

OFFICE OF ADJUDICATIONS

IN THE MATTER OF

: GENERAL PERMIT

**LIMITATION OF AIR POLLUTION
EMISSIONS FROM MAJOR
STATIONARY SOURCES**

: FEBRUARY 17, 2006

PROPOSED FINAL DECISION

I

SUMMARY

The Department of Environmental Protection (DEP) intends to issue a *General Permit to Limit Potential to Emit from Major Stationary Sources of Air Pollution* (GPLPE). General Statutes §22a-174(k). The GPLPE revises and renews the current general permit, which will expire on March 29, 2006. The permit would allow owners/operators of major stationary sources to voluntarily cap emissions below Title V thresholds; eliminating the need for a Title V permit.

The Department granted a request for a hearing on the permit; Tilcon Connecticut, Inc. (Tilcon) intervened challenging the proposed \$5,000 permit fee.¹ Tilcon also urges the Department to issue a deadline for registering under the proposed GPLPE to provide a “safe harbor” for continuous operations beyond the expiration date of the current GPLPE.

¹ Tilcon also challenged a permit condition that authorized operations under the GPLPE provided such operations do not threaten any endangered or threatened species identified in accordance with General Statutes §26-306. Prior to the start of the hearing the Bureau of Air Management announced its intent to delete this condition from the proposed general permit. Based on that representation, this issue was not addressed at the hearing.

A hearing was held on December 19, 2005. The parties to this proceeding are DEP Bureau of Air Management (staff) and Tilcon. Staff has entered into the record a revised draft GPLPE (Attachment A), which includes conditions for approval and emission limitations, record keeping and reporting requirements.

Upon review of the relevant facts and applicable law in this matter, I find that the proposed permit registration fee of \$5,000 is supported by the anticipated costs of administering the GPLPE program. There is no persuasive evidence in the record that the program costs are arbitrary or unreasonable. Therefore, I recommend that the proposed GPLPE be issued.

II

DECISION

A

FINDINGS OF FACT

1

Procedural History

1. On September 8, 2005, the Department issued a *Notice of Intent to Issue a General Permit to Limit Potential to Emit from Major Stationary Sources of Air Pollution and to Revise the State Implementation Plan for Air Quality*. The Notice was published on September 12, 2005², and indicated that the proposed GPLPE contains different provisions from those of the permit that is currently in effect. (Ex. DEP-2.)

2. No written comments expressed opposition to issuance of the GPLPE, however, eighteen businesses, organizations and individuals submitted comments seeking clarification of and/or recommending certain changes to the proposed permit. Tilcon, Triton Environmental, Inc., and the Connecticut Business and Industry

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

Association (CBIA) filed timely requests for a public hearing on the permit. General Statutes §22a-174(k)(2). Tilcon also requested and was granted intervening party status. General Statutes §4-177a. (Ex. DEP-7.)

3. A hearing was properly noticed and conducted on December 19, 2005. Gary Rose, Director, Engineering and Technical Services Division, Bureau of Air Management testified on behalf of the Department. Frank T. Lane, Director of Real Estate and Environmental Compliance, testified on behalf of Tilcon. Representatives from the Connecticut Business and Industry Association, Regulatory Compliance Services, LLC, and the Connecticut Fund for the Environment also commented on the permit. (Exs. DEP-3, 6; test. G. Rose, F. Lane.)

4. After the hearing, staff prepared a written report that summarizes and responds to the 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 of the permit, which incorporates the changes discussed in the response. Post-hearing briefs were filed on various dates from December 29, 2005 through January 27, 2006. The record was closed on January 25, 2006.³ (Exs. DEP-8, 8a.)

2

The Proposed GPLPE

5. The proposed GPLPE is intended to revise, in part, and renew the GPLPE that expires on March 29, 2006 (2001-2006 GPLPE). Major stationary sources⁴ that have the potential to emit⁵ air pollutants in excess of prescribed limits, but whose actual emissions are below these limits, are eligible for coverage under the permit. The GPLPE limits the potential emissions from existing stationary sources that have registered under the permit.

³ The record was closed following staff's confirmation that the revised draft GPLPE was its final draft.

⁴ A source that emits or has the potential to emit quantities of certain air pollutants above the threshold levels established in the federal Clean Air Act and state regulations. 42 USC §§7401 through 7671q; Regs. Conn. State Agencies §22a-174-1(57). Examples of such sources include: metal degreasers, boilers, generators, incinerators and rock crushing operations.

⁵ Potential to emit is "the maximum capacity of a stationary source, including all physical and operational limitations, to emit any air pollutant." §22a-174-1(86).

There are currently 375 facilities registered under the 2001-2006 GPLPE; all are expected to register under the proposed GPLPE once it is issued. (Ex. DEP-6; test. G. Rose.)

6. The GPLPE requires owners/operators to limit emissions from a sole source or the combined emissions from multiple sources located at a single facility to levels below Title V source levels⁶ and, where applicable, below twenty-five tons of volatile organic compounds (VOCs). This permit makes it possible for major stationary source owners/operators to voluntarily cap emissions at or below Title V emissions limits. The permit therefore provides a means for sources to comply with Title V while avoiding the costs and burdens associated with the full requirements for individual permits under Title V. (Exs. DEP-6, 8a; test. G. Rose.)

