in non-emergency situations when the engine is participating in the markets administered by the regional independent system operator;

(D) Identification of each person legally responsible for operation of the subject engine (the operator) as an emergency engine;

(E) Legal name, address and telephone number of the registrant's attorney or other representative, if applicable;

- (F) Legal name, address and telephone number of any consultant(s) or engineer(s) retained by the registrant to prepare the registration;
- (G) Legal name, address and telephone number of any consultant(s) or engineer(s) retained by the registrant to design or construct or install the subject engine;
- (H) Location address of the premises where the registered activity will be conducted;
- (I) Demonstration of approval issued in accordance with any requirements established by the Department of Public Utility Control in DPUC Docket No. 07-07-37;
- (J) Copy of third party agreements that the subject engine will operate under;
- (K) Dates of construction and commencement of the subject activity if it is existing, or the proposed dates of construction and commencement if the subject activity is new;
- (L) A detailed description of the subject activity;
- (M) Make and model of the subject engine, if available;
- (N) The actual operating hours of the subject engine, including operating dates and type of operation (i.e. testing, emergency, maintenance, etc) for the previous five years if available;
- (O) Fuel type(s) which will be used including the maximum sulfur content of such fuel;
- (P) Maximum rated fuel-firing rate of the subject engine;
- (Q) Maximum design gross power output of the subject engine;
- (R) Minimum exhaust gas flow rate of the subject engine;
- (S) Manufacturer's specification for particulate matter air pollution control equipment and design control efficiency;
- (T) Manufacturer's specification for nitrogen oxides (NOx) air pollution control equipment and design control efficiency;
- (U) Operation and Maintenance Plan for the particulate matter and NOx air pollution control equipment;
- (V) The actual or forecasted actual daily NOx and particulate matter emissions, in pounds per day, from the subject engine;

- (W) The maximum rated pounds per megawatt hr (lb/MWhr) of NO_x emissions of the subject engine;
- (X) The actual annual emission rates and the potential annual emission rates of each air pollutant emitted, in tons per year, from the subject engine if it is existing;
- (Y) The proposed annual emission rates and the potential annual emission rates of each air pollutant, in tons per year, to be emitted from the subject engine if it is new;
- (Z) A detailed description of how the emission rate or proposed emission rate of each air pollutant identified in response to subparagraph (V), (W), (X) or (Y) of this subdivision, was calculated;
- (AA) The height above grade of the stack associated with the subject engine and the shortest distance of such stack to the property line of the premises on which such engine is located;
- (BB) Ambient Air Quality Analysis, as may be required by section 22a-174-3a(i) of the Regulations of Connecticut State Agencies for aggregated multiple similar or identical engines, to be operated at the same premises, and registered for under this General Permit, or applied for under section 22a-174-3a(a) of the Regulations of Connecticut State Agencies, which are constructed within an eighteen month period of each other.
- (CC) If the subject engine is subject to section 22a-174-22 of the Regulations of Connecticut State Agencies, a compliance plan in accordance with section 22a-174-22 of the Regulations of Connecticut State Agencies;
- (DD) If the subject engine has been registered in accordance with section 22a-174-2 of the Regulations of Connecticut State Agencies or issued a permit by the Department of Environmental Protection, Bureau of Air Management prior to the date that the present registration is filed, the subject registration or permit number;
- (EE) A plan of the subject premises ("site plan") showing the property lines of the property on which the subject engine is located and the location of the subject engine at such premises and the horizontal distance from such engine's stack base to the nearest property line;
- (FF) An 8 1/2" by 11" copy of the relevant portion of a United States Geological Survey quadrangle map(s), with a scale of 1:24,000, showing the exact location of the stack associated with the subject engine and the area within a one-mile radius of such stack. Identify the quadrangle name(s) and the number(s) on such copy and the latitude and longitude of the subject stack location;

(GG) The record of the registrant, the principals, and any parent company or subsidiary of the registrant, regarding compliance with environmental protection laws of this state, all other states and federal government during the five years immediately preceding the submission of such registration;

