



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



IN THE MATTER OF) TRADING AGREEMENT
THE STATE OF CONNECTICUT) AND ORDER NO. 8141
AND)
THE TOWN OF WALLINGFORD)
DEPARTMENT OF PUBLIC UTILITIES)

Whereas, the Commissioner of Environmental Protection ("Commissioner") and the Town of Wallingford Department of Public Utilities ("Wallingford DPU") agree that it is in the public interest that they work cooperatively to improve the air quality within the State of Connecticut, and that the use of emission reduction trading will achieve this result in a timely and cost-effective manner:

A. At the request and with the agreement of the Wallingford DPU, the Commissioner finds the following:

- 1 Wallingford DPU is a municipal utility in Wallingford, Connecticut, that owns and operates three boilers at 195 East Street, Wallingford, Connecticut, Boiler #1, R189-0098; Boiler #2, R189-0099 and Boiler #3, R189-0100 ("Boilers").
2. The 1990 Department of Environmental Protection ("DEP" or "Department") inventory shows total annual nitrogen oxide ("NOx") emissions from these boilers of 2.41 tons. NOx emissions from June 1, 1995 to April 30, 1996 were 1.31 tons, all during the non-ozone season (October 1 to April 30 of every year). Boiler #1 is out-of-service at this time. The units operate infrequently and their peak emissions on ozone exceedance days are likely to exceed their mean ozone season emissions by more than a factor of three.
3. According to the protocol defined in the State of Connecticut Department of Environmental Protection's Policy Statement Credit Trading For Sources With Irregular NOx Emissions, incorporated into this Trading Agreement and Order as Exhibit 1, these peaking units are sources with peak daily NOx emissions greater than three times their average daily emissions during the ozone season. Any emission reduction trading must consider equivalency to the NOx reductions that control equipment would produce on an ozone day on both a temporal and a mass basis. However, all excess NOx emissions during the non-ozone season need only be offset by emission reduction credits ("ERCs") on a mass basis.

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4. Peak daily potential excess emissions are equal to **1265** pounds, based on the following: (i) maximum firing rate, (ii) 24-hour operation, (iii) Full Load Emission Rates of .37 pounds/MMBtu, (iv) the standard of .25 pounds/MMBtu (from Section 22a-174-22 of the Regulations of Connecticut State Agencies ("RCSA"), Table 22-2), and includes a five percent design margin on the Reasonably Available Control Technology ("RACT") Rate. In accordance with Exhibit 1, 33 "peaking" ERCs would be required at all times during the ozone season. The actual use of ERCs shall be calculated as described in Section B herein.
 5. On June 18, 1996, RCSA Section 22a-174-37 was approved by the Connecticut General Assembly which establishes, among other things, 1) an emergency period extending from May 1, 1996 through August 31, 1996 ; and 2) a NOx emission cap requiring offset ERCs if surpassed.
 6. Because the peaking control requirements described in Section A(3) above are inconsistent with the application of a cap during the emergency period described in Section A(5) above, the peak calculation in the protocol addressed in Section A(3) does not apply during an emergency period. Instead, Section 22a-174-37 (e) requires that NOx ERCs, calculated on a mass basis, be provided for each boiler.
- B. With the agreement of Wallingford DPU, the Commissioner, acting under Sections 22a-6, 22a-171, 22a-176, and 22a-177 of the Connecticut General Statutes, orders Wallingford DPU as follows:
1. Wallingford DPU shall provide approved ERCs as specified below. Approved ERCs are defined for purposes of this order as those for which the Commissioner has provided written authorization for use in compliance with Section 22a-174-22 of the RCSA. Wallingford DPU shall document and record the amounts of all fuel used by the units each day and the number of ERCs used for the ozone season (May 1 to September 30 of each year) and non-ozone season (the remainder of the year), and shall maintain and provide such records in accordance with the following and Section 22a-174-4 of the RCSA until May 1, 1999, and shall:
 - a. Have in its possession **33** tons of approved ERCs no later than May 1 of 1997 and May 1 of 1998.
 - b. For the period between June 1, 1995 and April 30, 1996, Wallingford DPU shall retire 3 ERCs (two times actual emissions of 1.31 tons) no later than ten (10) days after the issuance of this order , which includes a 100%

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premium on actual emissions during the period.

