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SECRETARY OF THE STATE
ELECTIONS DIVISION

MEMORANDUM

TO: Michael T. Kozik, Managing Attorney
Lead Division
Office of the Secretary of the State
30 Trinity Street, Hartford, CT

FROM: Wendy Jacobs, Air Pollution Control Engineer
Department of Environmental Protection
Bureau of Air Management
79 Elm Street, Hartford, CT

RE: ***Abatement of Air Pollution Regulations***

DATE: September 4, 2007

In accordance with the provisions of Connecticut General Statutes (C.G.S.) Section 4-172, enclosed please find the original and two copies of an action by the Department of Environmental Protection to repeal two sections and adopt one section of the Regulations of Connecticut State Agencies (R.C.S.A.), primarily to reduce emissions of nitrogen oxides (NO_x) and the subsequent regional transport of ozone and to assist the state to attain the national ambient air quality standard for ozone. The regulatory text has also been sent electronically directly to the Office of Legal Publications.

The Legislative Regulations Review Committee approved this proposal in whole on August 28, 2007. The correspondence from the committee confirming this action is also enclosed.

If you have any questions regarding this matter, please call me at 424-3457. Thank you for your assistance in this matter.

Enclosures

R-39 REV. 1/77

IMPORTANT: Read Instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

STATE OF CONNECTICUT

REGULATION

OF

NAME OF AGENCY

Environmental Protection

Concerning

Repeal of Section 22a-174-22a, The Nitrogen Oxides (NO_x) Budget Program;
Repeal of Section 22a-174-22b, The Post-2002 Nitrogen Oxides (NO_x) Budget Program; and
Adoption of Section 22a-174-22c, The Clean Air Interstate Rule (CAIR) Nitrogen Oxides (NO_x) Ozone Season Trading Program

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Section 1. The Regulations of Connecticut State Agencies are amended by adding new section 22a-174-22c, as follows:

(NEW)

Sec. 22a-174-22c. The Clean Air Interstate Rule (CAIR) Nitrogen Oxides (NO_x) Ozone Season Trading Program

(a) Definitions. For the purposes of this section, the following definitions apply, provided that any term related to the administration of this section that is not defined in this subsection shall be as defined or described in 40 CFR 96 subpart AAAA and any remaining terms not defined shall be as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies:

(1) "CAIR NO_X Ozone Season unit" means a unit that:

(A) Is a "CAIR NO_x Ozone Season unit" under 40 CFR 96.304; or

(B) Satisfies the criteria in one of the following clauses:

(i) Is a fossil-fuel-fired emission unit that operated at any time during the period from May through September 1990 and that serves a generator with a nameplate capacity of fifteen (15) megawatts or more,

(ii) Is a fossil-fuel-fired emission unit that serves a generator that generates electricity at a rated output of fifteen (15) megawatts or more by employing "cogeneration technology," as defined in section 16-1 of the Connecticut General Statutes,

(iii) Is a fossil-fuel-fired boiler or indirect heat exchanger with a maximum design heat input of 250 MMBtu/hr or more, or

(iv) Is a fossil-fuel-fired emission unit that began operating after September 30, 1990 and that serves a generator that generates electricity at a rated output of fifteen (15) megawatts or more.

(2) "CAIR NATS" means "CAIR NO_x Ozone Season Allowance Tracking System" as defined in 40 CFR 96.302.

(3) "Coal-fired" means combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year.

(4) "Combined heat and power system" or "CHP system" means a generation unit that sequentially produces both electric power and thermal energy from a single source.

(5) "Commence commercial operation" means, with regard to a unit:

(A) To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in subparagraph (B) of this definition and 40 CFR 96.305.

(i) For a unit that is a CAIR NO_x Ozone Season unit on the later of November 15, 1990 or the date the unit commences commercial operation as defined in subparagraph (A) of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is a CAIR NO_x Ozone Season unit on the later of November 15, 1990 or the date the unit commences commercial operation as defined in subparagraph (A) of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date of commencement of commercial operation as defined in subparagraph (A) or (B) of this definition as appropriate.

(B) Except as provided in 40 CFR 96.305, for a unit that is not a CAIR NO_x Ozone Season unit on the later of November 15, 1990 or the date the unit commences commercial operation as defined in subparagraph (A) of this definition, the unit's date of commencement of commercial operation shall be the date on which the unit becomes a CAIR NO_x Ozone Season unit.

(i) For a unit with a date of commencement of commercial operation as defined in subparagraph (B) of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit with a date of commencement of commercial operation as defined in subparagraph (B) of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date of commencement of commercial operation as defined in subparagraph (A) or (B) of this definition as appropriate.

(C) Notwithstanding subparagraphs (A) and (B) of this definition, for a unit not serving a generator producing electricity for sale, the unit's date of commencement of operation shall also be the unit's date of commencement of commercial operation.

(6) "Commence operation" means:

(A) To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber, except as provided in subparagraph (B) of this definition, provided that:

(i) For a unit that has undergone a physical change other than replacement of the unit by a unit at the same source after the date the unit commences operation as defined in subparagraph (A) of this definition, such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit, and

(ii) For a unit that is replaced by a unit at the same source after the date the unit commences operation as defined in subparagraph (A) of this definition, such date shall remain the replaced unit's date of commencement of operation, and the replacement unit shall be treated as a separate unit with a separate date of commencement of operation as defined in subparagraphs (A)(i) or (A)(ii) of this definition, as appropriate.

(B) Solely for purposes of 40 CFR 96, subpart HHHH, for a unit that is not a CAIR NO_x Ozone Season unit on the later of November 15, 1990 or the date the unit commences operation as defined in subparagraph (A) of this definition and that subsequently becomes a CAIR NO_x Ozone Season unit, the unit's date of commencement of operation shall be the date on which the unit becomes a CAIR NO_x Ozone Season unit provided that:

(i) For a unit that subsequently undergoes a physical change other than replacement of the unit by a unit at the same source after the date the unit commences operation as defined in subparagraph (B) of this definition, such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit, and

(ii) For a unit that is replaced by a unit at the same source after the date the unit commences operation as defined in subparagraph (B) of this definition, such date shall remain the replaced unit's date of commencement of operation, and the replacement unit shall be treated as a separate unit with a separate date of commencement of operation as defined in subparagraph (A) or (B) of this definition, as appropriate.

(7) "Energy efficiency project" or "EEP" means the installation or implementation at a stationary source of one or more of the measures listed in subparagraphs (A) through (E) of this definition that is not otherwise required by law or regulation and that results in energy savings at a facility located in the State of Connecticut:

(A) The construction of a new building or addition that exceeds the minimum energy efficiency requirements of the State Building Code;

(B) The installation, replacement or modification of equipment, fixtures or materials;

(C) The commencement or modification of building or facility operation and maintenance procedures;

(D) A combined heat and power system; or

(E) Any other measure approved by the commissioner in writing.

Projects that do not result in energy savings, such as reductions in labor and load shifting, projects resulting in energy savings for a CAIR NO_x Ozone Season unit and mobile source measures are not considered EEPs.

(8) "Energy Efficiency and Renewable Energy Set-Aside Baseline Period" or "EERESA Baseline Period" means either of the two control periods, as approved by the commissioner, preceding the year in which an EEP, a renewable energy project (REP) or a qualifying other project (QOP), as defined in this section, is first put in use or first becomes operational. The EERESA Baseline Period remains constant when calculating CAIR NO_x Ozone Season allowance allocations for such REP, EEP or QOP in any subsequent year.