(HH) The Registrant shall submit documentation of the transfer of two ozone season allowances into the CT State NOx Retirement Account with the registration form subject to the review and approval of the Commissioner. Such allowances shall be:

(i) originally issued by the Administrator from the CAIR NOx Ozone Season Trading Program to a CAIR NOx Ozone Season unit located in the state of Connecticut, or

(ii) vintage year 2003-2008 and originally issued by the Administrator from the NOx Budget Program to a NOx Budget Program source located in the state of Connecticut; and

(II) The signature of the registrant and of the individual or individuals responsible for actually preparing the registration, each of whom shall certify in writing as follows:

“I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief.

I understand that any false statement made in the submitted information may be punishable as a criminal offense under section 22a-175 of the Connecticut General Statutes, pursuant to section 53a-157b of the Connecticut General Statutes, and in accordance with any applicable statute.

I certify that the signature of the registrant being submitted herewith complies with section 22a-174-2a(a) of the Regulations of Connecticut State Agencies.

I certify that this general permit registration is on complete and accurate forms as prescribed by the Commissioner without alteration of the text.

I certify that I have read and understand the terms and conditions of the *General Permit to Construct and/or Operate a New or Existing Distributed Generation Resource* issued by the Commissioner of the Department of Environmental Protection and that the engine which is the subject of this registration is eligible for authorization under such permit.”

(d) *Where to File a Registration*

A registration shall be filed with the Commissioner at the following address:

CENTRAL PERMIT PROCESSING UNIT
DEPARTMENT OF ENVIRONMENTAL PROTECTION
79 ELM STREET
HARTFORD, CT 06106-5127

(e) *Additional Information*

The Commissioner may require a registrant or permittee to submit additional information, which the Commissioner reasonably deems necessary to evaluate the consistency of the subject activity with the requirements for authorization under this general permit. Such information shall be submitted to the Commissioner in writing within forty-five days of such notification and shall be certified in accordance with Section 7(l) of this general permit.

(f) *Action by Commissioner*

- (1) The Commissioner may reject a registration:
 - (A) if a registration does not satisfy the requirements of this general permit;
 - (B) if more than forty-five days have elapsed since the Commissioner requested that the registrant submit additional information and the registrant has not submitted such information;
 - (C) if the required fee pursuant to Section 4(c) of this general permit has not been submitted by the registrant; or
 - (D) if the CAIR NO_x Ozone Allowances pursuant to Section 4(c)(3)(HH) of this general permit have not been submitted by the registrant.
- (2) Any registration re-filed after such rejection shall be accompanied by the fee specified in Section 4(c) of this general permit.
- (3) The Commissioner shall disapprove a registration:
 - (A) if the Commissioner finds that the subject activity is ineligible for this general permit or that the registrant cannot or is unlikely to comply with the requirements of this general permit; or
 - (B) for any other reason provided by law.
- (4) The Commissioner may, for any reason provided by law, by summary proceedings or otherwise, revoke or suspend an approval of registration issued by the Commissioner under this general permit.
- (5) Disapproval of a registration or revocation of an approval of registration under this subsection shall constitute notice to the registrant or permittee that the subject activity may not lawfully be conducted or maintained without the

issuance of an individual permit issued pursuant to section 22a-174(c) of the Connecticut General Statutes and section 22a-174-3a of the Regulations of Connecticut State Agencies.

- (6) Rejection, disapproval, approval, or revocation of a registration under this subsection shall be in writing.

Section 5. Conditions of this General Permit

The operator shall at all times continue to meet the requirements for applicability and authorization set forth in Section 3 of this general permit.

(a) Operating Conditions

Except where otherwise specifically stated below, the operator shall comply with the following requirements regardless of whether the subject engine is being used as an emergency engine or as a distributed generation resource.