- c. For purposes of the full year 1996 (including the emergency period declared herein), Wallingford DPU shall have in its possession sufficient approved ERCs to offset mass tons of excess emissions prior to use within ten (10) days of the signing of this order. Such mass tons shall be calculated as follows:

$$\text{ERCs (tons)} = [(\text{Full Load Emission Rate in lbs/MMBTU}) - 0.95 \times \text{RACT Emission Rate in lbs/MMBTU}] \times (\text{actual fuel use in MMBTU}) \div 2000 \text{ lbs/ton}$$

*Full Load Emission Rate is .37 pounds/MMBTU;
RACT Rate is .25 pounds/MMBTU for each boiler.

- d. No later than October 30, 1997, and 1998, calculate the ERCs used in the preceding ozone season as the greater of:

- i. The actual total excess emissions for the ozone season in tons, calculated as follows:

$$\text{ERCs (in tons)} = [(\text{Full Load Emission Rate* in lbs/MMBTU}) - 0.95 \times \text{RACT Emission Rate* in lbs/MMBTU}] \times (\text{actual fuel use in MMBTU}) \div 2000 \text{ lbs/ton}$$

*Full Load Emission Rate is .37 pounds/MMBTU;
RACT is .25 pounds/MMBTU for each boiler.

OR

- ii. The maximum actual excess NOx emissions (in lbs) on any of the days projected by the Commissioner to be "moderate to unhealthful", "unhealthful", or "very unhealthful", divided by 3 and then divided by 13 (with the result in tons):

$$\text{ERCs (tons)} = [(\text{Maximum excess NOX in lbs}) \div 3] \div [13 \text{ lbs/day/ton}]$$

As described in Exhibit 1 of this order, to the extent that ERCs used to offset excess emissions on a peak day basis (method ii) exceed the total mass excess emissions (method i), the remaining ERCs may be used in the non-ozone season.

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- e. No later than January 31, 1997, 1998, 1999, and 2000, calculate ERCs used for compliance with this order during non-ozone season months in the previous calendar year, as follows:

$$\text{ERCs (tons)} = [(0.37 \text{ lbs/MMBTU}) - 0.95 \times 0.25 \text{ lbs/MMBTU}] \times (\text{actual fuel use in MMBTU}) \div 2000 \text{ lbs/ton}$$

- f. Document and record daily fuel use, excess NOx emissions, and during the ozone season, the daily ozone classification as forecasted by the Commissioner on the previous day;
- g. No later than March 1, 1997, 1998, 1999, and 2000, include with its annual emissions report to the Commissioner, ERCs used (calculated as described above by ozone and non-ozone seasons), for the previous calendar year;
- h. Retain records and supporting documentation as described in this section for a minimum of five years, commencing on the date such records were created;
- i. Maintain documentation to attest to the fact that ERCs used during the ozone season were generated during the ozone season. Generator certification of this fact shall be sufficient; and
- k. Provide the records specified above to the Commissioner within thirty days of receipt of a written request from the Commissioner.

2. Prior to May 1, 1999, provided that all of the conditions of this Trading Agreement and Order have been met, Wallingford DPU shall comply during operation of the boilers with a full load emission rate of .37 pounds/MMBtu, averaged on a 24-hour basis.
3. As used in this Trading Order, "Commissioner" means the Commissioner of Environmental Protection or an agent of the Commissioner.
4. Notification of Noncompliance. In the event that Wallingford DPU becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Trading Order or of any document required hereunder, Wallingford DPU shall immediately notify the Commissioner and

shall take all reasonable steps to ensure that any noncompliance or delay is avoided, or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, Wallingford DPU shall state in writing the reasons for noncompliance or delay, and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Wallingford DPU shall comply with any dates which may be approved in writing by the Commissioner. Notification by Wallingford DPU shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

5. Certification of Documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Trading Agreement and Order shall be signed by the chief executive officer of Wallingford DPU or a duly authorized representative of such officer, as those terms are defined in Section 22a-430-3 (b) (2) of the Regulations, 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, in accordance with section 22a-6 of the Connecticut General Statutes, pursuant to Section 53a-157 of the Connecticut General Statutes, and in accordance with any other applicable statute."

