

# THE STATE of NEW HAMPSHIRE

## Public Utilities Commission

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*Facility Application to qualify for certificate acquisition under PUC  
2500 of the New Hampshire Electric Renewable Portfolio Standard*

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### SECTION I: IDENTIFICATION INFORMATION

(1). Name and Address of Applicant:

Innovative Energy Systems, LLC.  
2999 Judge Road, Oakfield, NY 14125  
Scott Henningham, CFO  
Phone: 585-948-8550  
Fax: 585-948-8584  
Email: shenningham@ieslfge.com

(2). Name of Facility Owner:

County of Chautauqua  
Gerace Office Building  
Mayville, NY 14757-1007  
Pantelis Panteli, PE  
Manager, Division of Environment  
Phone: 716-985-4785  
Fax: 716-985-4981  
Email: pantelip@co.chautauqua.ny.us

(3). Name and Location of the applying Facility:

Chautauqua, 3889 Towerville Road, Jamestown, NY 14701

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(4). ISO-New England Asset Identification number:

yet to be assigned

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(5). GIS Facility Code:

yet to be assigned

(6) Name and Telephone number of the Facility's Operator:

Innovative Energy Systems, LLC.

Peter Zelif (President)

2999 Judge Road, Oakfield, NY 14125

Phone: (585) 948-8580

Fax: (585) 948-8584

**SECTION II: FACILITY AND FUEL DESCRIPTION**

(1) Fuel Type:

Landfill Gas

Gross Nameplate Generation Capacity:

6.4 MW

Initial Commercial Operation date:

February 15, 2010

Actual Facility Operation date, if different from Initial Commercial Operation date:

\_\_\_\_\_

(2) If a Biomass source provide

NOx and particulate matter emission rates:

Description of pollution control equipment:

**Or** proposed practices for compliance with such requirements:

- (3) Description of how the generation facility is connected to the distribution utility:

The Interconnection distribution company, National Grid located at 144 Kensington Ave  
Buffalo, NY 14214

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- (4) Is the Facility's output verified by ISO-New England? If not explain how the output is verified:

Yes

- (5) Description of how the facility's output is reported to the GIS **if not** verified by ISO-New England:

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### **SECTION III: CERTIFICATIONS**

- (1). List all other non-federal jurisdiction's renewable portfolio standards the facility has been certified under, if any, **AND** attach proof thereof:

Currently Chautauqua is eligible under the Maine RPS

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### **SECTION IV: REGULATORY COMPLIANCE DOCUMENTATION**

- (1). List all applicable regulatory approvals, including any reviews or permits required by the New Hampshire department of environmental services:

Facility	Permit	Approval/ Permit Issued	Permit Description
Chautauqua	Title V	10/29/2008	Air permit

- (2). Confirm whether applicant has an approved interconnection study on file with the commission **or** is a party to a current effective interconnection agreement, **or** is otherwise not required to undertake an interconnection study (explain):

See attached Interconnection agreement material

- 
- (3) **If a biomass facility, has a copy of the completed application been filed with the New Hampshire department of environmental services (please attach documentation). (Check either “Yes” or “No”)**

YES

NO

**SECTION V: ADDITIONAL INFORMATION**

The Applicant may choose to provide in the space provided or through attached document(s), additional information to assist in classification of the generating facility. If document(s) are attached, provide a descriptive list below:

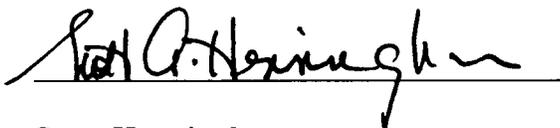
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**Respectfully Submitted By:**



**Scott Henningham**  
**CFO, Innovative Energy Systems, LLC**

## **SECTION VI: APPLICATION DOCUMENTATION CHECKLIST**

- Approved interconnection documentation on file with the commission or an agreement or statement and proof of exemption is attached.
  
- Attached is an affidavit signed and executed by the owner attesting to the accuracy of the contents of this application.

**Certification of Authorized Representative**

October 20, 2009  
Debra A. Howland  
Executive Director & Secretary  
New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301-2429

I, Stephen M. Abdella, County Attorney of the County of Chautauqua in the State of New York certify that Scott Henningham, Chief Financial Officer of Innovative Energy Systems, LLC., is authorized to execute and submit the New Hampshire Electric Renewable Portfolio Standard Application for the Chautauqua Landfill Gas Facility, pursuant to Chapter PUC 2500.

Signature:

Stephen M. Abdella

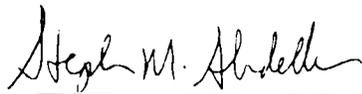
Date:

11/25/09

## General Affidavit under Oath

I, Stephen M. Abdella \_\_\_\_\_ County Attorney of the County of Chautauqua in the State of New York, do hereby certify, swear or affirm, and declare that I am competent to give the following declaration. I have reviewed each section of the Chautauqua Landfill Gas Facility application and based on my personal knowledge hereby state the facts contained within the New Hampshire facility application for certificate acquisition submitted on my behalf are true and correct to the best of my knowledge.

WITNESS my signature this 25<sup>th</sup> day of November, 2009 (month/year).



\_\_\_\_\_  
Signature of Declarant

New York Independent System Operator, Inc.  
FERC Electric Tariff  
Service Agreement No. 1530

Original Sheet No. 1

**STANDARD SMALL GENERATOR  
INTERCONNECTION AGREEMENT (SGIA)**

**by and among**

**NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.,  
NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID,**

**and**

**CHAUTAUQUA COUNTY**

**Dated as of**

Issued by: Stephen G. Whitley, President  
Issued on:

Effective:

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## STANDARD SMALL GENERATOR INTERCONNECTION AGREEMENT

This Interconnection Agreement ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and among the New York Independent System Operator, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York ("NYISO") and Niagara Mohawk Power Corporation d/b/a National Grid, a corporation existing under the laws of the State of New York ("Connecting Transmission Owner"), and Chautauqua County, NY existing under the laws of the State of New York\_\_ ("Interconnection Customer") each hereinafter sometimes referred to individually as "Party" or referred to collectively as the "Parties."

### NYISO Information

#### Before Commercial Operation of the Small Generating Facility:

Attention: Vice President, System and Resource Planning  
10 Krey Boulevard  
Rensselaer, NY 12144  
Phone: 518-356-6000      Fax: 518-356-6118

#### After Commercial Operation of the Small Generating Facility:

Attention: Vice President, Operations  
3890 Carman Rd  
Schenectady, NY 12303  
Phone: 518-356-6000      Fax: 518-356-6118

### Connecting Transmission Owner Information

Niagara Mohawk Power Corporation d/b/a National Grid  
Attention: Manager, Transmission Commercial Services  
300 Erie Boulevard West  
Syracuse, NY 13202  
Phone: 315-428-5048      Fax: 315-428-5114

### Interconnection Customer Information

Chautauqua County  
Attention: Gregory J. Edwards - Chautauqua County Executive  
3 North Erie Street  
Mayville, NY 14757  
Phone: 716-753-4211      Fax: 716-753-4756

Issued by:      Stephen G. Whitley, President  
Issued on:

Effective:

Interconnection Customer Application No: \_\_\_\_\_

In consideration of the mutual covenants set forth herein, the Parties agree as follows:

**Article 1. Scope and Limitations of Agreement**

1.1 Applicability

This Small Generator Interconnection Agreement ("SGIA") shall be used for all Interconnection Requests submitted under the Small Generator Interconnection Procedures (SGIP) except for those submitted under the 10 kW Inverter Process contained in SGIP Attachment 5.

1.2 Purpose

This Agreement governs the terms and conditions under which the Interconnection Customer's Small Generating Facility will interconnect with, and operate in parallel with, the New York State Transmission System or the Distribution System.

1.3 Scope of Interconnection Service

1.3.1 NYISO will provide Capacity Resource Interconnection Service and Energy Resource Interconnection Service to Interconnection Customer at the Point of Interconnection.

1.3.2 This Agreement does not constitute an agreement to purchase or deliver the Interconnection Customer's power. The purchase or delivery of power and other services that the Interconnection Customer may require will be covered under separate agreements, if any, or applicable provisions of NYISO's or Connecting Transmission Owner's tariffs. The Interconnection Customer will be responsible for separately making all necessary arrangements (including scheduling) for delivery of electricity in accordance with the applicable provisions of the NYISO OATT and Connecting Transmission Owner's tariff. The execution of this Agreement does not constitute a request for, nor agreement to, provide energy, any Ancillary Services or Installed Capacity under the NYISO Services Tariff or any Connecting Transmission Owner's tariff. If Interconnection Customer wishes to supply or purchase energy, Installed Capacity or Ancillary Services, then Interconnection Customer will make application to do so in accordance with the NYISO Services Tariff or Connecting Transmission Owner's tariff.

Issued by: Stephen G. Whitley, President  
Issued on:

Effective:

1.4 Limitations

Nothing in this Agreement is intended to affect any other agreement by and among the NYISO, Connecting Transmission Owner and the Interconnection Customer, except as otherwise expressly provided herein.

1.5 Responsibilities of the Parties

- 1.5.1 The Parties shall perform all obligations of this Agreement in accordance with all Applicable Laws and Regulations, Operating Requirements, and Good Utility Practice.
- 1.5.2 The Interconnection Customer shall construct, interconnect, operate and maintain its Small Generating Facility and construct, operate, and maintain its Interconnection Facilities in accordance with the applicable manufacturer's recommended maintenance schedule, and in accordance with this Agreement, and with Good Utility Practice.
- 1.5.3 The Connecting Transmission Owner shall construct, operate, and maintain its Interconnection Facilities and Upgrades covered by this Agreement in accordance with this Agreement, and with Good Utility Practice.
- 1.5.4 The Interconnection Customer agrees to construct its facilities or systems in accordance with applicable specifications that meet or exceed those provided by the National Electrical Safety Code, the American National Standards Institute, IEEE, Underwriter's Laboratory, and Operating Requirements in effect at the time of construction and other applicable national and state codes and standards. The Interconnection Customer agrees to design, install, maintain, and operate its Small Generating Facility so as to reasonably minimize the likelihood of a disturbance adversely affecting or impairing the system or equipment of the Connecting Transmission Owner or Affected Systems.
- 1.5.5 The Connecting Transmission Owner and Interconnection Customer shall operate, maintain, repair, and inspect, and shall be fully responsible for the facilities that it now or subsequently may own unless otherwise specified in the Attachments to this Agreement. Each of those Parties shall be responsible for the safe installation, maintenance, repair and condition of their respective lines and appurtenances on their respective sides of the point of change of ownership. The Connecting Transmission Owner and the Interconnection Customer, as appropriate, shall provide Interconnection Facilities that adequately protect the Connecting Transmission Owner's electric system, personnel, and other persons from damage and injury. The allocation of

responsibility for the design, installation, operation, maintenance and ownership of Interconnection Facilities shall be delineated in the Attachments to this Agreement.

- 1.5.6 The NYISO shall coordinate with all Affected Systems to support the interconnection. The Connecting Transmission Owner shall cooperate with the NYISO in these efforts.

1.6 Parallel Operation Obligations

Once the Small Generating Facility has been authorized to commence parallel operation, the Interconnection Customer shall abide by all rules and procedures pertaining to the parallel operation of the Small Generating Facility in the applicable Control Area, including, but not limited to: (1) the rules and procedures concerning the operation of generation set forth in the NYISO tariffs or ISO Procedures or the Connecting Transmission Owner's tariff; (2) any requirements consistent with Good Utility Practice or that are necessary to ensure the safe and reliable operation of the Transmission System or Distribution System; and (3) the Operating Requirements set forth in Attachment 5 of this Agreement.

1.7 Metering

The Interconnection Customer shall be responsible for the Connecting Transmission Owner's reasonable and necessary cost for the purchase, installation, operation, maintenance, testing, repair, and replacement of metering and data acquisition equipment specified in Attachments 2 and 3 of this Agreement. The Interconnection Customer's metering (and data acquisition, as required) equipment shall conform to applicable industry rules and Operating Requirements.

1.8 Reactive Power

- 1.8.1 The Interconnection Customer shall design its Small Generating Facility to maintain a composite power delivery at continuous rated power output at the Point of Interconnection at a power factor within the range established by the Connecting Transmission Owner on a comparable basis, until NYISO has established different requirements that apply to all similarly situated generators in the New York Control Area on a comparable basis.
- 1.8.2 The NYISO is required to pay the Interconnection Customer for reactive power, or voltage support service, that the Interconnection Customer provides from the Small Generating Facility in accordance with Rate Schedule 2 of the NYISO Services Tariff.

1.9 Capitalized Terms

Capitalized terms used herein shall have the meanings specified in the Glossary of Terms in Attachment 1 or the body of this Agreement. Capitalized terms used herein that are not so defined shall have the meanings specified in Section 1.0 or Attachment S or Attachment X of the NYISO OATT.

**Article 2. Inspection, Testing, Authorization, and Right of Access**

2.1 Equipment Testing and Inspection

2.1.1 The Interconnection Customer shall test and inspect its Small Generating Facility and Interconnection Facilities prior to interconnection. The Interconnection Customer shall notify the NYISO and the Connecting Transmission Owner of such activities no fewer than five Business Days (or as may be agreed to by the Parties) prior to such testing and inspection. Testing and inspection shall occur on a Business Day. The Connecting Transmission Owner may, at its own expense, send qualified personnel to the Small Generating Facility site to inspect the interconnection and observe the testing. The Interconnection Customer shall provide the NYISO and Connecting Transmission Owner a written test report when such testing and inspection is completed. The Small Generating Facility may not commence parallel operations if the NYISO, in consultation with the Connecting Transmission Owner, finds that the Small Generating Facility has not been installed as agreed upon or may not be operated in a safe and reliable manner.

2.1.2 The NYISO and Connecting Transmission Owner shall each provide the Interconnection Customer written acknowledgment that it has received the Interconnection Customer's written test report. Such written acknowledgment shall not be deemed to be or construed as any representation, assurance, guarantee, or warranty by the NYISO or Connecting Transmission Owner of the safety, durability, suitability, or reliability of the Small Generating Facility or any associated control, protective, and safety devices owned or controlled by the Interconnection Customer or the quality of power produced by the Small Generating Facility.