7. The GPLPE contains authorization requirements and registration procedures. Registrations include general information about the premises and operations, descriptions of all pollution emissions units and associated control equipment, and emissions monitoring equipment. Registrants must provide documentation of annual VOC emissions since December 31, 1995 and compliance plans as required by regulation. (Ex. DEP-8a; EX. INT-5.)

8. Registrations must include calculations of the facility's potential and actual emissions of air pollutants for the prior twelve months. The registration also requires a detailed description of the methodology used by the registrant to calculate the actual and potential emissions. A registrant is required to keep records necessary to calculate the actual emissions of air pollutants from each emissions unit on the premises. Registrants must submit annual certifications of compliance with the permit emissions limits, record keeping and reporting requirements. (Exs. DEP-6, 8a; ex. INT-5; test. G. Rose.)

⁶ Title V of the 1990 Amendments to the Federal Clean Air Act requires major stationary sources of air pollution to obtain a single, comprehensive operating permit to assure compliance with all applicable emission limitations and authorizes states to issue Title V permits. 42 U.S.C.S. §§7661-7661f. The annual fee for a Title V permit is \$5,000. (Test. G. Rose.)

9. The registration form consists of eleven pages and, in Tilcon's experience, requires an average of ten additional pages of calculations. For its eighteen facilities currently registered under the 2001-2006 GPLPE, Tilcon does not look to staff for assistance with the registration, it hires its own consultant to prepare what it considers very detailed and complex calculations. (Ex. DEP-8a; test. F. Lane.)

10. A registrant must submit an annual emissions summary if actual emissions of any regulated air pollutant are at or above fifty percent of the emission limitation specified in the GPLPE. Registrants must also report any emission that exceeds the permit limits within twenty-four hours if such emission poses a danger; otherwise reports must be made within two working days. (Ex. DEP-8a; test. G. Rose.)

11. The proposed GPLPE establishes sanctions for violations of the emissions limits and other terms and conditions. The Commissioner may revoke or suspend the GPLPE, or modify its terms as necessary. The Commissioner may also require a registrant to obtain an individual permit in order to continue to lawfully conduct the activity authorized by the general permit. (Ex. DEP-8a.)

12. The proposed GPLPE requires a registration fee of \$5,000. The registration fee for the 2001-2006 GPLPE was \$250. In 2003, the legislature increased to \$1,000 general permit fees not otherwise specified in a permit and set a maximum fee of \$5,000. General Statutes §22a-6f(d). The proposed permit also provides that an additional \$5,000 fee must accompany any registration that is resubmitted after having been rejected by the Commissioner. (Exs. DEP-7, 8a; test. G. Rose.)

3

GPLPE Program Administration and Estimated Costs

13. Registrations must be submitted on forms provided by the Department and contain general information about the registrant and the facility. Registrants must also provide an update on changes to existing or additional emissions units. Emissions summaries for criteria and hazardous air pollutants over the past twelve months are also

required as are the calculations used to determine such emissions. Some facilities must document actual emissions of VOCs for each calendar year after December 31, 1995. Existing registrants with new activities or facilities not previously registered under the GPLPE must also submit compliance information, emissions unit inventories and, in some circumstances, a compliance plan for VOC emissions. Regs., Conn. State Agencies §22a-174-32(d). (Ex. DEP-8; exs. INT-3, 4; test. G. Rose, F. Lane.)

14. Staff reviews registrations for accuracy and completeness and compares the registration information against existing DEP records. Staff must also review each registrant's compliance history, the emissions summaries and associated calculations, and other information provided with a registration. The time involved in reviewing a registration depends on the complexity of the information, including the number of emissions units on the premises. The review process ends with staff's recommendation regarding approval or denial of the registration. (Test. G. Rose.)

15. Staff reviews the annual certifications of compliance and emissions summaries, and maintains the databases that are necessary to meet U.S. EPA reporting requirements and to determine the frequency of site inspections. Each registered facility must be inspected at least once during the five-year permit cycle. Those facilities with emissions levels close to the Title V thresholds may be inspected more than once during the permit cycle. (Test. G. Rose.)

16. Inspection activities vary according to the complexity of the facility and include the review of previous inspections and facility records, preparation of documents prior to the inspection, the actual inspection, and preparation of a post-inspection report. Any violation of the permit terms and conditions may result in issuance of a Notice of Violation and associated enforcement activities, including follow-up inspections. On average, ten enforcement actions are initiated for GPLPE violations each year. (Test. G. Rose.)

17. Site inspections may not be limited to a review of compliance with the GPLPE but may include compliance determinations under other permits issued to the

facility. Inspections at the larger Tilcon facilities are conducted every other year and take approximately one and one-half hours. Inspections at the smaller Tilcon facilities take about an hour or less and are conducted every three years. (Test. G. Rose, F. Lane.)

18. In response to public comment and at the intervenor's request, staff prepared a breakdown of the costs of administering the GPLPE program based on prior experience with the current 375 registrants and estimates of the average amount of time staff is expected to spend on the activities associated with the program. At the time, staff knew that registration fees did not cover the costs of administering the program. The estimates include the time to review registrations and annual submissions, update and maintain relevant databases, conduct inspection and enforcement activities, supervise staff and provide clerical support. (Exs. Revised DEP-4 and 5; test. G. Rose.)