- (1) Selective Catalytic Reduction, or equivalent oxides of nitrogen (NO_x) controls with a design control efficiency of a minimum of ninety percent, shall be installed on the subject engine.
- (2) A new subject engine shall emit no more than 0.01 gr/bhp-hr of particulate matter.
- (3) An existing subject engine shall emit no more than 0.01 gr/bhp-hr of particulate matter or a diesel particulate filter, or equivalent particulate matter controls with a design control efficiency of a minimum of eighty-five percent, shall be installed on the subject engine.
- (4) The subject engine shall be operated with the required air pollution control equipment in service and performing properly at all times. Under no circumstance shall the control systems be by-passed.
- (5) The subject engine exhaust shall be located away from fresh air intakes, air conditioners and windows.
- (6) The Operating and Maintenance Plan submitted at the time of registration for such air pollution control equipment shall be followed at all times.
- (7) The subject engine shall not operate as an emergency engine for more than 300 hours during each and every consecutive twelve months.
- (8) The subject engine shall not operate for more than 200 hours when called upon by the ISO-NE for the ISO-NE forward reserve market program during each and every consecutive twelve months.
- (9) Only a liquid fuel with an API gravity greater than thirty or a gaseous fuel shall be used in the subject engine.

- (10) The use of gasoline in the subject engine is prohibited.
- (11) Any fuel purchased for use by the subject engine shall have a maximum sulfur content of 0.0015% by weight, or 15 ppm (ultralow sulfur).
- (12) The subject engine shall comply with all applicable maximum allowable stack limits, calculated in accordance with Tables 29-1, 29-2, and 29-3 of section 22a-174-29 of the Regulations of Connecticut State Agencies.
- (13) Routine scheduled testing or maintenance of the subject engine shall not be conducted during days when the air quality index is forecasted by the Commissioner to be “unhealthy for sensitive groups”, “unhealthy”, “very unhealthy”, or “hazardous” for ozone or PM 2.5.

The air quality index forecast shall be obtained from the Department of Environmental Protection *Air Now* web site at <http://www.airnow.gov/index.cfm?action=airnow.fcsummary&stateid=8>.

- (14) Opacity resulting from operation of the subject engine shall not exceed 10% during any six-minute block average or 40% reduced to a one-minute block average; as measured by 40 CFR 60, Appendix A, Reference Method 9.
- (15) The subject engine and operation thereof shall comply with section 22a-174-18 of the Regulations of Connecticut State Agencies, Control of Particulate Emissions.
- (16) The subject engine and operation thereof shall comply with section 22a-174-19 of the Regulations of Connecticut State Agencies, Control of Sulfur Compound Emissions.
- (17) The subject engine shall operate in accordance with section 22a-174-22 of the Regulations of Connecticut State Agencies, Control of nitrogen oxides emissions, if applicable.
- (18) The subject engine and operation thereof shall comply with all applicable New Source Performance Standards, 40 CFR Part 60, National Emissions Standards for Hazardous Air Pollutants, 40 CFR Part 61, and MACT standards, 40 CFR Part 63.

(b) *Monitoring and Emission Testing Requirements*

The operator shall comply with the following requirements regardless of whether the subject engine is being used as an emergency engine or as a distributed generation resource:

- (1) The Commissioner may require emissions testing of an engine authorized by this general permit to verify compliance with the applicable emissions standards of this section as allowed by state or federal statute, law or regulation. Such testing shall be performed in accordance with section 22a-174-5 of the Regulations of Connecticut State Agencies or other methods identified by the

Commissioner and approved by the Administrator.

- (2) The operator shall ensure compliance with the following requirements:
 - (A) If the subject engine is supplied with fuel by more than one tank or if multiple sources are supplied fuel by one fuel tank, a non-resettable fuel metering device shall be used on the subject engine to continuously monitor the fuel consumed by any such engine.
 - (B) If the subject engine is subject to section 22a-174-22 of the Regulations of Connecticut State Agencies, the operator shall comply with applicable monitoring and emission testing requirements of section 22a-174-22(k) of the Regulations of Connecticut State Agencies.
 - (C) For selective catalytic reduction control, the operator shall inspect such selective catalytic reduction catalyst once per year, at a minimum, and replace it as required through the monitoring of the catalyst test piece.
 - (D) For particulate matter air pollution control equipment, the operator shall monitor the performance of such controls in accordance with the manufacturer's written recommendations.