(9) "EERESA Representative" means a person who aggregates any combination of one or more renewable energy projects, energy efficiency projects or qualifying other projects, to equal at least one whole allowance, or who aggregates two or more years of operation by a single project, to equal at least one whole allowance. An EERESA representative includes, but is not limited to, the following: a common owner of the aggregated projects, an energy service company, an emission trading broker or a state or municipal entity.

(10) "Fossil-fuel-fired" means:

(A) With regard to a unit, combusting any amount of fossil fuel in any calendar year; or

(B) Solely for purposes of applying subparagraph (B) of the definition of "CAIR NO_x Ozone Season unit" in subsection (a) of this section, the combustion of fossil fuel, any derivative of fossil fuel alone, or a combination of fuels, of which fossil fuel:

(i) Comprises more than fifty percent (50%) of the annual heat input (in Btu) in 1990 or any year thereafter; or

(ii) Is projected to comprise more than fifty percent (50%) of the annual heat input (in Btu), provided that the commissioner shall consider an emission unit as "fossil-fuel fired" upon the date such emission unit begins combusting fossil fuel.

(11) "Gross energy input" means total fuel-related heat input in Btus per unit of time, based upon the higher heating value of fuel.

(12) "Indirect heat exchanger" means combustion equipment in which the flame or products of combustion are separated from any contact with the principal material in the process by metallic or refractory walls, and that emits exhaust gases only through a stack. Indirect heat exchangers include, but are not limited to, steam boilers, vaporizers, melting pots, heat exchangers, column reboilers, fractioning column feed preheaters, reactor feed preheaters, pyrolysis heaters and fuel-fired reactors.

(13) "Industrial Unit" means a fossil-fuel-fired boiler or indirect heat exchanger with a maximum design heat input of 250 MMBtu/hr or more.

(14) "Nameplate capacity" means, solely for purposes of applying subparagraph (B) of the definition of "CAIR NO_x Ozone Season unit" in subsection (a) of this section, the maximum electrical generating output (in MW electrical) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

(15) "Net electricity output" means the gross electric generation (in MWh) less any of the energy output consumed in the process of generation.

(16) "New Unit" means any fossil-fuel-fired unit that commences operation on or after January 1, 2006 and that serves a generator that generates electricity at a rated output of fifteen (15) megawatts or more.

(17) "Normal system operation" means all times of operation except periods of startup, shutdown or malfunction; commissioner-approved stack testing; or intentional sootblowing, fuel switching or sudden load changing.

(18) "Permitting authority" shall mean "commissioner" as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies, except for purposes of the definitions of "Allocate or allocation" and "CAIR NO_x Ozone Season allowance" in 40 CFR 96.302, in which case "permitting authority" shall have the same meaning as in 40 CFR 96 subpart AAAA.

(19) "Phase I Unit" means a CAIR NO_x Ozone Season unit that is a fossil-fuel-fired unit that operated at any time prior to November 15, 1990 and that serves a generator with a nameplate capacity of fifteen (15) megawatts or more.

(20) "Phase II Unit" means a fossil-fuel-fired unit that began operating on or after November 15, 1990, that serves a generator that generates electricity at a rated output of fifteen (15) megawatts or more.

(21) "Proponent" means any person who owns, leases, operates or controls an energy efficiency project, a renewable energy project or a qualifying other project, or an EERESA representative.

(22) "Prospective project" means a REP, EEP or QOP that is not in operation but for which the owner has awarded contracts for installation or purchase of components or begun on-site construction or installation.

(23) "Qualifying other project" or "QOP" means the implementation or installation of a measure at a stationary source that is not otherwise required by law or regulation, that results in thermal or electric energy savings, that is not an EEP or a REP and that is approved by the commissioner in writing.

(24) "Reciprocating grate waste tire fired Unit" means an emissions unit combusting a single item waste stream of tires that began operating on or after November 15, 1990, that serves a generator that generates electricity at a rated output of fifteen (15) megawatts or more.

(25) "Renewable energy" means energy generated by one or more of the following fuels, energy resources or technologies, and that does not emit NO_x: solar photovoltaic or solar thermal energy; wind energy; fuel cells, which do not employ a fuel processor that emits NO_x; ocean thermal, wave or tidal energy; or hydro and geothermal energy.

(26) "Renewable energy project" or "REP" means one or more generation units producing renewable energy, located in the State of Connecticut or directly and solely connected to transmission facilities in the State of Connecticut, exclusive of a generation unit that has been awarded CAIR NO_x Ozone Season allowances under another program administered by federal or state government.

(27) "State Building Code" means the State Building Code adopted pursuant to section 29-252 of the Connecticut General Statutes.

(28) "State trading budget" means "Connecticut emission budget" as identified in subsection (c) of this section.

(29) "Unit of production" means a manufactured item or raw, intermediate or final material, including steam or other product, measured in discrete units and produced as a result of the consumption of energy in a specific process or by a piece of equipment.

(30) "Useful net thermal energy" means, for a REP generating thermal energy or for use of a CHP system, the energy output of thermal energy used for heating, cooling, industrial processes or other beneficial uses.

(b) Applicability.

(1) This section shall apply to the owner or operator of a CAIR NO_x Ozone Season unit.

(2) Except as provided in subsection (i)(4) of this section, the requirements of section 22a-174-22b of the Regulations of Connecticut State Agencies shall not apply to the control period beginning May 1, 2009 and any control period thereafter.

(c) Connecticut emission budget.

(1) The Connecticut emission budget is two thousand six hundred ninety one (2,691) tons of NO_x during each control period for each year beginning in 2009.

(2) The commissioner shall implement the Connecticut emission budget by allocation of NO_x allowances as described in subsection (e) of this section.

(3) The commissioner shall establish the following accounts in the CAIR NATS:

(A) The Connecticut State Account, to hold the Connecticut emission budget for allocation to the compliance accounts of CAIR NO_x Ozone Season units; and

(B) The Connecticut Retirement Account, to hold NO_x allowances exacted for purposes other than compliance with this section and permanently retired.

(d) Allocation timing.

(1) For CAIR NO_x Ozone Season units other than New Units, the commissioner shall allocate CAIR NO_x Ozone Season allowances according to the following schedule:

(A) No later than April 30, 2007, determine and notify the Administrator of each CAIR NO_x Ozone Season unit's allocation of CAIR NO_x Ozone Season allowances for the 2009, 2010 and 2011 control periods;

(B) No later than October 31, 2008, determine and notify the Administrator of each CAIR NO_x Ozone Season unit's allocation of CAIR NO_x Ozone Season allowances for the 2012 control period; and

(C) No later than October 31, 2009 and each year thereafter, determine and notify the Administrator of each CAIR NO_x Ozone Season unit's allocation of CAIR NO_x Ozone Season allowances for the control period in the fourth calendar year after the year in which the notification is to be submitted.