19. GPLPE program cost estimates were derived from the estimates of the time expected to perform these activities and the associated staff salaries, fringe benefits and standard agency overhead allocations. Annual cost estimates were determined for each of the five years of the permit cycle, however, registration review was considered only in year one of the program. Registration review time was determined to be four and one-half hours per registration on average. Other program activities were estimated to require, on average, approximately eleven hours for technical staff, a little more than two hours of supervisory time, and less than three hours of clerical support, for a total of approximately seventeen hours for each registration. Staff estimated the total program costs, over the five-year permit cycle, at \$2,079,038. Total fees anticipated from the existing 375 registrants are \$1,875,000. (Exs. Revised DEP-4 and 5; test. G. Rose.)

4

GPLPE Registration Deadline

20. The existing GPLPE will expire on March 29, 2006. The deadline for renewing a registration under that permit was November 29, 2005, however, with the existing permit at the end of its cycle, current registrants must wait until the proposed permit is issued to submit registrations. It is possible that the permit will expire before the proposed GPLPE is issued and registrations are approved. It is apparent that

registrants could continue operating without a permit for some period of time. In its response to public comments, staff indicated that in the event there is no GPLPE in place before March 29, 2006, the Department will exercise discretion regarding enforcement activities and advise registrants to continue operations in compliance with the requirements of the 2001-2006 GPLPE. (Exs. DEP-7, 8; test. G. Rose.)

5
Public Comments

21. The written comments submitted in response to the notice of intent to issue the proposed GPLPE and the comments made during the hearing, raise a number of issues, including certain record-keeping, reporting and signatory requirements. A majority of the comments also include concern over the proposed \$5,000 permit fee. (Exs. DEP-7, 8.)

22. The Connecticut Fund for the Environment submitted comments in favor of the GPLPE and the increased fee, recognizing the Department's need to increasingly rely on permit fees to maintain the resources to fulfill its statutory obligations. The remaining comments regarding the fee include claims that the fee is excessive, represents a 200-fold increase, and creates a financial hardship on the businesses the program was designed to benefit. The comments also include suggestions that the DEP collect a percentage of the fee each year over the five-year permit cycle or implement a two-tier fee structure based on emissions levels. Staff rejected these proposals because they would result in additional administrative costs, which already exceed the expected permit revenues. (Exs. DEP-7, 8; test. G. Rose.)

B

CONCLUSIONS OF LAW

The Commissioner is authorized to issue the proposed GPLPE and to require owners/operators of similar operations to register and receive approval for coverage under the general permit. General Statutes §22a-174(k)(1). There is no dispute over the Commissioner's authority or any procedural issues. The only issue to be decided is whether the proposed \$5,000 registration fee is appropriate given the costs of administering the GPLPE program.

1

General Permit Registration Fee

Tilcon argues that General Statutes §22a-6f(d)⁷ establishes a fee of \$1,000 for general permit registrations that require the Department's approval and any fee in excess of this limit must be based on the "reasonable costs" of administering the GPLPE program. General Statutes §§22a-6(a)(10) and 22a-174(g). Staff argues that this language does not affect the Department's discretion to set general permit fees within the range of \$1,000 to \$5,000 established by §22a-6f(d). Staff also argues that §22a-6f(d) does not specify what factors must be considered by the Department when setting general permit fees; rather, the appropriateness of the fee should be evaluated on a case by case basis.

The legislature provided the Commissioner with the authority to require, by regulation, the payment of fees that are sufficient to cover the reasonable costs of reviewing and acting upon an application for and monitoring compliance with the terms and conditions of permits, licenses, registrations, or approvals required under §22a-174. §22a-6(a)(10). Subsection (g) of §22a-174 mandates that the Commissioner, by regulation, require payment of a permit application fee sufficient to cover the "reasonable

⁷ Section 22a-6f(d) provides that "[u]nless otherwise specified in a general permit, the registration fee for a general permit shall be as follows: (1) If the person intending to engage in the regulated activity is required to register with the Department of Environmental Protection and obtain approval of the registration before the activity is authorized, one thousand dollars; or (2) if the person intending to engage in the regulated

costs” for any permit or approval authorized pursuant to the section. The Commissioner has adopted regulations that require the submission of the general permit registration fee required by §22a-6f(d). Regs. Conn. State Agencies §22a-174-26(f).

In light of this statutory scheme, it is reasonable to conclude that the legislature intended that the registration fees authorized under §22a-6f(d) should be based on the administration costs of the GPLPE program. This is particularly so given that the subsection clearly reflects the legislature’s intent that a larger fee should be set for registrations that require DEP review and approval and a lesser fee for those that do not. However, in this case it is not necessary for me to reach a definitive conclusion on the issue. The only evidence offered in the support of the proposed fee is the details of the expected costs of administering the GPLPE program. Therefore, the issue for me to decide is whether these cost estimates reflect the costs of the GPLPE program and justify a registration fee of \$5,000.