(c) *Record Keeping and Reporting Requirements*

The operator shall comply with the following requirements regardless of whether the subject engine is being used as an emergency engine or as a distributed generation resource:

(1) Record Keeping Requirements

At the premises where the authorized activity takes place, or at such other place as the Commissioner approves in writing, the operator shall maintain the following records pertaining to the operation of each engine authorized to operate under this general permit:

- (A) monthly and annual amounts of fuel(s) consumed. For the purposes of this subparagraph, annual fuel consumption shall be calculated each calendar month for each fuel by adding the current calendar month's fuel consumption to those of the previous eleven months;
- (B) monthly and annual operating hours. For the purposes of this subparagraph, annual operating hours shall be calculated each calendar month by adding the current calendar month's operating hours to those of the previous eleven months. Separate records shall be maintained for emergency and forward reserve market program use;
- (C) hourly, daily, monthly and annual actual emissions of each pollutant emitted by the subject engine. For the purposes of this subparagraph, annual emissions shall be calculated each calendar month by adding the current calendar month's emissions to those of the previous eleven months;

- (D) daily, monthly and annual kilowatts produced by the subject engine. For the purposes of this subparagraph, annual kilowatts shall be calculated each calendar month by adding the current calendar month's kilowatts to those of the previous eleven months;
 - (E) with respect to each shipment or purchase of liquid fuel, other than liquefied petroleum gas, to be used in each engine authorized hereunder, a shipping receipt or a contract, and a certification from the fuel supplier certifying the name of the fuel supplier, type of fuel delivered, API gravity of such fuel, the percentage of sulfur in such fuel, by weight, dry basis, and the method used by the fuel supplier to determine the sulfur content of such fuel;
 - (F) date and duration of use of the subject engine, and whether such use was for emergency or forward reserve market program use. Separate records shall be maintained for emergency and forward reserve market program use;
 - (G) date of all tune-ups, repairs, replacement of parts and other maintenance;
 - (H) monitoring and emission testing data generated pursuant to Section 5(b) of this general permit; and
 - (I) if the subject engine is subject to section 22a-174-22 of the Regulations of Connecticut State Agencies, all applicable record keeping requirements of section 22a-174-22(l) of the Regulations of Connecticut State Agencies.
- (2) Availability of Records
- Unless the Commissioner provides otherwise in writing, the operator shall maintain each record required by this subsection at the premises where the authorized activity takes place for five years after the date such record is made. The operator shall promptly provide any such record, or a copy thereof, to the Commissioner upon request.
- (3) Creation of Records
- (A) Monthly and annual records required by this general permit shall be created no later than fifteen days after the end of each month and 12 month period, respectively.
 - (B) Hourly and daily records required by this general permit shall be created no later than two days after the subject day.
- (4) Other Record Keeping Requirements
- Nothing in this subsection shall relieve the operator from complying with all other applicable record keeping requirements set forth in the Regulations of Connecticut State Agencies.
- (5) Reporting Requirements

- (A) If the subject engine is subject to section 22a-174-22 of the Regulations of Connecticut State Agencies, the operator shall comply with applicable reporting requirements of section 22a-174-22(*I*) of the Regulations of Connecticut State Agencies.
 - (B) The operator shall report to the Commissioner by October 1st of each year the previous consecutive 12 month period's operating hours, fuel usage, NOx emissions, particulate matter emissions and kilowatts produced. Such report shall include the date, duration and type of operation as well as type of fuel used, sulfur content of such fuel and the total amount of fuel used for that time period and any other information on the form prescribed by the Commissioner.
 - (C) Reports shall be submitted on forms prescribed by the Commissioner or by such other method as approved by the Commissioner.
- (d) ***Operation and Maintenance Requirements***
The operator shall comply with the following requirements regardless of whether the subject engine is being used as an emergency engine or as a distributed generation resource:
- (1) The operator shall operate and maintain the subject engine and associated control equipment in accordance with the manufacturer's specifications and written recommendations.
 - (2) The operator shall properly operate all air pollution control equipment at all times that the subject engine is in operation and emitting air pollutants.