(2) For New Units, the commissioner shall allocate CAIR NO_x Ozone Season allowances as follows:

(A) A New Unit commencing operation between January 1 and September 30, 2006, inclusive:

(i) Shall be considered a New Unit for the purpose of allocating CAIR NO_x Ozone Season allowances during the 2009 through 2011 control periods, and

(ii) Shall be considered a Cogeneration Unit, an Industrial Unit, a Reciprocating grate waste tire fired Unit or a Phase II Unit for the purpose of allocating CAIR NO_x Ozone Season allowances for the 2012 and later control periods;

(B) A New Unit commencing operation between October 1, 2006 and September 30, 2007, inclusive:

(i) Shall be considered a New Unit for the purpose of allocating CAIR NO_x Ozone Season allowances during the 2009 through 2012 control periods, and

(ii) Shall be considered a Cogeneration Unit, an Industrial Unit, a Reciprocating grate waste tire fired Unit or a Phase II Unit for the purpose of allocating CAIR NO_x Ozone Season allowances for the 2013 and later control periods;

(C) A New Unit commencing operation between October 1, 2007 and September 30, 2008, inclusive:

(i) Shall be considered a New Unit for the purpose of allocating CAIR NO_x Ozone Season allowances during the 2009 through 2013 control periods, and

(ii) Shall be considered a Cogeneration Unit, an Industrial Unit, a Reciprocating grate waste tire fired Unit or a Phase II Unit for the purpose of allocating CAIR NO_x Ozone Season allowances for the 2014 and later control periods; and

(D) A New Unit commencing operation after September 30, 2008:

(i) Shall be considered a New Unit for the period of time commencing with initial operation through operation during the sixth control period or portion thereof following date of initial operation, and

(ii) Shall be considered a Cogeneration Unit, an Industrial Unit, a Reciprocating grate waste tire fired Unit or a Phase II Unit for the purpose of allocating CAIR NO_x Ozone Season allowances for the seventh and later control periods.

(3) For New Units, the commissioner will determine and notify the Administrator of each New Unit's allocation of CAIR NO_x Ozone Season allowances by July 31 of the year for which the CAIR NO_x Ozone Season allowances are allocated.

(e) CAIR NO_x Ozone Season allowance allocations.

(1) In applying the provisions of this subsection to a CAIR NO_x Ozone Season unit, such unit shall be categorized as a Phase I Unit, a Cogeneration Unit, an Industrial Unit, a New Unit, a Reciprocating grate waste tire fired Unit or a Phase II Unit, as applicable. CAIR NO_x Ozone Season units meeting the definition of Cogeneration Unit shall not be categorized as a Phase I Unit, Industrial Unit, Reciprocating grate waste tire fired Unit or a Phase II Unit. CAIR NO_x Ozone Season units meeting the definition of Industrial Unit shall not be categorized as a Phase I Unit, Cogeneration Unit, Reciprocating grate waste tire fired Unit or a Phase II Unit.

(2) For the control period commencing May 1, 2009 and through the 2014 control period, the commissioner shall allocate among the owners or operators of CAIR NO_x Ozone Season units, other than New Units, up to two thousand two hundred twenty-three (2,223) CAIR NOx Ozone Season allowances.

(3) For the control period commencing May 1, 2015 and each control period thereafter, the commissioner shall allocate among the owners or operators of CAIR NO_x Ozone Season units, other than New Units, up to two thousand two hundred eighty-nine (2,289) CAIR NO_x Ozone Season allowances.

(4) For the control period commencing May 1, 2009 and through the 2014 control period, the commissioner shall allocate among the owners or operators of New Units up to two hundred (200) CAIR NO_x Ozone Season allowances.

(5) For the control period commencing May 1, 2015 and each control period thereafter, the commissioner shall allocate among the owners or operators of New Units up to one hundred thirty-four (134) CAIR NO_x Ozone Season allowances.

(6) For the control period commencing May 1, 2009 and each control period thereafter, the commissioner shall allocate up to two hundred sixty-eight (268) CAIR NO_x Ozone Season allowances to Proponents in accordance with subsection (f) of this section.

(7) For the 2009, 2010, and 2011 control periods, the commissioner, in the following manner and order, shall:

(A) Allocate to the compliance account of each Cogeneration Unit, Industrial Unit and Reciprocating grate waste tire fired Unit the number of CAIR NO_x Ozone Season allowances equal to the product of the following equation:

$$\frac{(ER \times HI_{AVG})}{2000\frac{lb}{ton}}$$

Where:

ER = The lowest of:

(i) the unit's NO_x RACT emission rate (in lb/mmBtu of heat input) during the 2005 and 2006 control periods, as required in section 22a-174-22 of the Regulations of Connecticut State Agencies, or

(ii) the unit's average permitted NO_x emission rate (in lb/mmBtu of heat input) during the 2005 and 2006 control periods, or

(iii) the average of the unit's actual NO_x emission rate (in lb/mmBtu of heat input) during the 2005 and 2006 control periods, unless the owner or operator submits a written request for the commissioner's review and approval, for the use of an alternate two-year control period during 2003 through 2006, including justification and data for such alternate two-year control period.

HI_{AVG} = the unit's actual average heat input (in mmBtu) during the 2005 and 2006 control periods, unless the owner or

operator submits a written request for the commissioner's review and approval, for the use of an alternate two-year control period during 2003 through 2006, including justification and data for such alternate two-year control period

(B) Allocate to the compliance account of each Phase I Unit the number of CAIR NO_x Ozone Season allowances equal to the product of the following equation:

$$\frac{\left(1.2\frac{lb}{MWh}\times EO_U\right)}{2000\frac{lb}{ton}}$$

Where:

EO_U = each Phase I Unit's average net electricity output (in MWh) during the 2005 and 2006 control periods, unless the owner or operator submits a written request for the commissioner's review and approval, for the use of an alternate two-year control period during 2003 through 2006, including justification and data for such alternate two-year control period

(C) Allocate to the compliance account of each Phase II Unit the number of CAIR NO_x Ozone Season allowances equal to the product of the following equation:

$$(A - A_{ALLOCATED})\times\left(\frac{EO_U}{EO_{TOTAL}}\right)$$

Where:

A = 2,223 CAIR NO_x Ozone Season allowances

$A_{ALLOCATED}$ = the total number of CAIR NO_x Ozone Season allowances allocated to Industrial Units, Cogeneration Units, Reciprocating grate waste tire fired Units and Phase I Units in a given year pursuant to subdivisions (7)(A) and (7)(B) of this subsection

EO_U = the Phase II Unit's average net electricity output (in MWh) for the 2005 and 2006 control periods, unless the owner or operator submits a written request for the commissioner's review and approval, for the use of an alternate two-year control period during 2003 through 2006, including justification and data for such alternate two-year control period

EO_{TOTAL} = the total average net electricity output (in MWh) of all Phase II Units during the 2005 and 2006 control periods, unless the owner or operator submits a written request for the commissioner's review and approval, for the use of an alternate two-year control period during 2003 through 2006, including justification and data for such alternate two-year control period

(D) Any owner or operator may submit a written request for the commissioner's review and approval for the use of an alternate two-year control period pursuant to sections 22a-174-22c(e)(7)(A), (B) or (C) of the Regulations of Connecticut State Agencies if the average NO_x emission rate, average heat input or average net electricity output data from the CAIR NO_x Ozone Season unit during the 2005 and 2006 control periods was not representative for the following reasons:

(i) Transmission line failure,

(ii) Equipment failure, or

(iii) Any other reason related to unplanned outage.

(8) For the 2012 control period, and each control period thereafter, the commissioner, in the following manner and order, shall:

(A) Allocate to the compliance account of each Cogeneration Unit, Industrial Unit, and Reciprocating grate waste tire fired Unit the number of CAIR NO_x Ozone Season allowances equal to the product of the following calculation:

$$\frac{(ER \times HI_{AVG})}{2000\frac{lb}{ton}}$$

Where:

ER = the lowest of:

(i) the unit's NO_x RACT emission rate (in lb/mmBtu of heat input), during the 5th and 6th control periods preceding the year of allocation, as required in section 22a-174-22 of the Regulations of Connecticut State Agencies, or

(ii) the unit's average permitted NO_x emission rate (in lb/mmBtu of heat input) during the 5th and 6th control periods preceding the year of allocation, or

(iii) the average of the unit's actual NO_x emission rate (in lb/mmBtu of heat input) during the 5th and 6th control periods preceding the year of allocation.