2.2 Authorization Required Prior to Parallel Operation

2.2.1 The NYISO, in consultation with the Connecting Transmission Owner, shall use Reasonable Efforts to list applicable parallel Operating Requirements in Attachment 5 of this Agreement. Additionally, the NYISO, in consultation with the Connecting Transmission Owner, shall notify the Interconnection Customer of any changes to these requirements as soon as they are known. The NYISO and Connecting Transmission Owner shall make Reasonable Efforts to cooperate with the Interconnection Customer

in meeting requirements necessary for the Interconnection Customer to commence parallel operations by the in-service date.

- 2.2.2 The Interconnection Customer shall not operate its Small Generating Facility in parallel with the New York State Transmission System or the Distribution System without prior written authorization of the NYISO. The NYISO, in consultation with the Connecting Transmission Owner, will provide such authorization once the NYISO receives notification that the Interconnection Customer has complied with all applicable parallel Operating Requirements. Such authorization shall not be unreasonably withheld, conditioned, or delayed.

2.3 Right of Access

- 2.3.1 Upon reasonable notice, the NYISO and/or Connecting Transmission Owner may send a qualified person to the premises of the Interconnection Customer at or immediately before the time the Small Generating Facility first produces energy to inspect the interconnection, and observe the commissioning of the Small Generating Facility (including any required testing), startup, and operation for a period of up to three Business Days after initial start-up of the unit. In addition, the Interconnection Customer shall notify the NYISO and Connecting Transmission Owner at least five Business Days prior to conducting any on-site verification testing of the Small Generating Facility.
- 2.3.2 Following the initial inspection process described above, at reasonable hours, and upon reasonable notice, or at any time without notice in the event of an emergency or hazardous condition, the NYISO and Connecting Transmission Owner each shall have access to the Interconnection Customer's premises for any reasonable purpose in connection with the performance of the obligations imposed on them by this Agreement or if necessary to meet their legal obligation to provide service to their customers.
- 2.3.3 Each Party shall be responsible for its own costs associated with following this article.

**Article 3. Effective Date, Term, Termination, and Disconnection**

3.1 Effective Date

This Agreement shall become effective upon execution by the Parties subject to acceptance by FERC (if applicable), or if filed unexecuted, upon the date specified by the FERC. The NYISO and Connecting Transmission Owner shall promptly file, or cause to be filed, this Agreement with FERC upon execution, if required. If the Agreement is disputed and the Interconnection Customer requests that it be filed with FERC in an unexecuted form, the NYISO shall file, or cause to be filed, this Agreement and the NYISO shall identify the disputed language.

3.2 Term of Agreement

This Agreement shall become effective on the Effective Date and shall remain in effect for a period of twenty years from the Effective Date and shall be automatically renewed for each successive one-year period thereafter, unless terminated earlier in accordance with article 3.3 of this Agreement.

3.3 Termination

No termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this Agreement (if required), which notice has been accepted for filing by FERC.

3.3.1 The Interconnection Customer may terminate this Agreement at any time by giving the NYISO and Connecting Transmission Owner 20 Business Days written notice.

3.3.2 Any Party may terminate this Agreement after Default pursuant to article 7.6.

3.3.3 Upon termination of this Agreement, the Small Generating Facility will be disconnected from the New York State Transmission System or the Distribution System, as applicable. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this SGIA or such non-terminating Party otherwise is responsible for these costs under this SGIA.

3.3.4 The termination of this Agreement shall not relieve any Party of its liabilities and obligations, owed or continuing at the time of the termination. The Interconnection Customer shall pay all amounts in excess of any deposit or other security without interest within 30 calendar days after receipt of the invoice for such amounts. If the deposit or other security exceeds the invoice, the Connecting Transmission Owner shall refund such excess within 30 calendar days of the invoice without interest. If the Interconnection Customer disputes an amount to be paid, the Interconnection Customer shall pay the disputed amount to the Connecting Transmission Owner or into an interest bearing escrow account, pending resolution of the dispute in accordance with Article 10 of this Agreement. To the extent the dispute is resolved in the Interconnection Customer's favor, that portion of the disputed amount will be returned to the Interconnection Customer with interest at rates applicable to refunds under the Commission's regulations. To the extent the dispute is resolved in the Connecting Transmission Owner's favor, that portion of any escrowed funds and interest will be released to the Connecting Transmission Owner.

3.3.5 The limitations of liability, indemnification and confidentiality provisions of this Agreement shall survive termination or expiration of this Agreement.

3.4 Temporary Disconnection

Temporary disconnection shall continue only for so long as reasonably necessary under Good Utility Practice.

3.4.1 Emergency Conditions

“Emergency Condition” shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of the NYISO or Connecting Transmission Owner, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to the New York State Transmission System or Distribution System, the Connecting Transmission Owner’s Interconnection Facilities or the electric systems of others to which the New York State Transmission System or Distribution System is directly connected; or (3) that, in the case of the Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Small Generating Facility or the Interconnection Customer’s Interconnection Facilities. Under Emergency Conditions, the NYISO or Connecting Transmission Owner may immediately suspend interconnection service and temporarily disconnect the Small Generating Facility. The NYISO or Connecting Transmission Owner shall notify the Interconnection Customer promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the Interconnection Customer’s operation of the Small Generating Facility. The Interconnection Customer shall notify the NYISO and Connecting Transmission Owner promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the New York State Transmission System or Distribution System or any Affected Systems. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of each Party’s facilities and operations, its anticipated duration, and the necessary corrective action.

3.4.2 Routine Maintenance, Construction, and Repair

The NYISO or Connecting Transmission Owner may interrupt interconnection service or curtail the output of the Small Generating Facility and temporarily disconnect the Small Generating Facility from the New York State Transmission System or Distribution System when necessary for routine maintenance, construction, and repairs on the New York State Transmission System or Distribution System. NYISO or the Connecting Transmission Owner shall provide the Interconnection Customer with five Business Days notice prior to

such interruption. The NYISO and Connecting Transmission Owner shall use Reasonable Efforts to coordinate such reduction or temporary disconnection with the Interconnection Customer.

#### 3.4.3 Forced Outages

During any forced outage, the NYISO or Connecting Transmission Owner may suspend interconnection service to the Interconnection Customer to effect immediate repairs on the New York State Transmission System or the Distribution System. The NYISO shall use Reasonable Efforts to provide the Interconnection Customer with prior notice. If prior notice is not given, the NYISO shall, upon request, provide the Interconnection Customer written documentation after the fact explaining the circumstances of the disconnection.

#### 3.4.4 Adverse Operating Effects

The NYISO or Connecting Transmission Owner shall notify the Interconnection Customer as soon as practicable if, based on Good Utility Practice, operation of the Small Generating Facility may cause disruption or deterioration of service to other customers served from the same electric system, or if operating the Small Generating Facility could cause damage to the New York State Transmission System, the Distribution System or Affected Systems, or if disconnection is otherwise required under Applicable Reliability Standards or the NYISO OATT. Supporting documentation used to reach the decision to disconnect shall be provided to the Interconnection Customer upon request. If, after notice, the Interconnection Customer fails to remedy the adverse operating effect within a reasonable time, the NYISO or Connecting Transmission Owner may disconnect the Small Generating Facility. The NYISO or Connecting Transmission Owner shall provide the Interconnection Customer with five Business Day notice of such disconnection, unless the provisions of article 3.4.1 apply.

#### 3.4.5 Modification of the Small Generating Facility

The Interconnection Customer must receive written authorization from the NYISO and Connecting Transmission Owner before making any change to the Small Generating Facility that may have a material impact on the safety or reliability of the New York State Transmission System or the Distribution System. Such authorization shall not be unreasonably withheld. Modifications shall be done in accordance with Good Utility Practice. If the Interconnection Customer makes such modification without the prior written authorization of the NYISO and Connecting Transmission Owner, the Connecting Transmission Owner shall have the right to temporarily disconnect the Small Generating Facility. If disconnected, the Small Generating Facility will not be reconnected until the unauthorized modifications are authorized or removed.

Issued by:  
Issued on:

Stephen G. Whitley, President

Effective:

3.4.6 Reconnection

The Parties shall cooperate with each other to restore the Small Generating Facility, Interconnection Facilities, and the New York State Transmission System and Distribution System to their normal operating state as soon as reasonably practicable following a temporary disconnection.

**Article 4. Cost Responsibility for Interconnection Facilities and Distribution Upgrades**

4.1 Interconnection Facilities

4.1.1 The Interconnection Customer shall pay for the cost of the Interconnection Facilities itemized in Attachment 2 of this Agreement. The NYISO, in consultation with the Connecting Transmission Owner, shall provide a best estimate cost, including overheads, for the purchase and construction of its Interconnection Facilities and provide a detailed itemization of such costs. Costs associated with Interconnection Facilities may be shared with other entities that may benefit from such facilities by agreement of the Interconnection Customer, such other entities, the NYISO, and the Connecting Transmission Owner.

4.1.2 The Interconnection Customer shall be responsible for its share of all reasonable expenses, including overheads, associated with (1) owning, operating, maintaining, repairing, and replacing its own Interconnection Facilities, and (2) operating, maintaining, repairing, and replacing the Connecting Transmission Owner's Interconnection Facilities, as set forth in Attachment 2 to this Agreement.

4.2 Distribution Upgrades

The Connecting Transmission Owner shall design, procure, construct, install, and own the Distribution Upgrades described in Attachment 6 of this Agreement. If the Connecting Transmission Owner and the Interconnection Customer agree, the Interconnection Customer may construct Distribution Upgrades that are located on land owned by the Interconnection Customer. The actual cost of the Distribution Upgrades, including overheads, shall be directly assigned to the Interconnection Customer. The Interconnection Customer shall be responsible for its share of all reasonable expenses, including overheads, associated with owning, operating, maintaining, repairing, and replacing the Distribution Upgrades, as set forth in Attachment 6 to this Agreement.

**Article 5. Cost Responsibility for System Upgrade Facilities and System Deliverability Upgrades**

5.1 Applicability

No portion of this article 5 shall apply unless the interconnection of the Small Generating Facility requires System Upgrade Facilities or System Deliverability Upgrades.

5.2 System Upgrades

The Connecting Transmission Owner shall procure, construct, install, and own the System Upgrade Facilities and System Deliverability Upgrades described in Attachment 6 of this Agreement. To the extent that design work is necessary in addition to that already accomplished in the Class Year facilities study for the Interconnection Customer, the Connecting Transmission Owner shall perform or cause to be performed such work. If all the Parties agree, the Interconnection Customer may construct System Upgrade Facilities and System Deliverability Upgrades that are located on land owned by the Interconnection Customer.

5.2.1 The Interconnection Customer shall pay for the cost of the System Upgrade Facilities described in Attachment 6 to this Agreement.

5.3 Special Provisions for Affected Systems

For the repayment of amounts advanced to Affected System Operator for System Upgrade Facilities or System Deliverability Upgrades, the Interconnection Customer and Affected System Operator shall enter into an agreement that provides for such repayment, but only if responsibility for the cost of such System Upgrade Facilities is not to be allocated in accordance with Attachment S of the NYISO OATT. The agreement shall specify the terms governing payments to be made by the Interconnection Customer to Affected System operator as well as the repayment by Affected System Operator.

**Article 6. Billing, Payment, Milestones, and Financial Security**

6.1 Billing and Payment Procedures and Final Accounting

6.1.1 The Connecting Transmission Owner shall bill the Interconnection Customer for the design, engineering, construction, and procurement costs of Interconnection Facilities and Upgrades contemplated by this Agreement on a monthly basis, or as otherwise agreed by those Parties. The Interconnection Customer shall pay all invoice amounts within 30 calendar days after receipt of the invoice.

6.1.2 Within three months of completing the construction and installation of the Connecting Transmission Owner's Interconnection Facilities and/or Upgrades

described in the Attachments to this Agreement, the Connecting Transmission Owner shall provide the Interconnection Customer with a final accounting report of any difference between (1) the Interconnection Customer's cost responsibility for the actual cost of such facilities or Upgrades, and (2) the Interconnection Customer's previous aggregate payments to the Connecting Transmission Owner for such facilities or Upgrades. If the Interconnection Customer's cost responsibility exceeds its previous aggregate payments, the Connecting Transmission Owner shall invoice the Interconnection Customer for the amount due and the Interconnection Customer shall make payment to the Connecting Transmission Owner within 30 calendar days. If the Interconnection Customer's previous aggregate payments exceed its cost responsibility under this Agreement, the Connecting Transmission Owner shall refund to the Interconnection Customer an amount equal to the difference within 30 calendar days of the final accounting report.

- 6.1.3 If the Interconnection Customer disputes an amount to be paid, the Interconnection Customer shall pay the disputed amount to the Connecting Transmission Owner or into an interest bearing escrow account, pending resolution of the dispute in accordance with Article 10 of this Agreement. To the extent the dispute is resolved in the Interconnection Customer's favor, that portion of the disputed amount will be credited or returned to the Interconnection Customer with interest at rates applicable to refunds under the Commission's regulations. To the extent the dispute is resolved in the Connecting Transmission Owner's favor, that portion of any escrowed funds and interest will be released to the Connecting Transmission Owner.

## 6.2 Milestones

Subject to the provisions of the SGIP, the Parties shall agree on milestones for which each Party is responsible and list them in Attachment 4 of this Agreement. A Party's obligations under this provision may be extended by agreement. If a Party anticipates that it will be unable to meet a milestone for any reason other than a Force Majeure event, it shall immediately notify the other Parties of the reason(s) for not meeting the milestone and (1) propose the earliest reasonable alternate date by which it can attain this and future milestones, and (2) requesting appropriate amendments to Attachment 4. The Party affected by the failure to meet a milestone shall not unreasonably withhold agreement to such an amendment unless it will suffer significant uncompensated economic or operational harm from the delay, (1) attainment of the same milestone has previously been delayed, or (2) it has reason to believe that the delay in meeting the milestone is intentional or unwarranted notwithstanding the circumstances explained by the Party proposing the amendment.