Section 6. High Electric Demand Day Cap and Corrective Action

(a) Daily Offset

- (1) If the sum of the NOx emissions within Connecticut from all electric generating units with a maximum capacity greater than or equal to 15 MW with NOx emissions equal to or greater than one lb/MWh, and engines registered under this general permit on any day during the ozone season exceeds 30.7 tons (the cap), offsets specified in Section 6(a)(3) of this general permit shall be required.
- (2) By November 1st of each calendar year, the Commissioner will notify the operator in writing of the dates from the past ozone season that the cap in Section 6(a)(1) of this general permit was exceeded and will determine offsets required by such operator.
- (3) For each engine registered under this general permit that operated on a day, or any portion of a day, in which the cap was exceeded shall be required for each such day or portion of such day, the operator shall either:

- (A) Transfer three ozone season allowances into the CT State NOx Retirement Account. Such allowances shall be:
 - (i) originally issued by the Administrator from the CAIR NOx Ozone Season Trading Program to a CAIR NOx Ozone Season unit located in the state of Connecticut, or
 - (ii) vintage year 2003-2008 and originally issued by the Administrator from the NOx Budget Program to a NOx Budget Program source located in the state of Connecticut; or
- (B) Take an alternative action that will result in a NOx emissions reduction in Connecticut during the Ozone Season of no less than three tons provided that:
 - (i) A request to take such action is submitted to the Commissioner in writing,
 - (ii) The alternative action is submitted to the Administrator for review, and
 - (iii) The Commissioner approves the alternative action in writing.

(b) Corrective Action

- (1) The operator shall demonstrate to the Commissioner in writing that the offset requirements specified by the Commissioner pursuant to subparagraph (a)(2) above have been satisfied for the previous ozone season on or before November 30 of the year the engine operated, or if November 30 is not a business day, midnight of the first business day thereafter. An official U.S. Postal Service postmark or electronic time stamp shall establish the date of submittal of allowances to the Administrator.
- (2) Any offset specified by the Commissioner pursuant to subparagraph (a)(2) above that has not been provided by November 30th of the year in which the engine operated shall increase by ten percent, and shall continue to increase by ten percent for each additional calendar month the offset is owed but has not been provided.
- (3) If an operator does not provide the offset specified by the Commissioner pursuant to subparagraph (a)(2) above by November 30th of the year in which the engine operated, the operator shall not operate such engine unless and until the offsets required under this section have been provided.

Section 7. General Conditions

(a) *Reliance on Registration*

When evaluating a registration and any other submitted information, the Commissioner relies on the information provided by the registrant or permittee. If such information proves to be false or incomplete, the authorization issued under this general permit may be suspended or revoked in accordance with law, and the Commissioner may take any other legal action provided by law.

(b) *Duty to Comply with this General Permit*

The operator shall comply with this general permit.

(c) *Duty to Correct and Report Violations*

Upon learning of a violation of a condition of this general permit, the operator shall immediately take all reasonable action to determine the cause of such violation, to correct such violation and mitigate its results, and to prevent further such violation. Such violation and such corrective action shall be reported in writing to the Commissioner within five days of the operator's learning of such violation. Such report shall be certified in accordance with Section 7(l) of this general permit.

(d) *Duty to Provide Information*

If the Commissioner requests any information pertinent to the authorized activity or to compliance with this general permit, the operator shall provide such information in writing within forty-five days of such request. Such information shall be certified in accordance with Section 7(l) of this general permit.

(e) *Date of Filing*

For the purpose of this general permit, the date of filing with the Commissioner of any document is the date such document is received by the Commissioner.