The record shows that at the time the proposed registration fee was determined, staff was aware that the fees charged for the 2001-2006 GPLPE did not cover the costs of administering the program. During the comment period for the proposed GPLPE, staff reviewed the program costs and prepared a breakdown of estimated salaries and other associated costs for the five-year term of the permit. The intervenor argues that staff has improperly included costs unrelated to the GPLPE program in the estimates and has significantly overestimated the costs directly related to GPLPE program administration. The intervenor claims that the costs are therefore arbitrary and unreasonable.

The intervenor specifically argues that staff has not maintained a record of the tasks and work hours necessary to administer the GPLPE program and that the detailed estimated costs in the record reflect a post hoc rationalization designed to justify the maximum fee allowed by statute. The intervenor has not identified nor do I find any

activity is only required to register with the Department of Environmental Protection before the activity is authorized, five hundred dollars. No fee for a general permit shall exceed five thousand dollars.”

legal requirement that the Department maintain time logs or other time records for the administration of the GPLPE program. The record shows that staff had an idea of the costs of the GPLPE program before setting the proposed fee. When it became apparent that the fee was an issue, staff prepared the cost estimates. In the absence of an express legal requirement obligating the Department to maintain the type of records suggested by the intervenor, I cannot find that the Department acted arbitrarily by preparing the detailed cost estimates after the issue of the proposed fee was raised in this proceeding.

The intervenor also argues that staff overestimated the time necessary for certain tasks associated with the GPLPE program. The intervenor claims, for example, that staff overestimated the time needed to approve a registration because the information required by the registration form is standard and has already been reviewed by staff in prior registrations. This argument is inconsistent with the testimony of the intervenor's witness regarding the length of the registration and pages of calculations that are of such complexity Tilcon retains an experienced consultant to prepare them.

The intervenor makes additional allegations concerning overestimates of time allocated to certain program administration tasks or to particular years of the permit cycle. The intervenor's argument is based on the experience of its eighteen facilities, which represent less than five percent of the total registrations under the GPLPE program. However, much of the support for its allegations is based on conjecture and what the intervenor "believes" should be so. For example, the intervenor argues that because none of its facilities are required to submit annual emissions summaries, it is fair to assume that only a small percentage of the other 357 registrants are required to do so. On the basis of those facts, the intervenor would have me conclude that the time allocated to the review of annual emissions summaries is excessive. I find no support in the record for such a generalization.

Throughout his testimony, Mr. Rose stressed the fact that the cost estimates were based on the average amount of time devoted to a particular program task. The record shows that, on average, the time spent on registration review and approval was four and one-half hours per facility. The estimated time for review of annual submissions,

database maintenance, and inspection and enforcement activities was approximately thirteen hours per facility including supervision, and three hours for clerical support each year. It is reasonable to infer that more time may be required to approve certain some registrations, review certain annual submissions, or to conduct complicated enforcement activities. Moreover, certain tasks may be performed in some years and not in others. Therefore, I cannot find, on the basis of the evidence in the record, that the cost estimates for these activities are significantly overstated.

The intervenor also argues that the cost estimates include staff time devoted to site inspections unrelated to the GPLPE program. This is based on Tilcon's experience with field inspections that include a compliance review of all emissions permits issued to the facility, which take between one and two hours depending on the size of the facility. The record shows that compliance inspection activities go beyond the actual field visit. Staff has determined that approximately fifteen hours per facility is devoted to an inspection, from pre-inspection preparation to post-inspection reporting. The record also shows that some facilities, including some of the intervenor's facilities, are inspected more than once in the five-year permit cycle. On the basis of the facts in the record, I cannot find that the cost estimates for GPLPE inspections are significantly overstated or improperly allocated to any particular year or activity. The evidence presented by the intervenor does not support such a conclusion.

The record shows that the estimated costs of the proposed general permit will exceed the total registration fees by over \$200,000. It is notable that at the time the legislature increased the registration fees allowable under §22a-6f(d), it increased all permit fees required by regulation and numerous permit fees required by statute. Although a review of pertinent legislative history reveals no substantive discussion concerning these changes, it is reasonable to infer that the legislature recognized a need to bring permit fees more in line with program costs.

The estimated costs presented by staff accurately reflect the actual costs of administering the proposed GPLPE program. There is insufficient evidence in the record for me to conclude the estimates are overstated or improperly allocated and therefore

unreasonable. The Commissioner must require a GPLPE registration fee pursuant to the mandates of relevant statutes and regulations and, in this case, the proposed fee of \$5,000 is justified and therefore appropriate.

2

Registration Deadline

Applications or registrations for renewal of a permit must be filed no later than 120 days prior to the expiration of the existing permit. Regs., Conn. State Agencies §22a-3a-5(c)(1). The renewal deadline for the current GPLPE was November 29, 2005. Tilcon and prospective registrants are concerned that the Department has not provided any direction with respect to continued operations after the current GPLPE has expired and before registrations are approved under the proposed permit. The intervenor has requested a specific deadline to avoid any risk of enforcement that may attach by continuing operations without a permit after the March 29, 2006 expiration of the 2001-2006 GPLPE. The intervenor argues that such a deadline is necessary for registrants to comply with the requirement for making a “timely and sufficient application” to renew GPLPE registrations thereby benefiting from the “safe harbor” provisions of General Statutes §§4-182(b)⁸ and 22a-6j⁹.