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Issued on:

Stephen G. Whitley, President

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### 6.3 Financial Security Arrangements

At least 20 Business Days prior to the commencement of the design, procurement, installation, or construction of a discrete portion of the Connecting Transmission Owner's Interconnection Facilities and Upgrades, the Interconnection Customer shall provide the Connecting Transmission Owner, at the Interconnection Customer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to the Connecting Transmission Owner and is consistent with the Uniform Commercial Code of the jurisdiction where the Point of Interconnection is located. Such security for payment shall be in an amount sufficient to cover the costs for constructing, designing, procuring, and installing the applicable portion of the Connecting Transmission Owner's Interconnection Facilities and Upgrades and shall be reduced on a dollar-for-dollar basis for payments made to the Connecting Transmission Owner under this Agreement during its term. The Connecting Transmission Owner may draw on any such security to the extent that the Interconnection Customer fails to make any payments due under this Agreement. In addition:

- 6.3.1 The guarantee must be made by an entity that meets the creditworthiness requirements of the Connecting Transmission Owner, and contain terms and conditions that guarantee payment of any amount that may be due from the Interconnection Customer, up to an agreed-to maximum amount.
- 6.3.2 The letter of credit or surety bond must be issued by a financial institution or insurer reasonably acceptable to the Connecting Transmission Owner and must specify a reasonable expiration date.
- 6.3.3 Security posted for System Upgrade Facilities, or cash or Security provided for System Deliverability Upgrades, shall meet the requirements for Security contained in Attachment S to the NYISO OATT.

## Article 7. **Assignment, Liability, Indemnity, Force Majeure, Consequential Damages, and Default**

### 7.1 Assignment

This Agreement, and each and every term and condition hereof, shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. This Agreement may be assigned by any Party upon 15 Business Days prior written notice and opportunity to object by the other Parties; provided that:

- 7.1.1 A Party may assign this Agreement without the consent of the other Parties to any affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the

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assigning Party under this Agreement, provided that the Interconnection Customer promptly notifies the NYISO and the Connecting Transmission Owner of any such assignment. A Party may assign this Agreement without the consent of the other Parties in connection with the sale, merger, restructuring, or transfer of a substantial portion of all of its assets, including the Interconnection Facilities it owns, so long as the assignee in such a transaction directly assumes all rights, duties and obligation arising under this Agreement.

7.1.2 The Interconnection Customer shall have the right to assign this Agreement, without the consent of the NYISO or Connecting Transmission Owner, for collateral security purposes to aid in providing financing for the Small Generating Facility.

7.1.3 Any attempted assignment that violates this article is void and ineffective. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. An assignee is responsible for meeting the same financial, credit, and insurance obligations as the Interconnection Customer. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

## 7.2 Limitation of Liability

Each Party's liability to the other Parties for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall any Party be liable to the other Parties for any indirect, special, consequential, or punitive damages.

## 7.3 Indemnity

7.3.1 This provision protects each Party from liability incurred to third parties as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in article 7.2.

7.3.2 Each Party (the "Indemnifying Party") shall at all times indemnify, defend, and hold harmless the other Parties (each an "Indemnified Party") from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, the alleged violation of any Environmental Law, or the release or threatened release of any Hazardous Substance, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties (any and all of these a "Loss"), arising out of or resulting from (i) the Indemnified Party's performance under this Agreement on behalf of the Indemnifying Party, except

in cases where the Indemnifying Party can demonstrate that the Loss of the Indemnified Party was caused by the gross negligence or intentional wrongdoing by the Indemnified Party or (ii) the violation by the Indemnifying Party of any Environmental Law or the release by the Indemnifying Party of a Hazardous Substance.

- 7.3.3 If a Party is entitled to indemnification under this article as a result of a claim by a third party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceed under this article, to assume the defense of such claim, such Indemnified Party may at the expense of the Indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.
- 7.3.4 If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this article, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual loss, net of any insurance or other recovery.
- 7.3.5 Promptly after receipt by an Indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this article may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

#### 7.4 Consequential Damages

Other than as expressly provided for in this Agreement, no Party shall be liable under any provision of this Agreement for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to another Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

#### 7.5 Force Majeure

- 7.5.1 As used in this article, a Force Majeure Event shall mean "any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian

authorities, or any other cause beyond a Party's control. A Force Majeure Event does not include an act of negligence or intentional wrongdoing." For the purposes of this article, this definition of Force Majeure shall supersede the definitions of Force Majeure set out in Section 10.1 of the NYISO OATT.

- 7.5.2 If an event of Force Majeure prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the Force Majeure event (Affected Party) shall promptly notify the other Parties, either in writing or via the telephone, of the existence of the Force Majeure event. The notification must specify in reasonable detail the circumstances of the Force Majeure event, its expected duration, and the steps that the Affected Party is taking to mitigate the effects of the event on its performance. The Affected Party shall keep the other Parties informed on a continuing basis of developments relating to the Force Majeure event until the event ends. The Affected Party will be entitled to suspend or modify its performance of obligations under this Agreement (other than the obligation to make payments) only to the extent that the effect of the Force Majeure event cannot be mitigated by the use of Reasonable Efforts. The Affected Party will use Reasonable Efforts to resume its performance as soon as possible.

#### 7.6 Breach and Default

- 7.6.1 No Breach of this Agreement shall exist where such failure to discharge an obligation (other than the payment of money) is the result of a Force Majeure event or the result of an act or omission of the other Parties. Upon a Breach, the non-breaching Party shall give written notice of such Breach to the Breaching Party. Except as provided in article 7.6.2, the Breaching Party shall have 60 calendar days from receipt of the Breach notice within which to cure such Breach; provided however, if such Breach is not capable of cure within 60 calendar days, the Breaching Party shall commence such cure within 20 calendar days after notice and continuously and diligently complete such cure within six months from receipt of the Breach notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.
- 7.6.2 If a Breach is not cured as provided in this article, or if a Breach is not capable of being cured within the period provided for herein, a Default shall exist and the non-defaulting Parties acting together shall thereafter have the right to terminate this Agreement, in accordance with article 3.3 hereof, by written notice to the Defaulting Party at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not those Parties terminate this Agreement, to recover from the Defaulting Party all amounts due hereunder, plus all other damages and remedies to which they are entitled at law or in equity. The provisions of this article shall survive termination of this Agreement.

- 7.6.3 In cases where the Interconnection Customer has elected to proceed under Section 3.5.3 of the SGIP, if the Interconnection Request is withdrawn or deemed withdrawn pursuant to the SGIP during the term of this Agreement, this Agreement shall terminate.

#### **Article 8. Insurance**

- 8.1 The Interconnection Customer shall, at its own expense, maintain in force general liability insurance without any exclusion for liabilities related to the interconnection undertaken pursuant to this Agreement. The amount of such insurance shall be sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made. Such insurance coverage is specified in Attachment 7 to this Agreement. The Interconnection Customer shall obtain additional insurance only if necessary as a function of owning and operating a generating facility. Such insurance shall be obtained from an insurance provider authorized to do business in New York State where the interconnection is located. Certification that such insurance is in effect shall be provided upon request of the Connecting Transmission Owner, except that the Interconnection Customer shall show proof of insurance to the Connecting Transmission Owner no later than ten Business Days prior to the anticipated commercial operation date. An Interconnection Customer of sufficient creditworthiness may propose to self-insure for such liabilities, and such a proposal shall not be unreasonably rejected.
- 8.2 The NYISO and Connecting Transmission Owner agree to maintain general liability insurance or self-insurance consistent with the existing commercial practice. Such insurance or self-insurance shall not exclude the liabilities undertaken pursuant to this Agreement.
- 8.3 The Parties further agree to notify one another whenever an accident or incident occurs resulting in any injuries or damages that are included within the scope of coverage of such insurance, whether or not such coverage is sought.

#### **Article 9. Confidentiality**

- 9.1 Confidential Information shall mean any confidential and/or proprietary information provided by one Party to the other Party that is clearly marked or otherwise designated "Confidential." For purposes of this Agreement all design, operating specifications, and metering data provided by the Interconnection Customer shall be deemed Confidential Information regardless of whether it is clearly marked or otherwise designated as such. Confidential Information shall include, without limitation, information designated as such by the NYISO Code of Conduct contained in Attachment F to the NYISO OATT.

- 9.2 Confidential Information does not include information previously in the public domain, required to be publicly submitted or divulged by Governmental Authorities (after notice to the other Party and after exhausting any opportunity to oppose such publication or release), or necessary to be divulged in an action to enforce this Agreement. Each Party receiving Confidential Information shall hold such information in confidence and shall not disclose it to any third party nor to the public without the prior written authorization from the Party providing that information, except to fulfill obligations under this Agreement, or to fulfill legal or regulatory requirements.
- 9.2.1 Each Party shall employ at least the same standard of care to protect Confidential Information obtained from the other Parties as it employs to protect its own Confidential Information.
- 9.2.2 Each Party is entitled to equitable relief, by injunction or otherwise, to enforce its rights under this provision to prevent the release of Confidential Information without bond or proof of damages, and may seek other remedies available at law or in equity for breach of this provision.
- 9.3 Notwithstanding anything in this article to the contrary, and pursuant to 18 CFR § 1b.20, if FERC, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this Agreement, the Party shall provide the requested information to FERC, within the time provided for in the request for information. In providing the information to FERC, the Party may, consistent with 18 CFR § 388.112, request that the information be treated as confidential and non-public by FERC and that the information be withheld from public disclosure. Each Party is prohibited from notifying the other Parties to this Agreement prior to the release of the Confidential Information to FERC. The Party shall notify the other Parties to this Agreement when it is notified by FERC that a request to release Confidential Information has been received by FERC, at which time either of the Parties may respond before such information would be made public, pursuant to 18 CFR § 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations.
- 9.4 Consistent with the provisions of this article 9, the Parties to this Agreement will cooperate in good faith to provide each other, Affected Systems, Affected System Operators, and state and federal regulators the information necessary to carry out the terms of the SGIP and this Agreement.

#### Article 10. Disputes

- 10.1 The NYISO, Connecting Transmission Owner and Interconnection Customer agree to attempt to resolve all disputes arising out of the interconnection process according to the provisions of this article.

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- 10.2 In the event of a dispute, the Parties will first attempt to promptly resolve it on an informal basis. The NYISO will be available to the Interconnection Customer and Connecting Transmission Owner to help resolve any dispute that arises with respect to performance under this Agreement. If the Parties cannot promptly resolve the dispute on an informal basis, then any Party shall provide the other Parties with a written Notice of Dispute. Such Notice shall describe in detail the nature of the dispute.
- 10.3 If the dispute has not been resolved within two Business Days after receipt of the Notice, any Party may contact FERC's Dispute Resolution Service (DRS) for assistance in resolving the dispute.
- 10.4 The DRS will assist the Parties in either resolving their dispute or in selecting an appropriate dispute resolution venue (e.g., mediation, settlement judge, early neutral evaluation, or technical expert) to assist the Parties in resolving their dispute. The result of this dispute resolution process will be binding only if the Parties agree in advance. DRS can be reached at 1-877-337-2237 or via the internet at <http://www.ferc.gov/legal/adr.asp>.
- 10.5 Each Party agrees to conduct all negotiations in good faith and will be responsible for one-third of any costs paid to neutral third-parties.
- 10.6 If any Party elects to seek assistance from the DRS, or if the attempted dispute resolution fails, then any Party may exercise whatever rights and remedies it may have in equity or law consistent with the terms of this Agreement.

#### Article 11. Taxes

- 11.1 The Parties agree to follow all applicable tax laws and regulations, consistent with FERC policy and Internal Revenue Service requirements.
- 11.2 Each Party shall cooperate with the other Parties to maintain the other Parties' tax status. Nothing in this Agreement is intended to adversely affect the tax status of any Party including the status of NYISO, or the status of any Connecting Transmission Owner with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds. Notwithstanding any other provisions of this Agreement, LIPA, NYPA and Consolidated Edison Company of New York, Inc. shall not be required to comply with any provisions of this Agreement that would result in the loss of tax-exempt status of any of their Tax-Exempt Bonds or impair their ability to issue future tax-exempt obligations. For purposes of this provision, Tax-Exempt Bonds shall include the obligations of the Long Island Power Authority, NYPA and Consolidated Edison Company of New York, Inc., the interest on which is not included in gross income under the Internal Revenue Code.
- 11.3 LIPA and NYPA do not waive their exemptions, pursuant to Section 201(f) of the FPA, from Commission jurisdiction with respect to the Commission's exercise of the FPA's general ratemaking authority.

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- 11.4 Any payments due to the Connecting Transmission Owner under this Agreement shall be adjusted to include any tax liability incurred by the Connecting Transmission Owner with respect to the interconnection request which is the subject of this Agreement. Such adjustments shall be made in accordance with the provisions of Article 5.17 of the LGIA in Attachment X of the NYISO OATT. Except where otherwise noted, all costs, deposits, financial obligations and the like specified in this Agreement shall be assumed not to reflect the impact of applicable taxes.

## Article 12. Miscellaneous

### 12.1 Governing Law, Regulatory Authority, and Rules

The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the state of New York, without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

### 12.2 Amendment

The Parties may amend this Agreement by a written instrument duly executed by the Parties, or under article 12.12 of this Agreement.

### 12.3 No Third-Party Beneficiaries

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns. Notwithstanding the foregoing, any subcontractor of the Connecting Transmission Owner or NYISO assisting either of those Parties with the Interconnection Request covered by this Agreement shall be entitled to the benefits of indemnification provided for under Article 7.3 of this Agreement and the limitation of liability provided for in Article 7.2 of this Agreement.

### 12.4 Waiver

12.4.1 The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

12.4.2 Any waiver at any time by a Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement.

Termination or default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the NYISO. Any waiver of this Agreement shall, if requested, be provided in writing.

12.5 Entire Agreement

This Agreement, including all Attachments, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, any Party's compliance with its obligations under this Agreement.

12.6 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

12.7 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, another Party.