HI_{AVG} = the unit's actual average heat input (in mmBtu) during the 5th and 6th control periods preceding the year of allocation

(B) Allocate to the compliance account of each Phase I Unit and Phase II Unit the number of CAIR NO_x Ozone Season allowances equal to the product of the following equation:

$$(A - A_{ALLOCATED}) \times \left(\frac{EO_U}{EO_{TOTAL}}\right)$$

Where:

A = 2,223 CAIR NO_x Ozone Season allowances for 2009 through 2014; 2,289 CAIR NO_x Ozone Season allowances for 2015 and beyond

$A_{ALLOCATED}$ = the total number of CAIR NO_x Ozone Season allowances allocated to Industrial Units, Cogeneration Units and Reciprocating grate waste tire fired Units pursuant to subdivision (8)(A) of this subsection for the control period

EO_U = each Phase I and Phase II Unit's average net electricity output (in MWh) during the 5th and 6th control periods preceding the year of allocation

EO_{TOTAL} = the total average net electricity output (in MWh) of Phase I and Phase II Units during the 5th and 6th control periods preceding the year of allocation

(9) By July 31 of the 2009 control period and each control period thereafter, the commissioner shall:

(A) Allocate to the compliance account of each New Unit the number of CAIR NO_x Ozone Season allowances equal to the product of the following equation, subject to the limitation in subparagraph (B) of this subdivision:

$$\frac{(ER \times HIR \times HO_{CP})}{2000\frac{lb}{ton}}$$

Where:

ER = the lower of:
(i) 0.12 lb/MMBtu, or

(ii) the unit's permitted NO_x emission rate (in lb/mmBtu of heat input) during the control period.

HIR = the lower of:
(i) the unit's maximum design heat input (in mmBtu/hr),

or

(ii) the unit's permitted heat input rate (in mmBtu/hr) during the control period.

HO_{CP} = the number of hours the unit operated during the prior control period, rounded to the nearest whole hour by rounding down for decimals less than 0.5, and rounded up for decimals of 0.5 or greater. If the unit did not operate during the prior control period, the number of hours shall be determined by the commissioner based on information submitted pursuant to subsection (i)(2) of this section

(B) For 2009 through 2014:

IF $\Sigma NUA_{CALCULATED} < 200$, THEN

$A_{ALLOCATED\text{-}NU} = A_{NU}$.

IF $\Sigma NUA_{CALCULATED} > 200$, THEN

$$A_{ALLOCATED-NU} = A_{NU} \times \left(\frac{200}{\sum NUA_{CALCULATED}} \right)$$

rounded to the nearest whole allowance, as appropriate.

For 2015 and beyond:

IF $\Sigma NUA_{CALCULATED} < 134$, THEN

$A_{ALLOCATED\text{-}NU} = A_{NU}$.

IF $\Sigma NUA_{CALCULATED} > 134$, THEN

$$A_{ALLOCATED-NU} = A_{NU} \times \left(\frac{134}{\sum NUA_{CALCULATED}} \right)$$

rounded to the nearest whole allowance, as appropriate.

Where:

$\Sigma NUA_{CALCULATED}$	=	the total number of CAIR NO_x Ozone Season allowances calculated for New Units pursuant to subdivision (9)(A) of this subsection
$A_{ALLOCATED\text{-}NU}$	=	the number of CAIR NO_x Ozone Season allowances the commissioner shall allocate to the compliance account of each New Unit
A_{NU}	=	the number of CAIR NO_x Ozone Season allowances calculated for each New Unit pursuant to subdivision (9)(A) of this subsection

The commissioner may adjust an allowance allocation under this subparagraph as necessary to not exceed $\Sigma NUA_{CALCULATED}$.

(C) Allocate to the compliance account of each Phase I and Phase II Unit the number of CAIR NO_x Ozone Season allowances, if any, equal to the product of the following equation:

For 2009 through 2014:

$$\left[(200 - A_{ALLOCATED-NU}) + (268 - A_{ALLOCATED-P}) \times \left(\frac{EO_U}{EO_{TOTAL}} \right) \right]$$

For 2015 and beyond:

$$\left[(134 - A_{ALLOCATED-NU}) + (268 - A_{ALLOCATED-P}) \times \left(\frac{EO_U}{EO_{TOTAL}} \right) \right]$$

Where:

$A_{ALLOCATED\text{-}NU}$	=	The number of CAIR NO_x Ozone Season allowances allocated to New Units pursuant to subdivision (9)(A) of this subsection for the

current year control period.

$A_{ALLOCATED\text{-}P}$ = The number of CAIR NO_x Ozone Season allowances allocated to Proponents pursuant to subsection (f) of this section for the current year control period.

EO_U = For the years 2009 through 2011, each Phase I and Phase II Unit's average net electricity output (in MWh) during the 2005 and 2006 control periods, unless the owner or operator submits a written request for the commissioner's review and approval, for the use of an alternate two-year control period during 2003 through 2006, including justification and data for such alternate two-year control period. For the year 2012 and each year thereafter, each Phase I and Phase II Unit's average net electricity output (in MWh) during the 5th and 6th control periods preceding the year of allocation.

EO_{TOTAL} = For the years 2009 through 2011, the total average net electricity output (in MWh) of Phase I and Phase II Units during the 2005 and 2006 control periods, unless the owner or operator submits a written request for the commissioner's review and approval, for the use of an alternate two-year control period during 2003 through 2006, including justification and data for such alternate two-year control period. For the year 2012 and each year thereafter, the total average net electricity output (in MWh) of Phase I and Phase II Units during the 5th and 6th control periods preceding the year of allocation.

(D) Any owner or operator may submit a written request for the commissioner's review and approval for the use of an alternate two-year control period pursuant to Regulations of Connecticut State Agencies section 22a-174-22c(e)(9)(C) if average net electricity output data from the CAIR NO_x Ozone Season unit during the 2005 and 2006 control periods was not representative for the following reasons:

(i) Transmission line failure,

(ii) Equipment failure, or

(iii) Any other reason related to unplanned outage.

(10) In 2010, the commissioner may conduct a review of the CAIR NO_x Ozone Season allowance allocation methodology in this subsection.

(11) For the purposes of this subsection, the term "Cogeneration Unit" means a stationary, fossil-fuel-fired emission unit that serves a generator that generates electricity at a rated output of fifteen (15) megawatts or more by employing "cogeneration technology" as defined in section 16-1 of the Connecticut General Statutes.

(f) Energy Efficiency and Renewable Energy Set-Aside (EERESA) Allocation.