(f) *False Statements*

Any false statement in any information submitted pursuant to this general permit may be punishable as a criminal offense, in accordance with section 22a-6 of the Connecticut General Statutes, pursuant to section 53a-157b of the Connecticut General Statutes, and in accordance with any applicable statute.

(g) *Correction of Inaccuracies*

Within fifteen days after the date a registrant or operator becomes aware of a change in any information submitted pursuant to this general permit, becomes aware that any such information is or was inaccurate or misleading, or that any relevant information has been omitted, such registrant or operator shall correct the inaccurate or misleading information or supply the omitted information in writing to the Commissioner. Such information shall be certified in accordance with Section 7(l) of this general permit. The provisions of this subsection shall apply both while a request for approval of registration is pending and after the Commissioner has approved such request.

(h) *Transfer of an Authorization*

An approval of registration under this general permit is transferable only in accordance with the provisions of section 22a-60 of the Connecticut General Statutes.

(i) *Other Applicable Law*

Nothing in this general permit shall relieve the permittee of the obligation to comply with any other applicable federal, state, and local law, including but not limited to the obligation to obtain any other authorizations required by such law.

(j) *Other Rights*

This general permit is subject to and does not derogate any present or future rights or powers of the State of Connecticut and conveys no rights in real or personal property nor any exclusive privileges, and is subject to all public and private rights and to any federal, state, and local laws pertinent to the property or activity affected by such general permit. In conducting any activity authorized hereunder, the permittee may not cause pollution, impairment, or destruction of the air, water, or other natural resources of this State. The issuance of this general permit shall not create any presumption that this general permit should or will be re-issued.

(k) *Enforceability*

This general permit shall be enforceable by the Commissioner or the Administrator.

(l) *Certification of Documents*

Except for the registration form which is certified in accordance with Section 4(c)(3)(II) of this general permit, any document, including but not limited to any notice, information or report, which is submitted to the Commissioner under this general permit shall be signed by, as applicable, the registrant, the operator or the permittee, or a duly authorized representative, and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:

“I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under section 22a-175 of the Connecticut General Statutes, under section 53a-157b of the Connecticut General Statutes, and in accordance with any applicable statute.

I certify that the signature of the registrant or the permittee, or a duly authorized representative, being submitted herewith complies with section 22a-174-2a(a) of the Regulations of Connecticut State Agencies.”

Section 8. Commissioner's Powers

(a) Abatement of Violations

The Commissioner may take any action provided by law to abate a violation of this general permit, including the commencement of proceedings to collect penalties for such violation. The Commissioner may, by summary proceedings or otherwise and for any reason provided by law, including violation of this general permit, revoke a permittee's authorization hereunder in accordance with sections 22a-3a-2 through 22a-3a-6, inclusive, of the Regulations of Connecticut State Agencies, inclusive. Nothing herein shall be construed to affect any remedy available to the Commissioner by law.

(b) General Permit Revocation, Suspension or Modification

The Commissioner may, for any reason provided by law, by summary proceedings or otherwise, revoke or suspend this general permit or modify it to establish any appropriate conditions, schedules of compliance, or other provisions which may be necessary to protect human health or the environment.

(c) Filing of an Individual Permit Application

If the Commissioner notifies a permittee in writing that such permittee must obtain an individual permit to continue lawfully conducting the activity authorized by this general permit, the permittee may continue conducting such activity only if the permittee files an application for an individual permit within sixty days of receiving the Commissioner's notice. The Permittee may also, at its election, file an application for an individual permit for an activity authorized by this general permit. While such application is pending before the Commissioner, the permittee shall comply with the terms and conditions of this general permit. Nothing herein shall affect the Commissioner's power to revoke a permittee's authorization under this general permit at any time.

(d) Right to Inspect

Any representative of the Department of Environmental Protection may enter the Permittee's site in accordance with constitutional limitations at all reasonable times without prior notice, for the purposes of inspecting, monitoring and enforcing the terms and conditions of this General Permit and applicable state law.

Issued: [DATE]

Gina McCarthy
Commissioner