12.8 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

12.9 Security Arrangements

Infrastructure security of electric system equipment and operations and control hardware and software is essential to ensure day-to-day reliability and operational security. FERC expects the NYISO, the Connecting Transmission Owner, Market Participants, and Interconnection Customers interconnected to electric systems to comply with the

recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities are expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

#### 12.10 Environmental Releases

Each Party shall notify the other Parties, first orally and then in writing, of the release of any hazardous substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Small Generating Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Parties. The notifying Party shall (1) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than 24 hours after such Party becomes aware of the occurrence, and (2) promptly furnish to the other Parties copies of any publicly available reports filed with any governmental authorities addressing such events.

#### 12.11 Subcontractors

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Parties for the performance of such subcontractor.

12.11.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Parties to the extent provided for in Sections 7.2 and 7.3 above for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the NYISO or Connecting Transmission Owner be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

12.11.2 The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

#### 12.12 Reservation of Rights

Nothing in this Agreement shall alter the right of the NYISO or Connecting Transmission Owner to make unilateral filings with FERC to modify this Agreement with respect to

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Issued on:

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any rates, terms and conditions, charges, classifications of service, rule or regulation under Section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder which rights are expressly reserved herein, and the existing rights of the Interconnection Customer to make a unilateral filing with FERC to modify this Agreement under any applicable provision of the Federal Power Act and FERC's rules and regulations are also expressly reserved herein; provided that each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under Sections 205 or 206 of the Federal Power Act and FERC's rules and regulations, except to the extent that the Parties otherwise agree as provided herein.

### Article 13. Notices

#### 13.1 General

Unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

If to the Interconnection Customer:

Chautauqua County  
Attention: Gregory J. Edwards - Chautauqua County Executive  
3 North Erie Street  
Mayville, NY 14757  
Phone: 716-753-4211 Fax: 716-753-4756

If to the Connecting Transmission Owner:

Niagara Mohawk Power Corporation d/b/a National Grid  
Attention: Manager, Transmission Commercial Services  
300 Erie Boulevard West  
Syracuse, NY 13202  
Phone: 315-428-5048 Fax: 315-428-5114

Issued by: Stephen G. Whitley, President  
Issued on:

Effective:

If to the NYISO:

**Before Commercial Operation of the Small Generating Facility:**

Attention: Vice President, System and Resource Planning  
10 Krey Boulevard  
Rensselaer, NY 12144  
Phone: 518-356-6000 Fax: (518) 356-6118

**After Commercial Operation of the Small Generating Facility:**

Attention: Vice President, Operations  
3890 Carman Rd  
Schenectady, NY 12303  
Phone: 518-356-6000 Fax: 518-356-6118

13.2 Billing and Payment

Billings and payments shall be sent to the addresses set out below:

Chautauqua County  
Attention: Gregory J. Edwards - Chautauqua County Executive  
3 North Erie Street  
Mayville, NY 14757  
Phone: 716-753-4211 Fax: 716-753-4756

Niagara Mohawk Power Corporation d/b/a National Grid  
Attention: Misc. Billing Department  
300 Erie Boulevard West  
Syracuse, NY 13202

13.3 Alternative Forms of Notice

Any notice or request required or permitted to be given by either Party to the other and not required by this Agreement to be given in writing may be so given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out below:

If to the Interconnection Customer:

Chautauqua County  
Attention: Gregory J. Edwards - Chautauqua County Executive  
3 North Erie Street  
Mayville, NY 14757  
Phone: 716-753-4211 Fax: 716-753-4756

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Issued on:

Effective:

New York Independent System Operator, Inc.  
FERC Electric Tariff  
Service Agreement No. 1530

Original Sheet No. 29

If to the Connecting Transmission Owner:

Niagara Mohawk Power Corp d/b/a National Grid  
Attention: Manager, Transmission Commercial Services  
300 Erie Boulevard, West  
Syracuse, NY 13202  
Phone: 315-428-5048 Fax: 315-428-5114

If to the NYISO:

**Before Commercial Operation of the Small Generating Facility:**

Attention: Vice President, System and Resource Planning  
10 Krey Boulevard  
Rensselaer, NY 12144  
Phone: 518-356-6000 Fax: 518-356-6118

**After Commercial Operation of the Small Generating Facility:**

Attention: Vice President, Operations  
3890 Carman Rd  
Schenectady, NY 12303  
Phone: 518-356-6000 Fax: 518-356-6118

13.4 Designated Operating Representative

The Parties may also designate operating representatives to conduct the communications which may be necessary or convenient for the administration of this Agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities.

Interconnection Customer's Operating Representative:

Innovative Energy Systems  
Attention: Dennis Plaster / Peter Zeliff Jr  
2999 Judge Road  
Oakfield, NY 14125  
Phone: 585-948-8580 Fax: 585-948-8584

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Issued on:

Effective:

Connecting Transmission Provider's Operating Representative:

Niagara Mohawk Power Corp d/b/a National Grid  
Attention: Manager -- Control Center, NY  
7437 Henry Lay Blvd, Bldg 3  
Syracuse, NY 13202  
Phone: 315-460-2472      Fax: 315-460-2494

NYISO's Operating Representative:

Attention: Vice President, Operations  
3890 Carman Rd  
Schenectady, NY 12303  
Phone: 518-356-6000      Fax: 518-356-6118

13.5 Changes to the Notice Information

Either Party may change this information by giving five Business Days written notice prior to the effective date of the change.

**Article 14. Signatures**

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

For the NYISO

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Date:

For the Connecting Transmission Owner

*Mary Ellen Puvvala*  
\_\_\_\_\_  
Name:

Vice President  
Transmission Regulation & Commercial  
\_\_\_\_\_  
Title:

DEC 17 2000

\_\_\_\_\_  
Date:

For the Interconnection Customer

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Date:

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Issued on:

Effective:

Article 14. Signatures

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

For the NYISO

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Date:

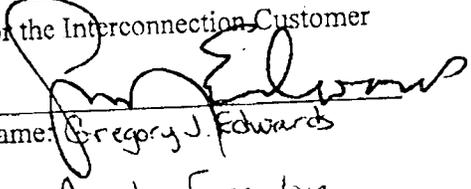
For the Connecting Transmission Owner

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Date:

For the Interconnection Customer

*smx*  
*12/7/09*  
  
Name: Gregory J. Edwards

Title: County Executive

Date: 12/07/09

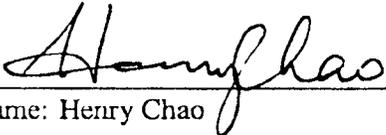
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Issued on:

Effective:

**Article 14. Signatures**

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

For the NYISO

  
Name: Henry Chao

Vice President, System & Resource Planning  
Title:

December 3, 2009  
Date:

For the Connecting Transmission Owner

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Date:

For the Interconnection Customer

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Date:

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**Attachment 1**

**Glossary of Terms**

**Affected System** – An electric system other than the transmission system owned, controlled or operated by the Connecting Transmission Owner that may be affected by the proposed interconnection.

**Affected System Operator** – Affected System Operator shall mean the operator of any Affected System.

**Affected Transmission Owner** – The New York public utility or authority (or its designated agent) other than the Connecting Transmission Owner that (i) owns facilities used for the transmission of Energy in interstate commerce and provides Transmission Service under the Tariff, and (ii) owns, leases or otherwise possesses an interest in a portion of the New York State Transmission System where System Deliverability Upgrades or System Upgrade Facilities are installed pursuant to Attachment Z and Attachment S to the NYISO OATT.

**Applicable Laws and Regulations** – All duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority, including but not limited to Environmental Law.

**Applicable Reliability Standards** – The criteria, requirements and guidelines of the North American Electric Reliability Council, the Northeast Power Coordinating Council, the New York State Reliability Council and related and successor organizations, or the Transmission District to which the Interconnection Customer's Small Generating Facility is directly interconnected, as those criteria, requirements and guidelines are amended and modified and in effect from time to time; provided that no Party shall waive its right to challenge the applicability of or validity of any criterion, requirement or guideline as applied to it in the context of Attachment Z to the NYISO OATT and this Agreement. For the purposes of this Agreement, this definition of Applicable Reliability Standards shall supersede the definition of Applicable Reliability Standards set out in Attachment X to the NYISO OATT.

**Base Case** – The base case power flow, short circuit, and stability data bases used for the Interconnection Studies by NYISO, Connecting Transmission Owner or Interconnection Customer; described in Section 2.3 of the Large Facility Interconnection Procedures.

**Breach** – The failure of a Party to perform or observe any material term or condition of this Agreement.

**Business Day** – Monday through Friday, excluding federal holidays.

**Capacity Resource Interconnection Service** – The service provided by NYISO to interconnect the Interconnection Customer's Small Generating Facility to the New York State Transmission System or Distribution System in accordance with the NYISO Deliverability

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Interconnection Standard, to enable the New York State Transmission System to deliver electric capacity from the Small Generating Facility, pursuant to the terms of the NYISO OATT.

**Connecting Transmission Owner** – The New York public utility or authority (or its designated agent) that (i) owns facilities used for the transmission of Energy in interstate commerce and provides Transmission Service under the Tariff, (ii) owns, leases or otherwise possesses an interest in the portion of the New York State Transmission System or Distribution System at the Point of Interconnection, and (iii) is a Party to the Standard Small Generator Interconnection Agreement.

**Deliverability Interconnection Standard** – The standard that must be met by any Small Generating Facility larger than 2MW proposing to interconnect to the New York State Transmission System or Distribution System and become a qualified Installed Capacity Supplier, and must be met by any merchant transmission project proposing to interconnect to the New York State Transmission System and receive Unforced Capacity Delivery Rights. To meet the NYISO Deliverability Interconnection Standard, the Interconnection Customer must, in accordance with the rules in Attachment S to the NYISO OATT, fund or commit to fund the System Deliverability Upgrades identified for its project in the Class Year Deliverability Study.

**Default** – The failure of a Party in Breach of this Agreement to cure such Breach under the Small Generator Interconnection Agreement.

**Distribution System** – The Transmission Provider's facilities and equipment used to distribute electricity that are not under the operational control of the NYISO, and are subject to the SGIP under FERC Order No. 2006. For the purpose of this Agreement, the term Distribution System shall not include LIPA's distribution facilities.

**Distribution Upgrades** – The additions, modifications, and upgrades to the Connecting Transmission Owner's Distribution System at or beyond the Point of Interconnection to facilitate interconnection of the Small Generating Facility and render the transmission service necessary to effect the Interconnection Customer's wholesale sale of electricity in interstate commerce. Distribution Upgrades do not include Interconnection Facilities or System Upgrade Facilities or System Deliverability Upgrades.

**Energy Resource Interconnection Service** – The service provided by NYISO to interconnect the Interconnection Customer's Small Generating Facility to the New York State Transmission System or Distribution System in accordance with the NYISO Minimum Interconnection Standard, to enable the New York State Transmission System to receive Energy and Ancillary Services from the Small Generating Facility, pursuant to the terms of the NYISO OATT.

**Force Majeure** – Any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include an act of negligence or intentional wrongdoing. For the purposes of this

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Agreement, this definition of Force Majeure shall supersede the definitions of Force Majeure set out in Section 10.1 of the NYISO Open Access Transmission Tariff.

**Good Utility Practice** – Any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

**Governmental Authority** – Any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, NYISO, Affected Transmission Owner, Connecting Transmission Owner or any Affiliate thereof.

**Interconnection Customer** – Any entity, including the Transmission Owner or any of its affiliates or subsidiaries, that proposes to interconnect its Small Generating Facility with the New York State Transmission System or the Distribution System.

**Interconnection Facilities** – The Connecting Transmission Owner's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Small Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Small Generating Facility to the New York State Transmission System or the Distribution System. Interconnection Facilities are not Distribution Upgrades and shall not include Distribution Upgrades or System Upgrade Facilities or Deliverability Upgrades.

**Interconnection Request** – The Interconnection Customer's request, in accordance with the Agreement, to interconnect a new Small Generating Facility, or to increase the capacity of, or to make a material modification to the operating characteristics of, an existing Small Generating Facility that is interconnected with the New York State Transmission System or the Distribution System. For the purposes of this Agreement, this definition of Interconnection Request shall supersede the definition of Interconnection Request set out in Attachment X to the NYISO Open Access Transmission Tariff.

**Interconnection Study** – Any study required to be performed under Sections 2 or 3 of the Agreement.

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**Material Modification** – A modification that has a material impact on the cost or timing of any Interconnection Request with a later queue priority date.

**Minimum Interconnection Standard** – The reliability standard that must be met by any Small Generating Facility proposing to connect to the New York State Transmission System or Distribution System. The Standard is designed to ensure reliable access by the proposed project to the New York State Transmission System. The Standard does not impose any deliverability test or deliverability requirement on the proposed interconnection.

**New York State Transmission System** – New York State Transmission System shall mean the entire New York State electric transmission system, which includes (i) the Transmission Facilities under ISO Operational Control; (ii) the Transmission Facilities Requiring ISO Notification; and (iii) all remaining transmission facilities within the New York Control Area.

**Operating Requirements** – Any operating and technical requirements that may be applicable due to Regional Transmission Organization, Independent System Operator, Control Area, or the Connecting Transmission Owner's requirements, including those set forth in the Small Generator Interconnection Agreement. Operating Requirements shall include Applicable Reliability Standards.

**Party or Parties** – The NYISO, Connecting Transmission Owner, Interconnection Customer or any combination of the above.

**Point of Interconnection** – The point where the Interconnection Facilities connect with the New York State Transmission System or the Distribution System.

**Reasonable Efforts** – With respect to an action required to be attempted or taken by a Party under this Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

**Small Generating Facility** – The Interconnection Customer's device no larger than 20 MW for the production of electricity identified in the Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities.

**System Deliverability Upgrades** – The least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and Applicable Reliability Requirements, to make the modifications or additions to the existing New York State Transmission System that are required for the proposed project to connect reliably to the system in a manner that meets the NYISO Deliverability Interconnection Standard for Capacity Resource Interconnection Service.

**System Upgrade Facilities** – The least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and Applicable Reliability Requirements to make the modifications to the existing transmission

system that are required to maintain system reliability due to: (i) changes in the system, including such changes as load growth and changes in load pattern, to be addressed in the form of generic generation or transmission projects; and (ii) proposed interconnections. In the case of proposed interconnection projects, System Upgrade Facilities are the modifications or additions to the existing New York State Transmission System that are required for the proposed project to connect reliably to the system in a manner that meets the NYISO Minimum Interconnection Standard.