(1) Annual Allowance Allocations. For the control period commencing May 1, 2009 and each control period thereafter, the commissioner shall:

(A) Allocate to the compliance account of each Proponent of a REP generating electrical energy the number of CAIR NO_x Ozone Season allowances equal to the amount determined by the following equation, subject to the limitation in subparagraph (H) of this subdivision:

$$\frac{\left(EEG \times 1.5 \frac{lb}{MWh} \right)}{2000 \frac{lb}{ton}}$$

Where:

EEG = the net electrical energy generated by the REP (in MWh) during the control period

(B) Allocate to the compliance account of each Proponent of a REP generating useful net thermal energy the number of CAIR NO_x Ozone Season allowances equal to the amount determined by the following equation, subject to the limitation in subparagraph (H) of this subdivision:

$$\frac{\left(TEG \times 0.44 \frac{lb}{mmBtu} \right)}{2000 \frac{lb}{ton}}$$

Where:

TEG = the useful net thermal energy (in mmBtu) generated by the REP during the control period

(C) Allocate to the compliance account of each Proponent of an EEP saving electrical energy the number of CAIR NO_x Ozone Season allowances equal to the amount determined by the following calculation, subject to the limitation in subparagraph (H) of this subdivision:

$$\frac{\left(EES \times 1.5 \frac{lb}{MWh} \right)}{2000 \frac{lb}{ton}}$$

Where:

EES = the amount of electrical energy saved by the EEP (in MWh) during the control period, calculated according to subparagraphs (C)(i) and (C)(ii) of this subdivision

(i) Except as provided in subparagraph (C)(ii) of this subdivision, the amount of electrical energy saved shall be calculated by comparing the amount of electrical energy consumed during the control period in the calendar year preceding the year in which the application is submitted to the amount of electrical energy consumed during the EERESA Baseline

Period. If monthly data for electrical energy consumed is not available, then electrical energy savings shall be calculated by comparing the electrical energy consumed during the calendar year preceding the year in which the application is submitted to the amount of electrical energy consumed during the calendar year in which the EERESA Baseline Period occurred, multiplied by five-twelfths, and

(ii) For the construction of a new building or addition that exceeds the energy efficiency requirements of the State Building Code, the amount of electrical energy saved shall be calculated by comparing the amount of electrical energy consumed during the first full control period immediately preceding the year the application is submitted to the amount of electrical energy that would have been consumed at the same occupancy level during the control period if the building or addition had been constructed according to the minimum energy efficiency requirements of the State Building Code. If monthly data for electrical energy consumed is not available then electrical energy savings shall be calculated by comparing the electrical energy consumed during the calendar year preceding the year the application is submitted to the amount of electrical energy that would have been consumed at the same occupancy level during the calendar year if the building or addition had been constructed according to the minimum energy efficiency requirements of the State Building Code, multiplied by five-twelfths;

(D) Allocate to the compliance account of each Proponent of an EEP saving thermal energy the number of CAIR NO_x Ozone Season allowances equal to the amount determined by the following equation, subject to the limitation in subparagraph (H) of this subdivision:

$$\frac{\left(TES \times 0.44 \frac{lb}{mmBtu} \right)}{2000 \frac{lb}{ton}}$$

Where:

TES = the amount of thermal energy saved by the EEP (in mmBtu) during the control period calculated according to subparagraphs (D)(i) and (D)(ii) of this subdivision

(i) Except as provided in subparagraph (D)(ii) of this subdivision, the amount of thermal energy saved shall be calculated by comparing the amount of thermal energy consumed during the control period in the calendar year preceding the year in which the application is submitted to the amount of thermal energy consumed during the EERESA Baseline Period. If monthly data for thermal energy consumed is not available, then thermal energy savings shall be calculated by comparing the thermal energy consumed during the calendar year preceding the year in which the application is submitted to the amount of thermal energy consumed during the calendar year in which the EERESA Baseline Period occurred, multiplied by five-twelfths, and

(ii) For the construction of a new building or addition that exceeds the energy efficiency requirements of the State Building Code, the amount of thermal energy saved shall be calculated by comparing the amount of thermal energy consumed during the first full control period immediately

preceding the year the application is submitted to the amount of thermal energy that would have been consumed at the same occupancy level during the control period if the building or addition had been constructed according to the minimum energy efficiency requirements of the State Building Code. If monthly data for thermal energy consumed is not available then thermal energy savings shall be calculated by comparing the thermal energy consumed during the calendar year immediately preceding the year the application is submitted to the amount of thermal energy that would have been consumed at the same occupancy level during the calendar year if the building or addition had been constructed according to the minimum energy efficiency requirements of the State Building Code, multiplied by five-twelfths;

(E) Allocate to the compliance account of each Proponent of an EEP saving thermal or mechanical energy in a manufacturing process where energy consumption is measured on a unit of production basis, the number of CAIR NO_x Ozone Season allowances equal to the amount determined by the following equation, subject to the limitation in subparagraph (H) of this subdivision:

$$\frac{\left(\frac{EC_1}{PP_1} - \frac{EC_2}{PP_2}\right) \times PP_2 \times NE_2 \times \left(\frac{NE_1}{NE_2}\right)}{2000\frac{lb}{ton}}$$

Where:

EC_1 = Energy consumed during the EERESA Baseline Period in mmBtu. If monthly data is not available for the control period, then EC_1 = the amount of energy consumed during any one of the three calendar years before the year in which the EEP was first put in use or first became operational, multiplied by five-twelfths

PP_1 = Units of product produced per EERESA Baseline Period. If monthly data is not available for the control period, then PP_1 = the units of product produced during any one of the three calendar years before the year in which the EEP was first put in use or first became operational, multiplied by five-twelfths

NE_1 = NO_x emitted during the consumption of energy, measured in pounds per mmBtu heat input during the EERESA Baseline Period. If monthly data is not available for the control period, then NE_1 = NO_x emitted during any one of the three calendar years before the year in which the EEP was first put in use or first became operational, multiplied by five-twelfths

EC_2 = Energy consumed during the control period in the year before the calendar year in which the application is submitted. If monthly data is not available for the control period, then EC_2 = energy consumed during the calendar year before the year in which the application is submitted, multiplied by five-twelfths

PP_2 = Units of product produced during the control period in the year before the calendar year in which the application is

submitted. If monthly data is not available for the control period then PP_2 = units of product produced during the calendar year before the year in which the application is submitted, multiplied by five-twelfths

NE_2 = NO_x emitted during the consumption of energy, measured in pounds per mmBtu heat input during the control period in the year before the calendar year in which the application is submitted. If monthly data is not available for the control period then NE_2 = NO_x emitted during the calendar year before the year in which the application is submitted, multiplied by five-twelfths

(F) Allocate to the compliance account of each Proponent of a combined heat and power system with actual energy efficiency equal to or greater than 60%, as determined according to the equation in subparagraph (F)(i) of this subdivision, the number of CAIR NO_x Ozone Season allowances equal to the amount determined by the equation in subparagraph (F)(ii) of this subdivision, subject to the limitation in subparagraph (H) of this subdivision:

(i) $$\text{Eff\%} = \frac{(NEO + UTO)}{GEI}$$

Where:

Eff% = Actual energy efficiency

NEO = Net electricity output of the system converted to British thermal units, (Btus) per unit of time

UTO = Net useful thermal energy output, in Btus per unit of time

GEI = Gross energy input, and

(ii) $$\frac{NOx_{CONV} - NOx_{CHP}}{2000\frac{lb}{ton}}$$

Where:

$$NOx_{CONV} = \left\{ \frac{\left[\frac{NEE \times \left(3412\frac{Btu}{kWh}\right)}{0.34} + \frac{NUTE}{0.8} \right]}{1{,}000{,}000\frac{Btu}{mmBtu}} \right\} \times 0.15\frac{lb}{mmBtu}$$

$$NOx_{CHP} = \left\{ \frac{HI}{1{,}000{,}000\frac{Btu}{mmBtu}} \right\} \times NOx_{RATE}$$

NEE = the number of kilowatt-hours of net electrical energy generated by the system during the EERESA Baseline Period. If monthly data is not available for the EERESA Baseline Period, then the number of kilowatt-hours of net electrical energy generated by the system during any one of the three calendar years before the year in which the system first generated energy, multiplied by five-twelfths

NUTE = the number of British thermal units (Btu) of net useful thermal energy used by the system for space, water or industrial process heat during a control period. If monthly data is not available for the control period, then NUTE = the number of British thermal units (Btu) of net useful thermal energy used by the system for space, water or industrial process heat during a calendar year, multiplied by five-twelfths