6. Final Agreement and Order. This Trading Agreement and Order is the final agreement and order by and between the Commissioner and Wallingford DPU with respect to the matters addressed herein, and shall not be modified without the written agreement of both parties.
7. False Statements. Any false statement in any information submitted pursuant to this Trading Agreement and Order may be punishable as a criminal offense under Section 22a-175 of the Connecticut General Statutes or, in accordance with Section 22a-6, under Section 53a-157 of the Connecticut General Statutes.
8. Notice of Transfer; liability of Wallingford DPU and others. Until May 1, 1999,

and in accordance with Public Act 95-218, Wallingford DPU shall notify the Commissioner in writing no later than thirty (30) days prior to transferring any license held by Wallingford DPU to any other party and no later than fifteen (15) days after transferring all or any portion of the operations, the facility or the business which are the subject of this Trading Agreement and Order, or obtaining a new mailing or location address. Wallingford DPU's obligations under this Trading Agreement and Order shall not be affected by the passage of title to any property to any other person or municipality. Any future owner of the facility may be subject to the issuance of an order from the Commissioner.

9. Commissioner's Powers. Nothing in this Trading Agreement and Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and impose penalties for violations of law which are willful or criminally negligent or for which penalties have not been specifically provided for in this Trading Order, including, but not limited to, violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by Wallingford DPU pursuant to this Trading Order have not fully achieved compliance with Section 22a-174-22 (j) of the Regulations, the Commissioner may institute any independent proceeding to require Wallingford DPU to undertake further investigation or further action.
10. Wallingford DPU's obligations under law. Nothing in this Trading Order shall relieve Wallingford DPU of other obligations under applicable federal, state and local law.
11. Access to records and facility. Any representative of the Department of Environmental Protection may enter the facility and inspect and copy records within normal business hours without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Trading Order.
12. No effect on rights of other persons. This Trading Order shall neither create nor affect any rights of persons who or municipalities which are not parties to this Trading Order.
13. Notice to Commissioner of changes. Within fifteen (15) days of the date on which Wallingford DPU becomes aware of a change in any information submitted to the Commissioner under this Trading Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Wallingford DPU shall submit the correct or omitted information to the

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Commissioner.

- 14. Submission of documents. Any document required to be submitted to the Commissioner under this Trading Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

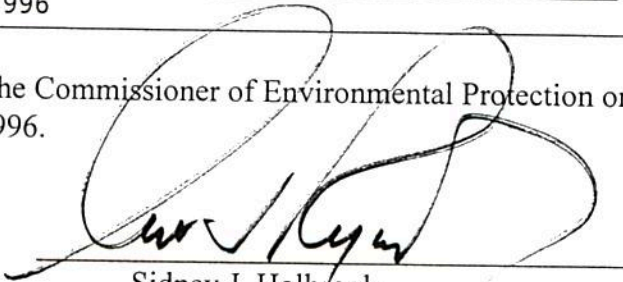
Ms. Wendy Jacobs
 Department of Environmental Protection
 Bureau of Air Management
 79 Elm Street
 Hartford, Connecticut 06106

Wallingford DPU consents to the issuance of this Trading Agreement and Order without further notice. The undersigned certifies that he/she is fully authorized to enter into this Trading Agreement and Order and to legally bind Wallingford DPU to the terms and conditions of the Trading Agreement and Order.

WALLINGFORD DEPARTMENT OF PUBLIC UTILITIES

Signature: 
 Type Name: Raymond F. Smith
 Type Title: Director - Public Utilities (Town of Wallingford)
 Date: December 18, 1996

Issued as a final consent order of the Commissioner of Environmental Protection on December 27, 1996.


 Sidney J. Holbrook
 Commissioner

Town Of Wallingford
 LAND RECORDS
 MAILED CERTIFIED MAIL,
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 Certified Document No.