Staff argues that the Bureau of Air Management should have the opportunity to address this situation should it arise as it is in the best position to assess any environmental risk that may result and the appropriate response. Staff claims that §4-182(b) does not apply to general permits because the process of filing a timely application for renewal under an existing permit will not work in the context of a general permit; a prospective registrant cannot obtain authority to operate under a general permit that has not yet been issued. Staff also argues that the intervenor’s proposal would

⁸ Section 4-182(b) provides that “[w]hen a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall not expire until the application has been finally determined by the agency....”

⁹ Section 22a-6j allows the Commissioner to accept an untimely application if renewal is likely and the public interest would best be served by allowing permitted operations to continue, however, the applicant must pay an additional application fee.

require two registrations, one under the 2001-2006 GPLPE and another under the proposed GPLPE when issued, and create additional administrative expense.

In its response to public comments, the Department indicated its intent to inform the existing registrants of a new registration deadline and to advise them to continue to operate under the terms and conditions of the 2001-2006 GPLPE should it expire before registration renewals are approved. There is no evidence that owners/operators risk enforcement simply by virtue of the fact that they may continue to operate in compliance with the 2001-2006 GPLPE once it expires. Therefore, the concern expressed by the intervenor and other prospective registrants may be unwarranted. However, I note it for the Commissioner's information and possible consideration.

III

CONCLUSION

Based on the comments and evidence admitted into the record, I adopt the revisions to the draft GPLPE proposed by staff. The terms and conditions of the proposed GPLPE, as modified, are consistent with the relevant statutory and regulatory criteria that guide the Commissioner's decision to grant or deny such a permit. In addition, the costs of administering the GPLPE program are neither arbitrary nor unreasonable and support the proposed increase in the permit registration fee.

IV

RECOMMENDATION

I recommend that the Commissioner issue the proposed GPLPE incorporating the terms and conditions set forth in the attached revised draft general permit.

February 17, 2006
Date

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



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

DRAFT

**General Permit to Limit Potential to
Emit from
Major Stationary Sources of Air
Pollution**

Issued: , 2005

Printed on recycled paper

General Permit to Limit Potential to Emit From Major Stationary Sources of Air Pollution (Less than 100% of Major Thresholds)

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General Permit to Limit Potential to Emit From Major Stationary Sources of Air Pollution (Less than 100% of Major Thresholds)

Section 1. Authority

This general permit is issued under the authority of Section 22a-174(k) of the Connecticut General Statutes.

Section 2. Definitions

(a) Definitions

As used in this general permit:

“*Act*” means the Federal Clean Air Act, 42 U.S.C. Sections 7401 to 7671q and Public Law 101-549.

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

“*Aerospace manufacturing and rework operations*” has the same meaning as in Section 22a-174-32 of the Regulations of Connecticut State Agencies.

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

“*Annual emissions summary*” means an annual emissions summary under Section 5(c) of this general permit.

“*Applicable requirement*” has the same meaning as in Section 22a-174-33 of the Regulations of Connecticut State Agencies.

“*Approval of registration*” means an approval of registration issued under Section 3 of this general permit.

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

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

“*CFR*” means Code of Federal Regulations.

“*Day*” means the calendar day; if any date specified in the general permit falls on a Saturday, Sunday, or legal holiday, such deadline shall be the next business day thereafter.

“*Department*” means the department of environmental protection.

“*Emissions unit*” has the same meaning as in Section 22a-174-1 of the Regulations of Connecticut State Agencies.

“*EPA*” means the United States Environmental Protection Agency.

“*Individual permit*” means a permit issued to a named permittee under Section 22a-174(c) of the General Statutes.

“*Major stationary source*” has the same meaning as 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.

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

“*Premises*” has the same meaning as in 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.

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

“*Regulated air pollutant*” has the same meaning as in Section 22a-174-33 of the Regulations of Connecticut State Agencies.

“*Research and development operation*” has the same meaning as in Section 22a-174-33 of the Regulations of Connecticut State Agencies.

“*Title V source*” has the same meaning as in Section 22a-174-33 of the Regulations of Connecticut State Agencies.

“*Wood furniture manufacturing operations*” has the same meaning as in Section 22a-174-32 of the Regulations of Connecticut State Agencies.

(b) *Additional Definitions*

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

Section 3. Authorization Under This General Permit

(a) Applicability

Provided the requirements of subsection (b) of this section are satisfied, this general permit applies to the following:

- (1) This general permit is applicable to the owner or operator of any premises with potential emissions of any air pollutant at or above the emissions level specified in Section 5(a) of this general permit and with actual emissions of each air pollutant below the emission levels specified in Section 5(a) of this general permit.
- (2) For the purpose of determining the applicability of this general permit to any premises at which a research and development operation is located, the owner or operator of such premises shall include the emissions from such research and development operation in the total emissions from such premises.
- (3) For the purpose of determining the applicability of this general permit to any premises that is subject to Section 22a-174-32 of the Regulations of Connecticut State Agencies, Reasonably Available Control Technology (RACT) for volatile organic compounds (VOC), the owner or operator of such premises shall demonstrate, to the commissioner's satisfaction, that the actual emissions of VOC from such premises, including those from any research and development operations, in every calendar year after December 31, 1995 were less than the levels in Section 22a-174-32(c)(1) of the Regulations of Connecticut State Agencies.
 - (4) Notwithstanding the above, this general permit shall not apply to the owner or operator of any premises that is subject to:
 - (A) Any acid rain control requirement pursuant to 40 CFR Parts 72 through 78 inclusive;

- (B) Any solid waste combustion requirement pursuant to Section 129(e) of the Act; or
- (C) An individual Title V operating permit issued by the commissioner pursuant to Section 22a-174-33 of the Regulations of Connecticut State Agencies or by the administrator pursuant to 40 CFR Parts 70 or 71.