HI = the heat input of fuel used by the system to produce electrical or thermal energy during the EERESA Baseline Period. If monthly data is not available for the EERESA Baseline Period, then HI = the heat input of fuel used by the system to produce electrical or thermal energy during any one of the three calendar years before the year during which the system first generated energy, multiplied by five-twelfths

NOx_{RATE} = NO_x emitted in normal system operation by the project (lbs NO_x/mmBtu)

(G) Allocate to the compliance account of each Proponent of a QOP the number of CAIR NO_x Ozone Season allowances equal to an amount determined under subparagraphs (A) through (F), inclusive, of this subdivision, as may be applicable, or an amount determined by the commissioner, subject to the limitation in subparagraph (H) of this subdivision; and

(H) IF $\Sigma PA_{CALCULATED} \leq 268$, THEN

$$A_{ALLOCATED\text{-}P} = A_P.$$

IF $\Sigma PA_{CALCULATED} > 268$, THEN

$$A_{ALLOCATED\text{-}P} = A_P \times \left(\frac{268}{\sum PA_{CALCULATED}} \right)$$

Where:

$\Sigma PA_{CALCULATED}$ = the total number of CAIR NO_x Ozone Season allowances calculated for Proponents pursuant to subparagraphs (A) through (G), as applicable, of this subdivision

$A_{ALLOCATED\text{-}P}$ = the number of CAIR NO_x Ozone Season allowances the commissioner shall allocate to the compliance account of each Proponent

A_P = the number of CAIR NO_x Ozone Season allowances calculated for each Proponent pursuant to subparagraphs (A) through (G), as applicable, of this subdivision

(2) Only REPs that were built and began generating energy and EEPs and QOPs that were built and in use, or installed and operational, on or after January 1, 2001 are eligible to receive CAIR NO_x Ozone Season allowances.

(3) Each Proponent shall apply to the commissioner to receive an allocation of CAIR NO_x Ozone Season allowances from the EERESA according to the following procedures:

(A) Prior to submitting an application to receive an allocation of CAIR NO_x Ozone Season allowances from the EERESA, each Proponent shall establish a general account in accordance with 40 CFR 96.351;

(B) All applications shall be submitted on the Department's Energy Efficiency and Renewable Energy Set-Aside Allowance Application form and shall include the following information:

(i) A description of the project that includes the installation date and the estimated lifetime, a calculation of the amount of energy saved or generated and an explanation of the electricity monitoring and verification method,

(ii) If the project requires approval by the commissioner as an EEP or a QOP, a request for such approval,

(iii) Any additional information that the commissioner may request, and

(iv) A certification prepared and signed as required by section 22a-174-2a(a) of the Regulations of Connecticut State Agencies;

(C) In 2009, and each year thereafter, Proponents shall submit applications to the Department by February 1 of each year. The designated year in which the allowances are allocated shall correspond to the calendar year in which the application is submitted. The allocation shall be based on the energy saved or generated in the calendar year or, for projects aggregated over several years of operation, years preceding the year in which the application is submitted;

(D) A Proponent may request an allocation of allowances from the EERESA for a maximum of five (5) years at a time. A separate verification of operation and calculation of energy generation or energy savings shall be submitted annually for each year during which a REP generates energy or an EEP or a QOP saves energy;

(E) Only one Proponent may submit an application to be allocated allowances from the EERESA for a single REP, EEP or QOP in a single calendar year. If more than one Proponent submits an application for the same project for the same calendar year, the commissioner, at his or her discretion, may refuse to accept such applications; and

(F) A Proponent shall not submit an application under this subsection for energy generation or energy savings equivalent to less than one whole allowance. An EERESA Representative may submit an application that:

(i) Aggregates any combination of one or more REPs, EEPs or QOPs that individually save or generate energy in a single calendar year equivalent to less than one allowance but for which the energy savings or generation is equivalent to a minimum of one whole allowance when aggregated,

(ii) Aggregates two or more years of operation by a single REP, EEP or QOP that saves or generates energy equivalent to less than one allowance in a single year but for which the energy savings or generation is equivalent to a minimum of one whole allowance when aggregated, and

(iii) Aggregates two or more years of operation by any combination of one or more REPs, EEPs or QOPs that save or generate energy in a single calendar year equivalent to less than one whole allowance when aggregated but for which the energy savings or generation is equivalent to a minimum of one whole allowance when aggregated over two or more years of operation.

(4) Each Proponent shall measure the amount of energy saved or generated by each project according to subparagraph (A) or subparagraph (B) of this subdivision, as follows:

(A) (i) Adhering to the requirements of the International Performance Measurement and Verification Protocol, as revised in March 2002, DOE/GO-102002-1554 or the U.S. Environmental Protection Agency's Conservation Verification Protocol; and

(ii) Adhering to the measurement and verification provisions of New England Power Pool's or NEPOOL's Operating Procedure 18 "Metering and Telemetering" or other provisions acceptable to the commissioner; and

(iii) Making the normalization adjustments for energy savings in accordance with the International Performance Measurement and Verification Protocol, as revised in March 2002, DOE/GO-102002-1554; or

(B) Using any applicable measurement and verification protocols submitted to and approved by the commissioner.

(5) Nothing in this subsection shall preclude the commissioner from reducing the number of allowances allocated to a REP, EEP or QOP to account for:

(A) Any NO_x emissions associated with the operation of a REP, EEP or QOP;

(B) Uncertainty in the measurement or verification of the actual emissions reductions or energy savings achieved by a project; and

(C) Any other circumstances identified by the commissioner in writing and provided to the Proponent.

(6) The Proponent of a prospective project may apply to the commissioner to receive an estimate of the number of allowances that the commissioner may award from the EERESA to the prospective project pursuant to the requirements of this subsection after the prospective project has operated for one ozone season. The following considerations shall apply to such a prospective project:

(A) An application made pursuant to this subdivision shall be made on a form prescribed by the commissioner and shall include the following information:

(i) The Proponent's full name and business address,

(ii) The name and telephone number for a person to contact regarding the application,

(iii) A description of the project that includes the estimated completion date, the calculation of the electricity anticipated to be saved or supplied and an explanation of the planned electricity monitoring and verification method,

(iv) Any other information requested by the permitting authority, and

(v) A certification prepared and signed as required by section 22a-174-2a(a) of the Regulations of Connecticut State Agencies;

(B) After completing the construction or installation of a prospective project for which the commissioner has made an estimate of allowances that may be allocated from the EERESA pursuant to this subdivision and after operating the project for one ozone season, the Proponent may apply to receive an actual allocation of allowances from the EERESA according to the requirements of subdivision (3) of this subsection; and

(C) A determination by the commissioner concerning an application submitted pursuant to this subdivision is not a binding commitment to allocate the estimated number of allowances from the EERESA to the Proponent after such project initiates operation.

(7) In 2010, the commissioner may conduct a review of the Energy Efficiency and Renewable Energy Set-Aside Allocation program, including, but not limited to, the following factors:

(A) Success in facilitating energy efficiency and renewable energy projects;

(B) Impacts on CAIR NO_x Ozone Season allowance price and availability; and

(C) Appropriateness of the size of the EERESA.

(g) CAIR NO_x Ozone Season allowance use.

(1) A CAIR NO_x Ozone Season allowance reserved, allocated, banked or traded is reserved, allocated, banked or traded subject to all applicable legal requirements and limitations, including, but not limited to, the requirements of this section and the provisions of sections 22a-1, 22a-5, 22a-6, 22a-174 and 22a-174c of the Connecticut General Statutes.

(2) Except as provided in subdivision (3) of this subsection and subsection (i) of this section, CAIR NO_x Ozone Season allowances cannot be used to meet or exceed the limitations of any permit, order or other applicable requirement.