**Tariff** – The NYISO's Open Access Transmission Tariff, as filed with the FERC, and as amended or supplemented from time to time, or any successor tariff.

**Upgrades** – The required additions and modifications to the Connecting Transmission Owner's portion of the New York State Transmission System or the Distribution System at or beyond the Point of Interconnection. Upgrades may be System Upgrade Facilities or Distribution Upgrades or System Deliverability Upgrades. Upgrades do not include Interconnection Facilities.

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**Attachment 2**

**Detailed Scope of Work, Including**

**Description and Costs of the Small Generating Facility,  
Interconnection Facilities, and Metering Equipment**

Equipment, including the Small Generating Facility, Interconnection Facilities, and metering equipment shall be itemized and identified as being owned by the Interconnection Customer, or the Connecting Transmission Owner. The NYISO, in consultation with the Connecting Transmission Owner, will provide a best estimate itemized cost, including overheads, of its Interconnection Facilities and metering equipment, and a best estimate itemized cost of the annual operation and maintenance expenses associated with its Interconnection Facilities and metering equipment.

**A. PROJECT DESCRIPTION**

The Interconnection Customer is constructing a 6.4 MW landfill gas-to-energy generation facility (the "Facility") located at the Chautauqua County landfill in Ellery, New York, and interconnecting to the NG-NM 34.5 kV Hartfield-South Dow Line #859 via a single breaker tap arrangement and 4.7 mile, 34.5 kV sub-transmission line (the "Chautauqua Line"), with distribution underbuild.

The Facility will consist of:

- 4-Caterpillar Model 3520 Engines, 1.6 MW, 2 MVa;
- One (1) 4160-480Y/277 V, 750 kVA transformer, 60 kV BIL, 7% impedance;
- One (1) (interconnection tie circuit breaker) 4.16kV, 2000A, 40kAIC, 60kV BIL (with 48VDC Trip and Close);
- One (1) (ancillary circuit load breaker) 4.16kV, 1200A, 40kAIC, 60kV BIL (with 48VDC Trip and Close);
- Four (4) (generator circuit breaker) 4.16kV, 1200A, 40kAIC, 60kV BIL (with 48VDC Trip and Close);
- 4.16 kV bus that will accommodate connection and protection controls; and
- utility interconnection protection equipment and relaying controls.

The Point of Change of Ownership is the line termination at the 34.5kV insulators on the Interconnection Customer's GSU Station termination structure on the line side of the load break disconnect switch.

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The Point of Interconnection is the tap point on the Connecting Transmission Owner's 34.5kV Hartfield-South Dow 859 Line.

The equipment required for the interconnection of the Facility will be installed as detailed below.

#### B. INTERCONNECTION CUSTOMER'S INTERCONNECTION FACILITIES

As depicted in Attachment 3, the Interconnection Customer's Interconnection Facilities are:

- A 34.5 kV overhead line receiving structure, 200kV BIL;
- One (1) 34500-4160Y/2402 V, 7/8.75 MVA ONAN/ONAF, 200 kV BIL transformer, 9% impedance;
- One (1) 34.5 kV, 600 A, 200 kV BIL group operated manual load break disconnect switch;
- One (1) 34.5 kV, 1200 A, 20 kA, 200 kV BIL circuit breaker with 2 sets of 600/5 C400 CT's per bushing;
- GSU transformer protection and Generator protection to be coordinated with the Connecting Transmission Owner's 34.5 kV supply: Hartfield and South Dow stations;
- Telecommunications equipment and circuits as may be necessary for the Connecting Transmission Owner's EMS-RTU and metering;
- Provisions for one set of Connecting Transmission Owner 34.5 kV metering transformers and metering equipment; and
- Provisions for the Connecting Transmission Owner's telemetering EMS RTU equipment.

#### C. CONNECTING TRANSMISSION OWNER INTERCONNECTION FACILITIES

The Connecting Transmission Owner's Interconnection Facilities will consist of:

- The Line 859 tap point and load break switch;
- The tap at the Hartfield station;
- Two (2) high-voltage CTs (EXM 200) CTs and two (2) Kuhlman (POF 200) PTs;
- One (1) Reverse Power Relay;
- One (1) RTU;
- 34.5 kV Substation approximately 4.7 miles in length.

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## **D. SCOPE OF WORK AND RESPONSIBILITIES**

### **1. Interconnection Customers Scope of Work and Responsibilities**

The Interconnection Customer will design and construct the GSU Transformer Station, the Chautauqua Line and the Interconnection Customer Interconnection Facilities, in accordance with the Facilities Study Report dated March 5, 2009, and to the extent not inconsistent with the terms of this Agreement and the NYISO OATT, in accordance with (1) the applicable requirements of the Connecting Transmission Owner, as set out in National Grid Electric System Bulletin 756, and (2) the Connecting Transmission Owner's project specific electrical requirements, as documented in the project's Specification for Electrical Installation dated March 5, 2009 and as such specifications may be amended or superseded during final design under this Interconnection Agreement.

The Interconnection Customer has elected to design and construct the Chautauqua Line that will run from the receiving structure at the GSU Transformer Station to the POI on the Hartfield-South Dow 859 Line. Line design must be completed by a Connecting Transmission Owner approved New York State licensed design professional and submitted to the Connecting Transmission Owner for review and approval. Construction of the line must be completed by a Connecting Transmission Owner approved contractor. Design and construction shall be in accordance with the requirements set forth in the March 5, 2009 Facilities Study Report, including but not limited to, the latest edition of applicable ANSI and IEEE Standards, the "National Electrical Safety Code," and good engineering practice.

The Interconnection Customer is responsible for: (i) obtaining all permits and easements associated with the Chautauqua Line construction, and (ii) completing all clearing required. The Interconnection Customer will transfer ownership of the Chautauqua Line to the Connecting Transmission Owner upon completion and commissioning for \$1.00 (one dollar).

The Interconnection Customer will complete the line tap at GSU Transformer Station, as part of the line construction.

The Interconnection Customer will provide and install the two (2) high-accuracy-extended-range Kuhlman (CXM 200) CTs and two (2) Kuhlman (POF 200) PTs on the 34.5 kV side and the metering socket.

The Interconnection Customer will mount the RTU, and wire AC & DC to it.

### **2. Connecting Transmission Owner Scope of Work and Responsibilities**

The Connecting Transmission Owner will design and construct the line tap at the Point of Interconnection to the Hartfield-South Dow #859.

The Connecting Transmission Owner will provide, install, test and commission the revenue metering in the Interconnection Customer's GSU Transformer Station.

The Connecting Transmission Owner will wire in the Meter RS-485 communication loop to the RTU, make final termination of the Telco circuit into the Communication Gateway, and test and commission the RTU.

**E. COST ESTIMATE OF CONNECTING TRANSMISSION OWNER INTERCONNECTION FACILITIES AND METERING EQUIPMENT**

<u>Description</u>	<u>Estimated Cost</u>
Engineering Review and compliance verification of the GSU Transformer Station, including all required drawing and equipment spec reviews, relay settings, construction and testing assistance by engineers.	\$62,500
Meter and test labor and materials for the metering installation in the Interconnection Customer's facilities.	\$40,000
Engineering, design, survey, materials, construction and testing of the Chautauqua 34.5 kV Line	\$3,200,000
EMS-RTU equipment, assembly, test, and commissioning for the Interconnection Customer's facilities (including telecom coordination of required phone circuit)	\$70,000
Chautauqua Line Construction Supervision	\$50,000
Project Management & Coordination	\$75,000
Contingency	\$349,750
<b>TOTAL</b>	<b>\$3,847,250</b>

**F. O&M EXPENSES FOR INTERCONNECTION FACILITIES**

In accordance with Article 4.1 of this SGIA, the Interconnection Customer shall be responsible for all reasonable expenses ("O&M Expenses") associated with the operation, maintenance, repair and replacement of the Connecting Transmission Owner's Interconnection Facilities.

The Interconnection Customer shall have the option to pay such O&M Expenses either under the procedure described in Option 1 or in Option 2 below.

**1. Option 1: Fixed On-Going Charge Payment:**

The Connecting Transmission Owner will invoice and Interconnection Customer shall pay an annual payment to the Connecting Transmission Owner equal to the product of the Gross

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Plant Investment associated with the Connecting Transmission Owner's Interconnection Facilities and the Annual Transmission Ongoing Charge Factor, for the term of this Interconnection Agreement.

All payments due to be made by the Interconnection Customer shall be made within thirty (30) days after receiving an invoice from the Connecting Transmission Owner.

The Project's Gross Connecting Transmission Owner's Interconnection Facilities Plant Investment cost shall be established in writing by the Connecting Transmission Owner no later than 90 days following commercial operation.

The Annual On-Going Charge Factor shall be calculated annually each July based on the Company's most recent FERC Form 1 data and will equal the sum of the Revenue Requirement Components as identified on O&M Attachment 1 divided by the Total Gross Plant of the Connecting Transmission Owner. Total Gross Plant shall equal the sum of Item Nos. A (1)(a)(b)(c) in O&M Attachment 1.

### **2. Option 2: Annual Actual O&M Expenses**

The Interconnection Customer shall pay for all actual O&M Expenses incurred by the Connecting Transmission Owner, which expenses shall be billed by the Connecting Transmission Owner quarterly as accumulated during the quarter for which they were incurred.

All payments due to be made by the Interconnection Customer shall be made within thirty (30) days after receiving an invoice from the Connecting Transmission Owner, which invoice shall be issued after the end of each quarter for the most recent quarter.

### **3. Selection by Interconnection Customer**

The Interconnection Customer shall select which option for paying such O&M Expenses by providing written notice to the Connecting Transmission Owner within thirty (30) days after the Gross Connecting Transmission Owner's Interconnection Facilities Plant Investment cost and the most recent Annual Transmission Ongoing Charge Factor have been provided to the Interconnection Customer. If the Interconnection Customer fails to provide timely notice to the Connecting Transmission Owner of the option selected, the Interconnection Customer will be deemed to have selected Option 2: Annual Actual.

## **O&M ATTACHMENT 1**

Capitalized terms used in this calculation will have the following definitions:

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**Allocation Factors**

General Plant Allocation Factor shall equal Electric General Plant divided by the sum of Electric General Plant plus gas general plant as reported in the Annual Report filed with the New York State Public Service Commission.

Gross Transmission Plant Allocation Factor shall equal the total investment in Transmission Plant in Service divided by the sum of the total Transmission Plant in Service plus the total Distribution Plant in Service, excluding Intangible Plant, General Plant and Common Plant.

Transmission Wages and Salaries Allocation Factor shall equal the ratio of Connecting Transmission Owner Transmission-related direct electric wages and salaries including any direct wages or salaries charged to Connecting Transmission Owner by a National Grid Affiliate to Connecting Transmission Owner's total electric direct wages and salaries including any wages charged to Connecting Transmission Owner by a National Grid Affiliate excluding any electric administrative and general wages and salaries.

**Ratebase and Expense items**

Administrative and General Expense shall equal electric expenses as recorded in FERC Account Nos. 920-935.

Amortization of Investment Tax Credits shall equal electric credits as recorded in FERC Account No. 411.4.

Distribution Plant in Service shall equal the gross plant balance as recorded in FERC Account Nos. 360 - 374.

Electric Common Plant shall equal the balance of Common Plant recorded in FERC Account Nos. 389-399 multiplied by the General Plant Allocation Factor.

General Plant shall equal electric gross general plant balance recorded in FERC Account Nos. 389-399.

Materials and Supplies shall equal electric materials and supplies balance as recorded in FERC Account No. 154.

Payroll Taxes shall equal those electric payroll tax expenses as recorded in FERC Account Nos. 408.100, 408.110 and 408.130.

Prepayments shall equal electric prepayment balance as recorded in FERC Account No. 165.

Real Estate Tax Expenses shall equal electric transmission-related real estate tax expense as recorded in FERC Account No. 408.140 and 408.180.

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Transmission Operation and Maintenance Expense shall equal electric expenses as recorded in FERC Account Nos. 560, 562-573.

Transmission Plant in Service shall equal the gross plant balance as recorded in FERC Account Nos. 350-359.

Transmission Revenue Credits shall equal the revenue reported in Account 456

Transmission Related Bad Debt Expense shall equal Bad Debt Expense as reported in Account 904 related to transmission billing.

Wholesale Metering Cost shall equal any costs associated with any Revenue or Remote Terminal Unit (RTU) meters and associated equipment located at an internal or external tie at voltages equal to or greater than 23V. The cost shall be determined by multiplying the number of wholesale meters in FERC Account No. 370.3 by the average cost of the meters plus the average costs of installation.

In the event that the above-referenced FERC accounts are renumbered, renamed, or otherwise modified, the above sections shall be deemed amended to incorporate such renumbered, renamed, modified or additional accounts.

### **Revenue Requirement Components**

The Revenue Requirement Components shall be the sum of Connecting Transmission Owner's (A) Return and Associated Income Taxes, (B) Transmission Related Real Estate Tax Expense, (C) Transmission Related Amortization of Investment Tax Credits, (D) Transmission Related Payroll Tax Expense (E) Transmission Operation and Maintenance Expense, (F) Transmission Related Administrative and General Expenses, less (G) Revenue Credits, plus (H) Bad Debt Expense.

A. Return and Associated Income Taxes shall equal the product of the Transmission Investment Base as identified in A(1) below and the Cost of Capital Rate.

1. Transmission Investment Base shall be defined as

Transmission Related General Plant plus Transmission Related Common Plant plus Transmission Related Regulatory Assets plus Transmission Related Prepayments plus Transmission Related Materials and Supplies plus Transmission Related Cash Working Capital.

(a) Transmission Plant in Service shall equal the balance of Total investment in Transmission Plant plus Wholesale Metering Cost.