(b) *Requirements for Authorization*

This general permit authorizes each of the owners or operators listed in subsection (a) of this section provided:

(1) Registration

A completed registration with respect to such activity has been filed with the commissioner and the commissioner has issued an approval of registration with respect to such activity.

(2) Coastal Area Management

Such activity is consistent with all-applicable goals and policies in Section 22a-92 of the General Statutes, and will not cause adverse impacts to coastal resources as defined in Section 22a-93 of the General Statutes.

(3) Signatory Responsibilities

(A) A registration and any form, report, or other document required by or submitted pursuant to this general permit shall be signed by an individual identified in Section 22a-174-2a of the Regulations of Connecticut State Agencies.

(B) Any individual signing any document pursuant to Section 3(b)(3)(A) of this general permit shall also sign the following statement:

“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 a false statement made in the submitted information may be punishable as a criminal offense, under Sections 22a-175 and 53a-157b of the General Statutes, and in accordance with any other 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.”

(c) ***Geographic Area***

This general permit applies throughout the State of Connecticut.

(d) ***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 five (5) years from such date of issuance.

(e) ***Effective Date of Authorization***

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

(f) ***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 upon a written request by the permittee. 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.

(g) ***Issuance of an Individual Permit***

If, after the commissioner approves a registration under this general permit, the commissioner issues an individual permit authorizing the same activity authorized by such approval, such approval shall become null and void on the date such individual permit is issued.

Section 4. Registration Requirements

(a) ***Who Must File a Registration***

Any person seeking authority under this general permit shall file with the commissioner:

- (1) A registration form which meets the requirements of Section 4 of this general permit and
- (2) The applicable fee.

(b) ***Scope of Registration***

A registrant shall submit a single registration with respect to a single premises, regardless of how many emissions units are located at such premises.

(c) *Contents of Registration*

(1) Fees

- (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 in accordance with applicable law along 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.

(2) Registration Form

A registration shall be filed on forms prescribed and provided by the commissioner and shall include the following:

- (A) Legal name, address and telephone number of the registrant, the name of the agent for service of process for the owner of the subject premises if the registrant is not the owner, the name and telephone number of the individual with primary managerial responsibility for the premises, and the name and telephone number of any individual designated by the owner or operator thereof to answer questions pertaining to such registration. If the registrant is an entity transacting business in Connecticut and the registrant is required to register with the Connecticut Secretary of the State, provide the exact name as registered with the Connecticut Secretary of the State;
- (B) Location address of the premises with respect to which the registration is submitted;
- (C) The calculation of potential and actual emissions of air pollutants from the premises expressed in tons per year, during the twelve (12) months immediately preceding the date of registration application or during such other time

period(s) as the commissioner designates. Refer to Section 5(b) of this general permit for determining the source of data for calculating such emissions. If the commissioner designates an alternative time period(s), the commissioner will so notify the registrant in writing, and within thirty (30) days of receipt of such notice, the registrant shall submit emissions calculations consistent with such other time period(s);

- (D) A detailed description of the methodology the registrant used to calculate the actual and potential emissions; and
- (E) A description of all emissions units, air pollution control equipment, and emission monitoring equipment at the premises.
- (F) In addition to the requirements of Section 4(c)(2) of this general permit, an owner or operator of a premises that is subject to Section 22a-174-32 of the Regulations of Connecticut State Agencies, Reasonably Available Control Technology (RACT) for volatile organic compounds, who seeks to demonstrate that actual emissions of VOC do not exceed the levels specified in Section 3(a)(3) of this general permit shall, at a minimum, submit:
 - (i) written documentation of the actual emissions of VOC from the premises for every calendar year, or portion thereof, after December 31, 1995 through the calendar year in which such information is submitted. The commissioner may require the submittal of documentation of actual emissions from another period of time in order to determine representative actual emissions; and
 - (ii) a report that includes the information specified in subparagraphs (B) through (E), inclusive, of Section 22a-174-32(d)(2) of the Regulations of Connecticut State Agencies.
- (G) 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.
- (H) 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 certify that this general permit registration is on complete and accurate forms as prescribed by the commissioner without alteration of their text. I understand that a false statement made in the submitted information may be punishable as a criminal offense, in accordance with Section 22a-6 of the General Statutes, pursuant to Section 53a-157b of the General Statutes, and in accordance with any other applicable statute.

I certify that I have read the *General Permit to Limit Potential to Emit From Major Stationary Sources of Air Pollution* issued by the commissioner of the Department of Environmental Protection and that the activities which are the subject of this registration are 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 to submit additional information that 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 (45) days of such notification and shall be certified in accordance with Section 3(b)(3) of this general permit.