(3) The commissioner may allow the owner or operator of a CAIR NO_x Ozone Season unit to use CAIR NO_x Ozone Season allowances beyond those otherwise required for compliance with this section to comply with section 22a-174-22(e) of the Regulations of Connecticut State Agencies pursuant to the provisions of section 22a-174-22(j) of the Regulations of Connecticut State Agencies.

(4) Emission offsets required for new or modified major stationary sources of NO_x must be obtained in accordance with section 22a-174-3a of the Regulations of Connecticut State Agencies and are subject to the offset requirements of Section 173 of the Act. CAIR NO_x Ozone Season allowances may not be used as offsets, unless the commissioner permanently adjusts the

state trading budget commensurate with the number of unused NO_x allowances approved for use as offsets and the owner or operator of a CAIR NO_x Ozone Season unit meets the following conditions:

(A) Reduces the emissions of such CAIR NO_x Ozone Season unit such that not all CAIR NO_x Ozone Season allowances allocated to that unit are used; and

(B) Satisfies the requirements of section 22a-174-3a(*l*)(5) of the Regulations of Connecticut State Agencies.

(5) If the owner or operator of a CAIR NO_x Ozone Season unit transfers emission reductions as offsets to sources of NO_x not participating in a CAIR NO_x Ozone Season allowance trading program administered by the Administrator under 40 CFR 51.123, such owner or operator shall surrender the CAIR NO_x Ozone Season allowances representing the emissions reductions in an amount equivalent to the emission reductions transferred off-budget.

(h) Reserved.

(i) Allowance tracking and banking; monitoring; recordkeeping and reporting; and other requirements.

(1) Each owner or operator and each designated representative of a CAIR NO_x Ozone Season unit that is subject to this section shall comply with each applicable requirement set forth in Table 22c-1 and incorporated by reference herein, as follows:

(A) Terms used in the incorporated sections of the CFR shall be defined as in 40 CFR 96.302, unless defined in subsection (a) of this section;

(B) To the extent that Table 22c-1 of this section refers to text in 40 CFR 96 that includes the Hg Budget Trading Program, CAIR SO_2 trading, CAIR NO_x Annual Trading Program, 40 CFR 96 subpart IIII and CAIR NO_x Ozone Season Opt-in Unit, such references are not incorporated by reference;

(C) To the extent the federal regulations incorporated into this section refer to CAIR NO_x Ozone Season Allowance Allocations, Subpart EEEE and 40 CFR 96.340-42, such references shall be replaced with subsections (c), (d), (e) or (f) of this section, as appropriate; and

(D) To the extent the federal regulations incorporated into this section refer to 40 CFR 96.304, such references shall be replaced with subsection (b) of this section.

(2) Additional reporting requirements. Each owner and operator of a CAIR NO_x Ozone Season unit shall report the information identified in this subdivision:

(A) By October 31 of each year, the owner or operator of each CAIR NO_x Ozone Season unit shall report to the commissioner the metered net electricity output (in MWh) and useful steam output (in mmBtu) for the facility at which the unit is located for that year's control period. If data for steam output is not available, the owner or operator may report heat input providing useful steam output as a surrogate for useful steam output; and

(B) The owner or operator of each New Unit operating in the first control period following the date of commencement of operation shall by July 1 of that first control period report to the commissioner an estimate of the total number of hours of operation for the control period. The owner or operator of each New Unit operating in the second and later control periods following the date of commencement of operation shall by July 1 of such second and later control

periods report to the commissioner the number of hours the unit operated during the prior control period, rounded to the nearest whole hour by rounding down for decimals less than 0.5, and rounded up for decimals of 0.5 or greater.

(3) Monitoring and related reporting requirements. The requirements of 40 CFR 96.374(d)(2)(ii) shall only apply to those owners and operators of CAIR NO_x Ozone Season units that are not subject to an Acid Rain emissions limitation and are not monitoring NO_x emissions using a Continuous emission monitoring system (CEMS).

(4) Additional excess emissions requirements. The Administrator shall deduct, for excess emissions in the 2008 control period determined according to section 22a-174-22b of the Regulations of Connecticut State Agencies, CAIR NO_x Ozone Season allowances allocated for the 2009 control period in the manner specified in 40 CFR 96.354(d) for excess emissions in the 2009 control period and beyond.

(5) Copies of the relevant sections of 40 CFR 96 incorporated by reference in this section are available by contacting:

Connecticut Department of Environmental Protection
Bureau of Air Management
Planning and Standards Division
79 Elm Street
Hartford, Connecticut 06106
(860) 424-3027

Table 22c-1 40 Code of Federal Regulations Part 96 Provisions Incorporated by Reference as of December 13, 2006	
Subpart AAAA-CAIR NO_x Ozone Season Trading Program General Provisions	
Section 96.302	Definitions.
Section 96.303	Measurements, abbreviations, and acronyms.
Section 96.305	Retired unit exemption.
Section 96.306	Standard requirements.
Section 96.307	Computation of time.
Section 96.308	Appeal procedures.
Subpart BBBB-CAIR Designated Representative for CAIR NO_x Ozone Season Sources	
Section 96.310	Authorization and responsibilities of CAIR designated representative.
Section 96.311	Alternate CAIR designated representative.
Section 96.312	Changing CAIR designated representative and alternate CAIR designated representative; changes in owners and operators.
Section 96.313	Certificate of representation.
Section 96.314	Objections concerning CAIR designated representative.
Section 96.315	Delegation by CAIR designated representative and alternate CAIR designated representative.
Subpart CCCC-Permits	
Section 96.320	General CAIR NO_x Ozone Season Trading Program permit requirements.
Section 96.321	Submission of CAIR permit applications.
Section 96.322	Information requirements for CAIR permit applications.
Section 96.323	CAIR permit contents and term.
Section 96.324	CAIR permit revisions.
Subpart FFFF-CAIR NO_x Ozone Season Allowance Tracking System	
Section 96.351	Establishment of accounts.
Section 96.352	Responsibilities of CAIR authorized account representative.
Section 96.353	Recordation of CAIR NO_x Ozone Season allowance allocations.
Section 96.354	Compliance with CAIR NO_x emissions limitation.

Section 1
Sec. 2
Sec. 3

Section 96.355	Banking.
Section 96.356	Account error.
Section 96.357	Closing of general accounts.
Subpart GGGG-CAIR NO_x Ozone Season Allowance Transfers	
Section 96.360	Submission of CAIR NO_x Ozone Season allowance transfers.
Section 96.361	EPA recordation.
Section 96.362	Notification.
Subpart HHHH-Monitoring and Reporting	
Section 96.370	General requirements.
Section 96.371	Initial certification and recertification procedures.
Section 96.372	Out of control periods.
Section 96.373	Notifications.
Section 96.374 (Except as provided in subsection (i)(3) of this section)	Recordkeeping and reporting.
Section 96.375	Petitions.

Sec. 2. Section 22a-174-22a of the Regulations of Connecticut State Agencies is repealed.

Sec. 3. As of May 1, 2010, Section 22a-174-22b of the Regulations of Connecticut State Agencies is repealed.