- (b) Transmission Related General Plant shall equal the balance of investment in General Plant multiplied by the Transmission Wages and Salaries Allocation Factor.
  - (c) Transmission Related Common Plant shall equal Electric Common Plant multiplied by the Gross Transmission Plant Allocation Factor and multiplied by the Transmission Wages and Salaries Allocation Factor.
  - (d) Transmission Related Regulatory Assets shall equal balances in FERC Account Nos. 182.3 and 254 for state and federal regulatory assets and liabilities related to FAS109, and excess AFUDC multiplied by the Gross Transmission Plant Allocation Factor
  - (e) Transmission Related Prepayments shall equal the electric balance of Prepayments multiplied by the Gross Transmission Plant Allocation Factor.
  - (f) Transmission Related Materials and Supplies shall equal the balance of Materials and Supplies assigned to Transmission added to the remainder of Material and Supplies not directly assigned to either Transmission or Distribution multiplied by the Gross Transmission Plant Allocation Factor.
  - (g) Transmission Related Cash Working Capital shall be a 12.5% allowance (45 days/360 days) of the Transmission Operation and Maintenance Expense (less FERC Account 565: Transmission of Electricity by Others) and Transmission-Related Administrative and General Expense.
2. Cost of Capital Rate

The Cost of Capital Rate shall equal the proposed Weighted Costs of Capital plus Federal Income Taxes and State Income Taxes.

- (a) The Weighted Costs of Capital will be calculated for the Transmission Investment Base using Connecting Transmission Owner's actual capital structure and will equal the sum of (i), (ii), and (iii) below:

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- (i) the long-term debt component, which equals the product of the actual weighted average embedded cost to maturity of Connecting Transmission Owner's long-term debt then outstanding and the actual long-term debt capitalization ratio.
  - (ii) the preferred stock component, which equals the product of the actual weighted average embedded cost to maturity of Connecting Transmission Owner's preferred stock then outstanding and the actual preferred stock capitalization ratio;
  - (iii) the return on equity component, shall be the product of the allowed ROE of 11.9% plus a 50 basis point adder (per FERC Order 697 and 697A) and Connecting Transmission Owner's actual common equity capitalization ratio.
- (b) Federal Income Tax shall equal
- $$\frac{A \times \text{Federal Income Tax Rate}}{(1 - \text{Federal Income Tax Rate})}$$

where A is the sum of the preferred stock component and the return on equity component, each as determined in Sections 2.(a)(ii) and for the ROE set forth in 2.(a)(iii) above

- (c) State Income Tax shall equal
- $$\frac{(A + \text{Federal Income Tax}) \times \text{State Income Tax Rate}}{(1 - \text{State Income Tax Rate})}$$

Where A is the sum of the preferred stock component and the return on equity component as determined in A.2.(a)(ii) and A.2.(a)(iii) above and Federal income Tax is determined in 2.(b) above.

B. Transmission Related Real Estate Tax Expense shall equal the Real Estate Tax Expenses multiplied by the Gross Plant Allocation Factor.

C. Transmission Related Amortization of Investment Tax Credits shall equal the electric Amortization of Investment Tax Credits multiplied by the Gross Transmission Plant Allocation Factor.

D. Transmission Related Payroll Tax Expense shall equal Payroll Taxes multiplied by the Transmission Wages and Salaries Allocation Factor.

E. Transmission Operation and Maintenance Expense shall equal the Transmission Operation and Maintenance Expense as previously defined.

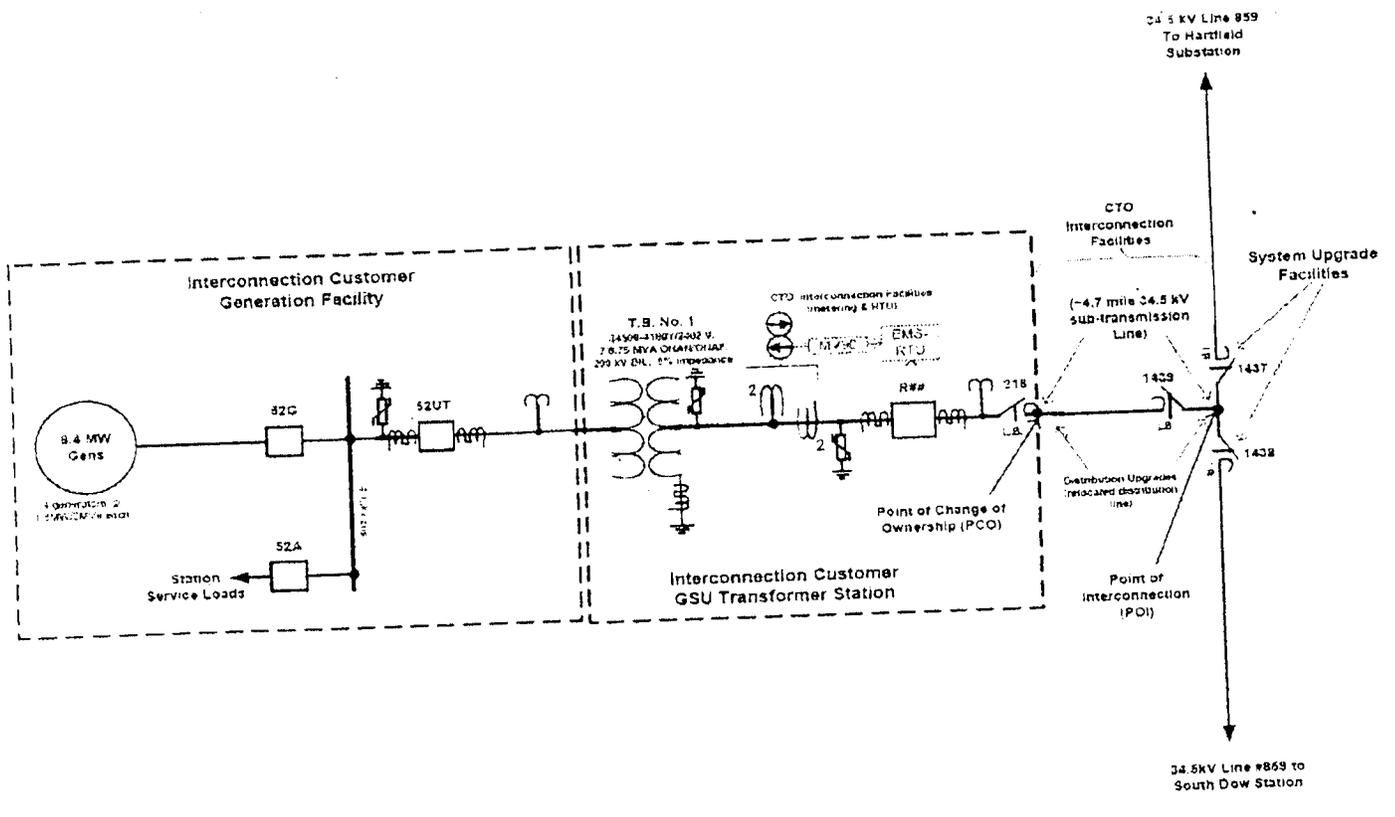
F. Transmission Related Administrative and General Expenses shall equal the sum of the electric Administrative and General Expenses multiplied by the Transmission Wages and Salaries Allocation Factor.

G. Revenue Credits shall equal all Transmission revenue recorded in FERC account 456.

H. Transmission Related Bad Debt Expense shall equal Transmission Related Bad Debt Expense as previously defined.

One-line Diagram Depicting the Small Generating Facility, Interconnection  
 Facilities, Metering Equipment, and Upgrades

Chautauqua County LFGTE  
 One Line Diagram



9/30/2009

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**Attachment 4**

**Milestones**

In-Service Date: March 2010

Critical milestones and responsibility as agreed to by the Parties:

	<u>Milestone</u>	<u>Date (mo/yr)</u>	<u>Responsible</u>
1	Submit final design and equipment specs for the ICIFs to TO	Completed	Interconnection Customer
2	Provide security pursuant to Section 6.3 of the IA	Completed	Interconnection Customer
3	Start engineering and procurement for line taps and SUFs and TOIFs.	Completed	Transmission Owner
4	Provide Transmission Owner the easement for the line tap	Completed	Interconnection Customer
5	Submit initial line design	Completed	Interconnection Customer
6	Complete review of, and issue comments on, final design and equipment specs for ICIFs	Completed	Transmission Owner
7	Start construction of ICIFs	Completed	Interconnection Customer
8	Complete review and issue comments on initial line design	Completed	Transmission Owner
9	Submit relay coordination study, ground grid design calcs, corrected final design, and final site and plot plans for ICIFs to TO	Completed	Interconnection Customer
10	Submit construction line design (transmission and distribution) and associated easements, surveying data, permits and licenses	12/2009	Interconnection Customer
11	Complete review of, and provide comments on, relay coordination study, ground grid design calcs, corrected ICIF final design and final site and plot plans	12/2009	Transmission Owner
12	Complete review and provide comments on the final line design, and all associated documents and data	12/2009	Transmission Owner
13	Complete engineering and procurement of CTO IFs and SUFs	12/2009	Transmission Owner

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New York Independent System Operator, Inc.  
 FERC Electric Tariff  
 Service Agreement No. 1530

Original Sheet No. 49

14	Complete construction of ICIFs	Completed	Interconnection Customer
15	Issue final PE stamped line construction package for TO approval	Completed	Interconnection Customer
16	Start construction of line tap SUFs	Completed	Transmission Owner
17	Start SUFs ant Hartfield and South Dow stations	12/2009	Transmission Owner
18	Start installation of RTU and metering (CTO IFs)	12/2009	Transmission Owner
19	Complete installation of RTU and metering (CTO IFs)	12/2009	Transmission Owner
20	Complete construction of SUFs at Hartfield and South Dow Stations	01/2010	Transmission Owner
21	Submit energization sequence and 6 week advance notice of functional test.	12/2009	Interconnection Customer
22	Submit all final easements	12/09	Interconnection Customer
23	Review and acceptance of all final easements	2/2010	Transmission Customer
24	Complete construction of line (CTO IFs)	1/2010	Interconnection Customer
25	Complete all inspections and submit as built of line dwgs, and all other documentation required for ownership transfer (including punch list)	2/2010	Interconnection Customer
26	Complete all functional tests and verifications (ICIFS, SUFS, IOIFs,)	3/2010	Interconnection Customer/Transmission Owner
27	Transfer of ownership of line	3/2010	Interconnection Customer/Transmission Owner
28	In Service (Interconnection Customer receives back feed power)	3/2010	Interconnection Customer/Transmission Owner
29	Issue written authorization for synchronization	4/2010	NYISO
30	Initial Synchronization	4/2010	Interconnection Customer/Transmission Owner/NYISO
31	Small Generation Facility testing	4/2010	Interconnection Customer
32	Commercial Operation Date	4/2010	ALL

Issued by: Stephen G. Whitley, President  
 Issued on:

Effective:

New York Independent System Operator, Inc.  
FERC Electric Tariff  
Service Agreement No. 1530

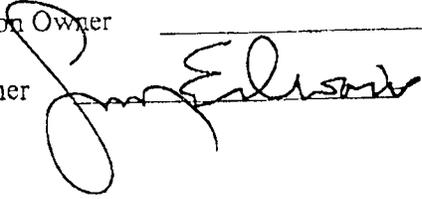
Original Sheet No. 50

33	Submit ICIF As Builts	6/2010	Interconnection Customer
34	Complete close-out	8/2010	Interconnection Customer/Transmission Owner

Agreed to by:

For the Transmission Provider \_\_\_\_\_ Date \_\_\_\_\_

For the Connecting Transmission Owner \_\_\_\_\_ Date \_\_\_\_\_

For the Interconnection Customer  \_\_\_\_\_ Date 12/07/09

*James E. Wilson*  
12/7/09

Issued by: Stephen G. Whitley, President  
Issued on:

Effective:

New York Independent System Operator, Inc.  
FERC Electric Tariff  
Service Agreement No. 1530

Original Sheet No. 50

33	Submit ICIF As Built	6/2010	Interconnection Customer
34	Complete close-out	8/2010	Interconnection Customer/Transmission Owner

Agreed to by:

For the Transmission Provider \_\_\_\_\_ Date \_\_\_\_\_

For the Connecting Transmission Owner Mary Ellen Paravalos Date DEC 17 2009

Mary Ellen Paravalos

For the Interconnection Customer \_\_\_\_\_ Date \_\_\_\_\_

Issued by: Stephen G. Whitley, President  
Issued on:

Effective:

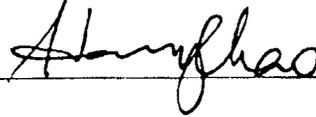
New York Independent System Operator, Inc.  
FERC Electric Tariff  
Service Agreement No. 1530

Original Sheet No. 50

33	Submit ICIF As Builts	6/2010	Interconnection Customer
34	Complete close-out	8/2010	Interconnection Customer/Transmission Owner

Agreed to by:

For the Transmission Provider



Date

12/3/2009

For the Connecting Transmission Owner

\_\_\_\_\_

Date

\_\_\_\_\_

For the Interconnection Customer

\_\_\_\_\_

Date

\_\_\_\_\_

Issued by: Stephen G. Whitley, President  
Issued on:

Effective:

**Attachment 5**

**Additional Operating Requirements for the New York State Transmission System, the  
Distribution System and Affected Systems Needed to Support  
the Interconnection Customer's Needs**

The NYISO, in consultation with the Connecting Transmission Owner, shall also provide requirements that must be met by the Interconnection Customer prior to initiating parallel operation with the New York State Transmission System or the Distribution System.

The Interconnection Customer must comply with all applicable NYISO tariffs and procedures, as amended from time to time. The Interconnection Customer must also comply with the Connecting Transmission Owner's operating instructions and requirements as referenced in Sections 1.5 and 1.6 of this SGIA, which requirements shall include equipment outages and control arrangements, tagging agreements and procedures, maintenance arrangements and responsibilities, company contacts and phone numbers and supervisory equipment.

The Interconnection Customer must comply with relevant provisions of the Connecting Transmission Owner's Electric System Bulletin 756, including appendices, as amended from time to time, to the extent not inconsistent with the terms of this Agreement or the NYISO OATT.

Issued by: Stephen G. Whitley, President  
Issued on:

Effective:

**Connecting Transmission Owner's Description of its Upgrades  
and Best Estimate of Upgrade Costs**

The NYISO, in consultation with the Connecting Transmission Owner, shall describe Upgrades and provide an itemized best estimate of the cost, including overheads, of the Upgrades and annual operation and maintenance expenses associated with such Upgrades. The Connecting Transmission Owner shall functionalize Upgrade costs and annual expenses as either transmission or distribution related.