(f) *Action by Commissioner*

(1) The commissioner may reject without prejudice a registration in accordance with Section 22a-6m of the General Statutes or if he determines that it does not satisfy the requirements of Section 4(c) of this general permit or more than forty-five (45) days have elapsed since the commissioner requested that the registrant submit additional information or the required fee and the

registrant has not submitted such information or fee. Any registration refiled after such a rejection shall be accompanied by the fee specified in Section 4(c)(1) of this general permit.

(2) The commissioner may disapprove a registration if he finds that the subject activity is inconsistent or unlikely to comply with the requirements for authorization under Section 3 of this general permit, or for any other reason provided by law.

(3) Disapproval of a registration under this subsection shall constitute notice to the registrant 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 General Statutes and Section 22a-174-33 of the Regulations of Connecticut State Agencies.

(4) Rejection, disapproval, or approval of a registration shall be in writing.

(5) Approval of Registration

An approval of registration issued by the commissioner authorizing operation under this general permit shall:

(i) limit the actual emissions of any air pollutant identified in Section 5(a) of this general permit from a premises during any and every consecutive twelve (12) months to levels lower than those set forth in Section 5(a) of this general permit; and

(ii) impose record keeping and reporting requirements with respect to the emissions unit(s) at the premises which is the subject of such approval of registration.

(6) List of Sources Approved Under this General Permit

The commissioner will prepare and annually amend a listing of all permittees under this general permit. Such listing shall be made available to the public through the Department's Bureau of Air Management.

Section 5. Conditions of This General Permit

The permittee shall at all times continue to meet the requirements for applicability and authorization set forth in Section 3 of this general permit. In addition, the permittee shall assure that activities authorized by this general permit are conducted in accordance with the following conditions:

(a) ***Emission Limitations***

This general permit authorizes a permittee to emit, in any and every consecutive twelve (12) months, levels of air pollutants that in the aggregate **are lower than** the following:

- (1) Title V source levels in Section 22a-174-33 of the Regulations of Connecticut State Agencies; and
- (2) For a permittee subject to RCSA Section 22a-174-32: 25 tons of VOC provided that the subject premises is either a wood furniture manufacturing operation or an aerospace manufacturing and rework operation.

(b) *Source of Data for Calculating Emissions*

The calculations referred to in Section 4(c)(2)(C) and 5(c)(1)(A)(iv) of this general permit shall be based on the rate of emissions. Unless otherwise required by the commissioner pursuant to Section 22a-174-32(f) of the Regulations of Connecticut State Agencies, the rate of emissions shall be determined as follows:

- (1) If data is available from continuous emissions monitoring equipment installed, operated, and certified in accordance with a permit or order, or regulation issued or administered by the commissioner, such data shall be used to determine the rate of emissions; or
- (2) If such continuous emissions monitoring data is unavailable but stack testing data is available, such testing data shall be used to determine the rate of emissions, provided such testing was conducted in accordance with protocols approved in writing by the commissioner in advance of testing and a representative of the commissioner has been provided the opportunity to witness such testing; or
- (3) If such stack testing data is unavailable, the rate of emissions shall be calculated using data supplied by the manufacturer of the subject emissions unit(s), which data was derived from EPA-approved emissions testing of such unit performed by or for the manufacturer; or
- (4) If such manufacturer's emissions data is unavailable, the emissions rate shall be calculated using data derived from an analysis of pertinent material balances conducted by an individual with appropriate knowledge of the subject process; or
- (5) If data from such a material balance analysis is unavailable, the emissions rate shall be calculated using data from Compilation of Air Pollutant Emission Factors (AP-42) published by EPA, or

another engineering methodology, provided such other methodology has been approved in writing by the commissioner before being used to calculate emissions.

(c) ***Record Keeping Requirements***

(1) A permittee shall make and keep records necessary to calculate reliably the actual emissions of air pollutants from each emissions unit. The records shall allow for such calculations for all air pollutants identified in Section 5(a) of this general permit. Such records shall include, but are not limited to the following:

(A) A log for each month that shall include:

- (i) the total amount of fuels, solvents, coatings or raw materials used, by each emissions unit if necessary, during each month in which the use results in the emission of an air pollutant identified in Section 5(a) of this general permit;
- (ii) an identification of the fuels, solvents, coatings or raw materials used, by each emissions unit if necessary, during each month;
- (iii) the actual operating hours of each emissions unit, as necessary to calculate emissions;
- (iv) for permittees for which the actual emissions of any regulated air pollutant from the premises, as reported in the registration for approval under this general permit, are at or above fifty percent (50%) of the emission limitation specified in Section 5(a) of this general permit, the total quantity of emissions of each such air pollutant, expressed in tons, pounds, or otherwise as the commissioner or administrator may require, during each month and for each consecutive twelve (12) months;
- (v) any other documentation the commissioner reasonably deems necessary to reliably calculate actual emissions of air pollutants regulated under this general permit; and
- (vi) all purchase orders, invoices, or other documents necessary to verify information and calculations in the monthly log.