Statement of Purpose: In order to mitigate interstate transport of the ozone precursor nitrogen oxides (NO_x), and in order to assist the state in achieving attainment of the National Ambient Air Quality Standard for ozone, Connecticut has participated in two distinct market-based NO_x ozone season cap-and-trade programs. From 1999 through 2002, Regulations of Connecticut State Agencies (R.C.S.A.) section 22a-174-22a established such a trading program among states in the Ozone Transport Commission. Beginning in 2003, R.C.S.A. section 22a-174-22b established Connecticut's Post-2002 NO_x Budget Program (also known as the NO_x State Implementation Plan (SIP) Call), which is based on a model ozone season NO_x cap-and-trade program of the U.S. Environmental Protection Agency (EPA). EPA has recently promulgated a new ozone season NO_x emissions cap-and-trade program, the Clean Air Interstate Rule NO_x Ozone Season Trading Program (CAIR Trading Program), that is intended to replace the NO_x Budget Program as of May 1, 2009. This proposal, which repeals R.C.S.A. sections 22a-174-22a and 22a-174-22b and adopts a CAIR NO_x Ozone Season Trading Program under new R.C.S.A. section 22a-174-22c, is Connecticut's approach to implementing the CAIR Trading Program in Connecticut.

The general structure of new R.C.S.A. section 22a-174-22c is very similar to the existing NO_x Budget Program set forth in R.C.S.A. section 22a-174-22b. R.C.S.A. section 22a-174-22c incorporates by reference the majority of the provisions included in EPA's model rule for the CAIR Trading Program. The major differences between both R.C.S.A. section 22a-174-22b and the federal CAIR Trading Program as compared with R.C.S.A. section 22a-174-22c are the methodology for allocating CAIR NO_x Ozone Season allowances and the inclusion of Energy Efficiency/Renewable Energy set-aside provisions.

Specifically, the sections of the proposal accomplish the above as follows:

- Section 1 of the proposal, which addresses R.C.S.A. section 22a-174-22c, reduces the emissions of NO_x from large stationary sources during the period of May 1 through September 30 by means of a market-based, cap-and-trade system, consistent with the federal CAIR Trading Program.
- Sections 2 and 3 of the proposal repeal obsolete NO_x Budget Programs contained in R.C.S.A. sections 22a-174-22a and 22a-174-22b.

CERTIFICATION

Be it known that the foregoing:

Are: ☒ Regulations ☐ Emergency Regulations

☒ Adopted ☐ Amended as hereinabove stated ☒ Repealed

By the aforesaid agency pursuant to:

☒ Section 22a-174 of the General Statutes.

☐ Section_____of the General Statutes, as amended by Public Act No.___of the___Public Acts.

☐ Public Act No._____of the Public Acts.

After publication in the Connecticut Law Journal on September 12th 2006 of the notice of the proposal to:

☒ Adopt ☐ Amend ☒ Repeal such regulations

(If applicable): ☒ And the holding of a public hearing on the 19th day of October 2006

WHEREFORE, the foregoing regulations are hereby:

☒ Adopted ☐ Amended as herein above stated ☒ Repealed

Effective:

☒ When filed with the Secretary of State.

(OR)

☐ The __ day of _____ 200__.

SEP 4 11 12 AM '07
SECRETARY OF THE STATE
ELECTIONS DIVISION

DATE SIGNED *(Head of Board, Agency or Commission)* OFFICIAL TITLE, DULY AUTHORIZED

In Witness Whereof: 8/3/07 Amy Marella Deputy Commission

SIGNED DATE OFFICIAL TITLE, DULY AUTHORIZED

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:

☒ Approved

☐ Disapproved

☐ Disapproved in part, *(Indicate Section Numbers disapproved only)*

☐ Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance with Sec. 4-170 amended, of the General Statutes.

DATE 8/28/07 SIGNED *(Clerk of the Legislative Regulation Review Committee)* Pamela B. Boothe

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE SIGNED *(Secretary of the State.)* BY

INSTRUCTIONS

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes

2. Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.

3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.

4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language underlined or in capital letters and deleted language in brackets. Section 4-170 of the General Statutes.

Regulations
of

Environmental Protection

.....

CONCERNING

Abatement of Air Pollution -
The Clean Air Interstate Rule (CAIR) Nitrogen Oxides (NO_x) Ozone Season Trading Program

.....

Received and filed in the Office of the
Secretary of the State

.....

Approved by the Attorney General

.....

Approved by the Legislative Regulation
Review Committee or General Assembly

.....

Published in Connecticut Law Journal

.....

CERTIFICATION

Be it known that the foregoing:

Are: ☒ Regulations ☐ Emergency Regulations

☒ Adopted ☐ Amended as hereinabove stated ☒ Repealed

By the aforesaid agency pursuant to:

☒ Section 22a-174 of the General Statutes.

☐ Section_____of the General Statutes, as amended by Public Act No.____of the___Public Acts.

☐ Public Act No._____of the Public Acts.

After publication in the Connecticut Law Journal on September 12th 2006 of the notice of the proposal to:

☒ Adopt ☐ Amend ☒ Repeal such regulations

(If applicable): ☒ And the holding of a public hearing on the 19th day of October 2006

WHEREFORE, the foregoing regulations are hereby:

☒ Adopted ☐ Amended as herein above stated ☒ Repealed

Effective:

☒ When filed with the Secretary of State.

(OR)

☐ The __ day of _____ 200__.

	DATE	SIGNED *(Head of Board, Agency or Commission)*	OFFICIAL TITLE, DULY AUTHORIZE
In Witness Whereof:	4/9/07	Amey W. Marella	Deputy Commissioner

	SIGNED	DATE	OFFICIAL TITLE, DULY AUTHORIZE
Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:	[illegible]	4/23/07	ASSOC. ATTY. GENERAL

☐ Approved

☐ Disapproved

☐ Disapproved in part, *(Indicate Section Numbers disapproved only)*

☒ Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance with Sec. 4-170 amended, of the General Statutes.

DATE 6/26/07 SIGNED *(Clerk of the Legislative Regulation Review Committee)* Pamela B. Boothe

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE SIGNED *(Secretary of the State.)* BY

INSTRUCTIONS

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes

2. Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.

3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.

4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language underlined or in capital letters and deleted language in brackets. Section 4-170 of the General Statutes.

Regulations
of

Environmental Protection

.....

CONCERNING

Abatement of Air Pollution -
The Clean Air Interstate Rule (CAIR) Nitrogen Oxides (NO_x) Ozone Season Trading Program

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Received and filed in the Office of the
Secretary of the State

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Approved by the Attorney General

.....

Approved by the Legislative Regulation
Review Committee or General Assembly

.....

Published in Connecticut Law Journal

.....

Office of Secretary of the State
State of Connecticut
P.O. Box 150470, Hartford, CT 06115-0470

Susan Bysiewicz
Secretary of the State

Lesley D. Mara
Deputy Secretary of the State

September 4, 2007

Hon. Gina McCarthy, Commissioner
Department of Environmental Protection
79 Elm Street
Hartford, CT 06105

Re: Agency Regulation Concerning:

Abatement of Air Pollution: Nitrogen Oxides (NOx) Budget Program; Post-2002 Nitrogen Oxides (NOx) Budget Program; Clean Air Interstate Rule (CAIR) Nitrogen Oxides (NOx) Ozone Season Trading Program

Regulation Review Committee Docket Number: 2007-032a
Secretary of the State File Number: 5800

Dear Commissioner McCarthy:

This is to acknowledge receipt of two certified copies of the above referenced regulation issued by the Department of Environmental Protection.

We request that you please forward the original or a copy of this acknowledgement letter to your agency's Legal Services Department for its files.

Said regulation was received and filed in this office on September 4, 2007. The effective date of this regulation is September 4, 2007.

One of the two copies has been forwarded to the Commission on Official Legal Publications as required by law.

Sincerely,

Barbara Sladek
RLS Assistant Coordinator
860-509-6147

CC: Commission on Official Legal Publications (Letter and Copy of Regulation)