The cost estimate for Distribution Upgrades shall include the costs of Distribution Upgrades that are reasonably allocable to the Interconnection Customer at the time the estimate is made, and the costs of any Distribution Upgrades not yet constructed that were assumed in the Interconnection Studies for the Interconnection Customer but are, at the time of the estimate, an obligation of an entity other than the Interconnection Customer.

The cost estimates for Distribution Upgrades and System Upgrade Facilities and System Deliverability Upgrades are estimates. The Interconnection Customer is ultimately responsible for the actual cost of the Distribution Upgrades and System Upgrade Facilities and System Deliverability Upgrades needed for its Small Generating Facility, as that is determined under Attachments S and X and Z of the NYISO OATT.

**A. DISTRIBUTION UPGRADES**

Segments of the existing distribution circuit will have to be relocated to the new pole line for the Chautauqua Line. The full extent of the distribution relocation and underbuild required as a result of the Chautauqua Line construction will not be known until such time as the Interconnection Customer has obtained all easements and the full line design for the Chautauqua Line is completed (Milestone No. 10 in Attachment 4).

**B. SYSTEM UPGRADE FACILITIES**

**1. Line 859 Sectionalizing Switches**

To provide for sectionalizing in the event of maintenance or emergency operations of the line, the Connecting Transmission Owner will design and install two (2) 34.5 kV, 1200 A, 61 kA, 200 kV BIL load break switches; one on each side of the tap to the 859 Line.

**2. Hartfield Substation**

The Connecting Transmission Owner will add three (3) line PTs and one (1) GE IJS relay to add synch check supervision of the line 859 reclosing.

**3. South Dow Substation**

The Connecting Transmission Owner will add one (1) GE IJS relay to add synch check supervision of the line 859 reclosing.

**C. SCOPE OF WORK AND RESPONSIBILITIES**

**Connecting Transmission Owner Scope of Work and Responsibilities**

In conjunction with the Chautauqua Line, the Connecting Transmission Owner will design and construct the distribution underbuild, where it is necessary to relocate and underbuild the existing distribution circuit to accommodate the Chautauqua Line.

The Connecting Transmission Owner will design and construct the installation of the sectionalizing switches on the 859 line and complete all work associated with the Hartfield Substation and the South Dow Substation.

**D. COST ESTIMATES RELATED TO DISTRIBUTION UPGRADES AND SYSTEM UPGRADE FACILITIES**

<b>Description</b>	<b>Estimated Cost</b>
Engineering, design and construction of the tap connection to the #859 line; Including the load break switches.	\$200,000
Engineering, design, survey, material, construction and testing for relocating distribution line	\$700,000
Engineering review and compliance verification of the Chautauqua Line and distribution under build design.	\$100,000
Engineering, design and installation of relay and controls modifications at Hartfield & South Dow Substation	\$187,000
Project Management & Coordination	\$75,000
Contingency	\$126,200
<b>TOTAL</b>	<b>\$1,388,200</b>

Issued by: Stephen G. Whitley, President  
Issued on:

Effective:

### Insurance Coverage

The Interconnection Customer shall, at its own expense, maintain in force throughout the period of this SGIA, the following minimum insurance coverage, with insurers authorized to do business in the State of New York:

Commercial General Liability Insurance including, but not limited to, bodily injury, property damage, products/completed operations, contractual and personal injury liability with a combined single limit of \$1 million per occurrence, \$2 million annual aggregate.

Issued by: Stephen G. Whitley, President  
Issued on:

Effective:



**PERMIT**  
**Under the Environmental Conservation Law (ECL)**

**IDENTIFICATION INFORMATION**

Permit Type: Air Title V Facility  
Permit ID: 9-0636-00006/00017  
Effective Date: 10/29/2008 Expiration Date: 10/28/2013

Permit Issued To: CHAUTAUQUA COUNTY  
3 N ERIE ST  
MAYVILLE, NY 14757-1007

Facility: CHAUTAUQUA COUNTY LANDFILL  
3889 TOWERVILLE RD  
ELLERY CENTER, NY 14701

Contact: KEITH STOCK  
CHAUTAUQUA COUNTY DPE  
3889 TOWERVILLE RD  
JAMESTOWN, NY 14701-9653  
(716) 985-4785

Description:  
Chautauqua County, New York owns and operates the Chautauqua County Landfill, an existing solid waste landfill located on a 790 acre parcel in the Town of Ellery, New York. The landfill was opened in the year 1981 and has a total design capacity of 5.9 million megagrams (MG). The total landfill footprint is 83.5 acres.

Landfill gas that is currently generated by the Chautauqua County Landfill as a result of the degradation of solid waste is collected by an active landfill gas collection system and destructed in a single open candlestick flare.

**PROJECT DESCRIPTION:**

The current permit action incorporates two permit changes including: (1) the Title V permit renewal, and (2) a major permit modification.

The permit renewal consists primarily of new and revised regulatory requirements and updates pertaining to existing equipment and operational changes. The major permit modification includes a proposal to construct and operate a 9.6 megawatt Landfill Gas to Energy (LFGTE) Plant to utilize the landfill gas from the Chautauqua County Landfill as a source of fuel. The LFGTE plant will be the primary landfill gas pollution control system. The LFGTE plant will collect and convert landfill gas into electricity for sale on the open market. The LFGTE Plant will consist of six (6) G3520C Caterpillar stationary internal combustion engines. Any residual collected landfill gas



beyond the capacity of the engines will be combusted in the existing flare control system.

The proposed LFGTE plant will be owned by Chautauqua County and located at the Chautauqua County Landfill near the existing open candlestick flare. The LFGTE plant will be operated by Innovative Energy Systems, Inc. under agreement with Chautauqua County.

### **EMISSIONS AND CONTROLS**

Landfill gas consists primarily of methane, carbon dioxide (CO<sub>2</sub>) and nitrogen. Oxygen, sulfur-bearing compounds, non-methane organic compounds (NMOC) and hazardous air pollutants (HAPs) are present in the generated gas in much smaller quantities. The quantities and types of compounds present in the landfill gas are dependent on the composition of the wastes placed in the landfill and site-specific conditions. On June 29, 2007, Chautauqua County collected and analyzed a landfill gas sample for several specific compounds. In comparison with the default concentrations of landfill constituents reported in AP-42, only one compound was found at an elevated concentration which included hydrogen sulfide at a concentration of 397 ppmv. All other compounds were observed at concentrations less than the AP-42 default values. Several compounds were not present above the detection limit of the methods.

The combustion of landfill gas in the existing flare and the proposed engines results in emissions of carbon monoxide (CO), oxides of nitrogen (NO<sub>x</sub>), sulfur dioxide (SO<sub>2</sub>), particulate matter (PM), and NMOC, which includes some volatile organic compounds (VOCs) and HAPs.

The landfill gas will be pre-treated by a scrubbing system to clean the gas stream prior to combustion in the engines. The pre-treatment system will include filtering, dewatering and compression processes. The landfill gas is not pre-treated prior to combustion in the flare.

### **APPLICABLE REQUIREMENTS:**

#### *6NYCRR Part 202-1 - Required Emission Tests:*

The design emission rates of the internal combustion engines for nitrogen oxides (NO<sub>x</sub>) and carbon monoxide (CO) are 0.6 grams per brake horsepower-hour (g/bhp-hr) and 3.0 g/bhp-hr, respectively. The design emission rates were used to assess the non-applicability of the facility to New Source Review (6NYCRR Part 231-2), Prevention of Significant Deterioration (40CFR52.21) and Reasonably Available Control Technology for Oxides of Nitrogen (6 NYCRR Part 227-2). The Department requires routine performance testing and periodic monitoring of the internal combustion engines to confirm the engines consistently operate within the design criteria.



*6NYCRR Part 208 - Landfill Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills:*

On July 16, 2007 gas samples were collected from the main header of the Chautauqua County Landfill active gas collection system and analyzed for NMOC. Based on these results, Chautauqua County recalculated the NMOC emission rates from the landfill using LandGEM. The results were provided to the Department in January, 2008 and demonstrated the generated NMOC emission rate from the landfill is greater than 50 megagrams per year. In accordance with the regulation, Chautauqua County is now required to submit a collection and control system design plan to the Department within 1 year or by January 1, 2009. In addition, Chautauqua County is required to install the Department approved collection and control system within 30 months or by June 1, 2010.

As stated in 6NYCRR Part 208.3, the regulatory standards for operation of an open flare require the flare be designed and operated in accordance with 40 CFR Section 60.18. Chautauqua County must test the newly installed 10-inch flare to demonstrate compliance with 40 CFR Section 60.18 within 60 days after achieving the maximum production rate but not later than 180 days after initial start-up of the LFGTE plant.

The regulatory standards for combusting the landfill gas in stationary internal combustion engines to produce electricity require that a gas pre-treatment system be utilized. The governing EPA rule, identified as 40CFR60 Subpart Cc - Emission Guidelines, and 6NYCRR Part 208 currently do not provide sufficient details about the requirements for a pre-treatment system. EPA has recognized the need for more detailed requirements and has proposed changes to the rule on September 8, 2006. The proposed changes have been incorporated into this permit as described below in 40CFR60 Subpart Cc.

*Proposed Amendments to 40 CFR60 Subpart Cc - Emission Guidelines for Municipal Solid Waste Landfills:*

EPA clarified the definition of a treatment system by adding specific numerical values that would provide long-term protection of the combustion equipment, which would support good combustion. For particulate matter filtration, a filter system would be required to have an absolute rating no greater than 10 microns. For dewatering, the system would be required to reduce the dew point by at least 20 degrees Fahrenheit. In addition, EPA clarified the monitoring requirements for treatment systems. To ensure that treatment systems are operating properly to achieve the filtration and de-watering levels specified in the revised proposed treatment system definition, EPA proposed more specific monitoring, recordkeeping, and reporting requirements. EPA also proposed that



owners/operators of treatment systems monitor pressure drop across the filtration system and temperature or dew point for dewatering systems, depending on the type of de-watering system.

The permit requires Chautauqua County to submit a monitoring plan within 180 days of startup. The plan should provide documentation that the pre-treatment system satisfies the EPA definition and provide monitoring methods used for the filtering, dewatering and compression processes to ensure the treatment system operates as designed.

*6NYCRR Part 212 - General Process Emission Sources:*

Due to noted odor complaints and the need to evaluate the impact of the landfill on nearby receptors, an Air Quality Impact Evaluation was requested by the Department in March, 2007. The elements of the Air Quality Impact Evaluation included a landfill gas sampling program, air dispersion model analysis and ambient hydrogen sulfide monitoring program. The sampling program occurred on June 29, 2007. The ambient air quality impact analysis was completed in January, 2008 and demonstrated the facility emissions do not cause any exceedance of the short term guidance concentrations, annual guidance concentrations, or ambient air quality standards. Based on the results of the Air Dispersion Model Analysis, an ambient hydrogen sulfide monitoring program was not requested since the results were below the 6NYCRR Part 257-10 Ambient Air Quality Standard for Hydrogen Sulfide.

*6NYCRR Part 227-1.3(a) - Stationary Combustion Installations:*

Chautauqua County must operate the engines with less than 20 percent opacity (six minute average), except for one six-minute period per hour of not more than 27 percent opacity. Compliance with the opacity standard will be accomplished by completing weekly visible emission observations. Within 180 days of startup, Chautauqua County Landfill shall submit an Operation and Maintenance (O&M) plan for the engines. The O&M plan shall outline proper operation and maintenance procedures to minimize emissions from the engines. The plan shall include, but is not limited to: operation requirements, maintenance schedule, reporting, and recordkeeping.

*40CFR63 Subpart AAAA - National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills:*

Chautauqua County must comply with the startup, shutdown, and malfunction requirements in Subpart A of this part as specified in Table 1 of this subpart and all affected sources must submit compliance reports every 6 months including information on all deviations that occurred during the 6-month reporting period.

*40CFR60 Subpart JJJJ - Standards of Performance for Stationary Spark*



*Ignition Internal Combustion Engines:*

Chautauqua County must comply with the applicable requirements of this regulation.

*40CFR63 Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines:*

Chautauqua County must comply with the applicable requirements of this regulation.

**NON-APPLICABLE REQUIREMENTS:**

*6NYCRR Part 227-2 - Reasonably Available Control Technology (RACT) for Oxides of Nitrogen:*

The existing facility NO<sub>x</sub> emissions are emitted by the flare which results in a potential to emit (PTE) of 10 tons per year (tpy). The proposed LFGTE project has a NO<sub>x</sub> PTE of 69 tpy. The resulting facility-wide NO<sub>x</sub> PTE is 79 tpy which is less than the NO<sub>x</sub> RACT threshold of 100 tpy. As such, the combustion sources are not subject to the NO<sub>x</sub> RACT requirements of 6NYCRR Part 227-2.

*6NYCRR Part 231-2 - New Source Review (NSR):*

The existing facility is a non-major source of non-attainment area pollutants, including VOC and NO<sub>x</sub>. As such, the proposed project emissions were compared with the major source thresholds of 50 tpy VOC and 100 tpy NO<sub>x</sub>. The proposed project, by itself, is a minor source of VOC and NO<sub>x</sub> emissions. In addition, the facility remains a non-major source after the project is complete. The total facility-wide VOC and NO<sub>x</sub> emissions, including emissions from the existing landfill and the proposed landfill gas to energy project, are 15 tpy VOC and 79 tpy NO<sub>x</sub>. Therefore, the facility is not a major source of non-attainment contaminants and is not subject to NSR requirements.