- (B) A log of the capacity of each emissions unit.
- (C) If subject to Section 3(a)(3) of this general permit, all required records pursuant to Section 22a-174-32(g) of the Regulations of Connecticut State Agencies.
- (2) Monthly and consecutive twelve (12) month records required by this general permit shall be created no later than thirty (30) days after the end of each month or consecutive twelve (12) month period.
- (3) A permittee shall keep each record required by this subsection at the premises for five (5) years after the date such record is made. A permittee shall promptly provide any such record or copy thereof to the commissioner or the administrator upon request.
- (4) Notwithstanding any other provision of this subsection, a permittee shall not be required to make or keep records concerning the purchase or use of any item or the conduct of any activity that results in the emission of an air pollutant identified in Section 5(a) of this general permit if such item or activity is listed in Section 22a-174-33(g)(3) of the Regulations of Connecticut State Agencies and such item or activity is unrelated to the principal function of the premises.

(d) Reporting Requirements

(1) Annual Compliance Certification

A permittee shall submit to the commissioner on or before January 30th of each year in which the permittee is registered under this general permit, an annual compliance certification with respect to the premises. Such compliance certification shall be submitted on forms provided by the commissioner and shall contain the information specified in 40 CFR 70.6(c)(5)(iii)(A) to (C), inclusive.

(2) Annual Emissions Summary

A permittee for which the actual emissions of any regulated air pollutant from the premises as reported in the registration for approval under this general permit are at or above 50% (fifty percent) of the emission limitation specified in Section 5(a) of this general permit shall submit to the commissioner on or before January 30th of each year, an annual emissions summary with respect to the premises for each calendar year, or portion thereof

a permittee is registered under this general permit. Such annual emissions summary shall be submitted on forms provided by the commissioner and shall contain the following information with respect to any emission limitation for which the premises actual emissions are at or above 50% (fifty percent) of such limitation:

- (A) Total amount of fuels, solvents, coatings or raw materials used during the previous calendar year, which use resulted in the emission of an air pollutant identified in Section 5(a) of this general permit;
 - (B) The total quantity of emissions of such air pollutant, expressed in tons, pounds, or otherwise as the commissioner or the administrator may require. Such emissions shall be reported for each and every consecutive twelve (12) month period which ended during the previous calendar year, expressed as a twelve (12) month aggregate; and
 - (C) Any additional information requested in writing which the commissioner reasonably deems necessary to verify actual emissions. Such additional information shall be submitted within fourteen (14) days of receipt of such request or within a later time frame if indicated in such request.
- (3) A permittee shall report by telephone and telefax to the commissioner any exceedance of an emissions limitation established in this general permit as follows:
- (A) Any such exceedance that poses an imminent and substantial danger to public health, safety or the environment immediately but no later than 24 hours after the permittee learns, or in the exercise of reasonable care should have learned, of such exceedance; and
 - (B) Any such exceedance which does not pose an imminent and substantial danger to public health, safety or the environment within two working days after the permittee learns of such exceedance.
- (e) ***Duty to Comply with Conditions and Applicable Requirements***

A permittee shall comply with all conditions and applicable requirements of this general permit. The terms and conditions of this general permit shall not supersede more stringent emissions limitations or operational limitations established in any order or permit issued by the commissioner pursuant to Section 22a-174 of the General Statutes.

Section 6. General Conditions

(a) *Reliance on Registration*

When evaluating a registration and any other submitted information, the commissioner relies on information provided by the registrant. 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*

A permittee shall comply with this general permit.

(c) *Duty to Correct and Report Emissions Exceedances*

Upon learning of an exceedance of an emissions limitation set forth in this general permit, a permittee shall immediately take all reasonable actions to determine the cause of such exceedance, correct such exceedance and mitigate its results, and to prevent any further exceedance. Such exceedance shall be reported in writing to the commissioner in accordance with Section 5(d)(3) of this general permit.

(d) *Duty to Provide Information*

If the commissioner requests any information pertinent to the authorized activity or to determine compliance with this general permit, the permittee shall provide such information in writing within forty-five (45) days of such request. Such information shall be certified in accordance with Section 3(b)(3) of this general permit.

(e) *Date of Filing*

For purposes 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 General Statutes, pursuant to Section 53a-157b of the General Statutes, and in accordance with any other applicable statute.

(g) *Correction of Inaccuracies*

Within fifteen (15) days after the date a permittee becomes aware of a change in any of the information submitted pursuant to this general

permit, becomes aware that any such information is inaccurate or misleading, or that any relevant information has been omitted, such permittee 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 3(b)(3) 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 Authorization*

An approval of registration under this general permit is transferable only in accordance with the provisions of Section 22a-6o of the 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 renewed.

(k) *Enforceability*

This general permit shall be enforceable by the commissioner or the administrator.

Section 7. 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. 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 if he wishes to continue lawfully conducting the activity authorized by this general permit, the permittee may continue conducting such activity only if he files an application for an individual permit within thirty (30) days of receiving the commissioner's notice. While such application is pending before the commissioner, the permittee shall comply with the terms and conditions of this general permit and the subject approval of registration. Nothing herein shall affect the commissioner's power to revoke a permittee's authorization under this general permit at any time.

Issued Date: _____

Gina McCarthy
Commissioner

P A R T Y L I S T

Proposed Final Decision in the matter of
General Permit to Limit Potential to Emit from Major Stationary Sources of Air Pollution

PARTY

REPRESENTED BY

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