*40CFR52.21 - Prevention of Significant Deterioration (PSD):*

The existing facility is a minor source of attainment area pollutants including NO<sub>x</sub>, CO, SO<sub>2</sub>, and PM-10. As such, the proposed project emissions were compared with the major source threshold of 250 tpy to determine whether or not the project is subject to PSD for the attainment area pollutants. The project PTE's for all these contaminants were below 250 tpy and are as follows:

NO<sub>x</sub> 69 tpy  
CO 200 tpy  
SO<sub>2</sub> 29 tpy  
PM-10 12 tpy

Thus, this project is not subject to PSD. However, total facility-wide PTE:



emissions after the project is complete will be major for CO. Specifically, the existing facility CO emissions are emitted by the flare which results in a PTE of 190 tpy. The proposed LFGTE project has a CO PTE of 200 tpy. Both the existing facility and proposed project emissions, by themselves, are less than the major source threshold of 250 tpy. However, the resulting facility-wide CO PTE is 390 tpy which is greater than the major facility size threshold of 250 tpy. As such, the facility will be evaluated as an existing major source for any future PSD projects.

*Commissioner's Policy Number 33 (CP-33):*

Daily truck traffic will remain unchanged from the proposed project. Consequently, particulate emissions due to traffic including brake and tire wear will have no affect on the CP-33 applicability for the proposed project. However, particulate emissions from the proposed stationary combustion sources will increase but are not expected to increase the primary PM-10 emissions by 15 tpy or more. Therefore, no additional applicable requirements are imposed by the CP-33 policy.

*40CFR64 - Compliance Assurance Monitoring (CAM):*

Chautauqua County does not operate Pollutant-Specific Emission Units (PSEU) at a major source that use a control device to achieve compliance with any emission limitation or standard. Therefore, Chautauqua County Landfill is not subject to the Compliance Assurance Monitoring (CAM) requirements.

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, the General Conditions specified and any Special Conditions included as part of this permit.

Permit Administrator:

DAVID S DENK  
DIVISION OF ENVIRONMENTAL

PERMITS

270 MICHIGAN AVE  
BUFFALO, NY 14203-2999

Authorized Signature: \_\_\_\_\_

Date: \_\_\_ / \_\_\_ / \_\_\_\_\_



### Notification of Other State Permittee Obligations

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the compliance permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in any compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.



## LIST OF CONDITIONS

### DEC GENERAL CONDITIONS

#### General Provisions

- Facility Inspection by the Department
- Relationship of this Permit to Other Department Orders and Determinations
  - Applications for permit renewals, modifications and transfers
  - Applications for Permit Renewals and Modifications
  - Permit modifications, suspensions or revocations by the Department
  - Permit Modifications, Suspensions and Revocations by the Department

#### Facility Level

- Submission of application for permit modification or renewal-REGION 9 HEADQUARTERS



**DEC GENERAL CONDITIONS**  
**\*\*\*\* General Provisions \*\*\*\***

**For the purpose of your Title V permit, the following section contains  
state-only enforceable terms and conditions.**

**GENERAL CONDITIONS - Apply to ALL Authorized Permits.**

**Condition 1: Facility Inspection by the Department**

**Applicable State Requirement: ECL 19-0305**

**Item 1.1:**

The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71-0301 and SAPA 401(3).

**Item 1.2:**

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

**Item 1.3:**

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

**Condition 2: Relationship of this Permit to Other Department Orders and Determinations**

**Applicable State Requirement: ECL 3-0301.2(m)**

**Item 2.1:**

Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

**Condition 3: Applications for permit renewals, modifications and transfers**

**Applicable State Requirement: 6NYCRR 621.11**

**Item 3.1:**

The permittee must submit a separate written application to the Department for renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing.

**Item 3.2:**

The permittee must submit a renewal application at least 180 days before expiration of permits for Title V Facility Permits, or at least 30 days before expiration of permits for State Facility Permits.



**Item 3.3:**

Permits are transferrable with the approval of the department unless specifically prohibited by the statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

**Condition 4: Applications for Permit Renewals and Modifications**

**Applicable State Requirement: 6NYCRR 621.13**

**Item 4.1:**

The permittee must submit a separate written application to the Department for renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing.

**Item 4.2:**

The permittee must submit a renewal application at least 180 days before expiration of permits for Title V Facility Permits, or at least 30 days before expiration of permits for State Facility Permits.

**Item 4.3:**

Permits are transferrable with the approval of the department unless specifically prohibited by the statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

**Condition 5: Permit modifications, suspensions or revocations by the Department**

**Applicable State Requirement: 6NYCRR 621.13**

**Item 5.1:**

The Department reserves the right to modify, suspend, or revoke this permit in accordance with 6NYCRR Part 621. The grounds for modification, suspension or revocation include:

- a) materially false or inaccurate statements in the permit application or supporting papers;
- b) failure by the permittee to comply with any terms or conditions of the permit;
- c) exceeding the scope of the project as described in the permit application;
- d) newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e) noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

**Condition 6: Permit Modifications, Suspensions and Revocations by the Department**

**Applicable State Requirement: 6NYCRR 621.14**

**Item 6.1:**

The Department reserves the right to modify, suspend, or revoke this permit in accordance with 6NYCRR Part 621. The grounds for modification, suspension or revocation include:



- a) materially false or inaccurate statements in the permit application or supporting papers;
- b) failure by the permittee to comply with any terms or conditions of the permit;
- c) exceeding the scope of the project as described in the permit application;
- d) newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e) noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

\*\*\*\* Facility Level \*\*\*\*

**Condition 7: Submission of application for permit modification or renewal-REGION 9 HEADQUARTERS**  
**Applicable State Requirement: 6NYCRR 621.6(a)**

**Item 7.1:**

Submission of applications for permit modification or renewal are to be submitted to:

NYSDEC Regional Permit Administrator  
Region 9 Headquarters  
Division of Environmental Permits  
270 Michigan Avenue  
Buffalo, NY 14203-2999  
(716) 851-7165

New York State Department of Environmental Conservation

Permit ID: 9-0636-00006/00017

Facility DEC ID: 9063600006



Permit Under the Environmental Conservation Law (ECL)

ARTICLE 19: AIR POLLUTION CONTROL - TITLE V PERMIT

IDENTIFICATION INFORMATION

Permit Issued To: CHAUTAUQUA COUNTY  
3 N ERIE ST  
MAYVILLE, NY 14757-1007

Facility: CHAUTAUQUA COUNTY LANDFILL  
3889 TOWERVILLE RD  
ELLERY CENTER, NY 14701

Authorized Activity By Standard Industrial Classification Code:  
1499 - NONMETALLIC MINERALS, NEC  
4953 - REFUSE SYSTEMS

Permit Effective Date: 10/29/2008

Permit Expiration Date: 10/28/2013



## LIST OF CONDITIONS

### DEC GENERAL CONDITIONS

#### General Provisions

Facility Inspection by the Department  
Relationship of this Permit to Other Department Orders and Determinations  
Applications for permit renewals, modifications and transfers  
Applications for Permit Renewals and Modifications  
Permit modifications, suspensions or revocations by the Department  
Permit Modifications, Suspensions and Revocations by the Department

#### Facility Level

Submission of application for permit modification or renewal-REGION 9 HEADQUARTERS

### FEDERALLY ENFORCEABLE CONDITIONS

#### Facility Level

- 1 6NYCRR 200.6: Acceptable Ambient Air Quality
- 2 6NYCRR 201-6.5(a)(7): Fees
- 3 6NYCRR 201-6.5(c): Recordkeeping and reporting of compliance monitoring
- 4 6NYCRR 201-6.5(c)(2): Monitoring, Related Recordkeeping, and Reporting Requirements.
- 5 6NYCRR 201-6.5(c)(3)(ii): Compliance Certification
- 6 6NYCRR 201-6.5(e): Compliance Certification
- 7 6NYCRR 202-2.1: Compliance Certification
- 8 6NYCRR 202-2.5: Recordkeeping requirements
- 9 6NYCRR 215: Open Fires Prohibited at Industrial and Commercial Sites
- 10 6NYCRR 200.7: Maintenance of Equipment
- 11 6NYCRR 201-1.7: Recycling and Salvage
- 12 6NYCRR 201-1.8: Prohibition of Reintroduction of Collected Contaminants to the air
- 13 6NYCRR 201-3.2(a): Exempt Sources - Proof of Eligibility
- 14 6NYCRR 201-3.3(a): Trivial Sources - Proof of Eligibility
- 15 6NYCRR 201-6.5(a)(4): Standard Requirement - Provide Information
- 16 6NYCRR 201-6.5(a)(8): General Condition - Right to Inspect
- 17 6NYCRR 201-6.5(d)(5): Standard Requirements - Progress Reports
- 18 6NYCRR 201-6.5(f)(6): Off Permit Changes
- 19 6NYCRR 202-1.1: Required Emissions Tests
- 20 6NYCRR 211.3: Visible Emissions Limited
- 21 40CFR 68: Accidental release provisions.
- 22 40CFR 82, Subpart F: Recycling and Emissions Reduction
- 23 6NYCRR 201-6: Emission Unit Definition
- 24 6NYCRR 201-6.5(g): Non Applicable requirements
- 25 6NYCRR 208.3(b): Standards for Emissions from MSW Landfills
- 26 6NYCRR 208.4(a): Collection system for waste-in-place for 2 or 5 years
- 27 6NYCRR 208.4(b): Compliance Certification
- 28 6NYCRR 208.4(c): Compliance Certification
- 29 6NYCRR 208.4(e): Compliance Certification
- 30 6NYCRR 208.4(d): Compliance Certification
- 31 6NYCRR 208.5(a)(1)(i): NMOC Calculation - Waste Deposition KNOWN
- 32 6NYCRR 208.5(a)(1)(i): Compliance Certification



- 33 6NYCRR 208.5(b): System NMOC Emission Rate
- 34 6NYCRR 208.5(e): Use of emission factors
- 35 6NYCRR 208.5(d): System Efficiency
- 36 6NYCRR 208.6(a): Gas Collection System Compliance
- 37 6NYCRR 208.6(b): Well Placement
- 38 6NYCRR 208.6(c): Surface Methane Monitoring
- 39 6NYCRR 208.6(d): Instrument Specs for Surface Methane Analyzer
- 40 6NYCRR 208.7(a): Compliance Certification
- 41 6NYCRR 208.7(c): Open Flare with Electronic Ignition
- 42 6NYCRR 208.7(d): Monitoring of Operations - Other Control Devices
- 43 6NYCRR 208.7(f): Surface methane monitoring
- 44 6NYCRR 208.8(f): Compliance Certification
- 45 6NYCRR 208.8(g): Reporting Requirements
- 46 6NYCRR 208.9(a): Compliance Certification
- 47 6NYCRR 208.9(b): Compliance Certification
- 48 6NYCRR 208.9(c): Compliance Certification
- 49 6NYCRR 208.9(d): Compliance Certification
- 50 6NYCRR 208.9(e): Compliance Certification
- 51 6NYCRR 208.10: Compliance Certification
- 52 40CFR 63.1945, Subpart AAAA: Compliance Certification
- 53 40CFR 63.1955(b), Subpart AAAA: Compliance Certification
- 54 40CFR 63.1980(a), Subpart AAAA: Compliance Certification

**Emission Unit Level**

- 55 6NYCRR 201-6: Emission Point Definition By Emission Unit
- 56 6NYCRR 201-6: Process Definition By Emission Unit

**EU=1-LFGAS,Proc=GAS,ES=01FLR**

- 57 6NYCRR 208.3(b)(2)(iii)(a): Compliance Certification

**EU=1-LFGTE**

- 58 6NYCRR 202-1: Compliance Certification
- 59 6NYCRR 208.3(b)(2)(iii)(c): Compliance Certification
- 60 6NYCRR 227-1.3(a): Compliance Certification
- 61 40CFR 60, NSPS Subpart JJJ: Compliance Certification
- 62 40CFR 63.6590(a)(2), Subpart ZZZZ: Compliance Certification

**STATE ONLY ENFORCEABLE CONDITIONS**

**Facility Level**

- 63 ECL 19-0301: Contaminant List
- 64 6NYCRR 201-1.4: Unavoidable noncompliance and violations
- 65 6NYCRR 211.2: Air pollution prohibited



**FEDERALLY ENFORCEABLE CONDITIONS**

\*\*\*\* Facility Level \*\*\*\*

**NOTIFICATION OF GENERAL PERMITTEE OBLIGATIONS**

The items listed below are not subject to the annual compliance certification requirements under Title V. Permittees may also have other obligations under regulations of general applicability.

**Item A: Emergency Defense - 6NYCRR Part 201-1.5**

An emergency constitutes an affirmative defense to an action brought for noncompliance with emissions limitations or permit conditions for all facilities in New York State.

(a) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An emergency occurred and that the facility owner and/or

operator can identify the cause(s) of the emergency;

(2) The equipment at the permitted facility causing the emergency was at the time being properly operated;

(3) During the period of the emergency the facility owner and/or operator took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and

(4) The facility owner and/or operator notified the Department

within two working days after the event occurred. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(b) In any enforcement proceeding, the facility owner and/or operator seeking to establish the occurrence of an emergency has the burden of proof.

(c) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

**Item B: Public Access to Recordkeeping for Title V Facilities - 6NYCRR Part 201-1.10(b)**

The Department will make available to the public any permit application, compliance plan, permit, and monitoring and compliance certification report pursuant to Section 503(e) of the Act, except for information entitled to confidential treatment pursuant to 6NYCRR Part 616 - Public Access to records and Section 114(e) of the Act.



**Item C: Timely Application for the Renewal of Title V Permits - 6 NYCRR Part 201-6.3(a)(4)**

Owners and or operators of facilities having an issued Title V permit shall submit a complete application at least 180 days, but not more than eighteen months, prior to the date of permit expiration for permit renewal purposes.

**Item D: Certification by a Responsible Official - 6 NYCRR Part 201-6.3(d)(12)**

Any application, form, report or compliance certification required to be submitted pursuant to the federally enforceable portions of this permit shall contain a certification of truth, accuracy and completeness by a responsible official. This certification shall state that based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

**Item E: Requirement to Comply With All Conditions - 6 NYCRR Part 201-6.5(a)(2)**

The permittee must comply with all conditions of the Title V facility permit. Any permit non-compliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

**Item F: Permit Revocation, Modification, Reopening, Reissuance or Termination, and Associated Information Submission Requirements - 6 NYCRR Part 201-6.5(a)(3)**

This permit may be modified, revoked, reopened and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**Item G: Cessation or Reduction of Permitted Activity Not a Defense - 6 NYCRR Part 201-6.5(a)(5)**

It shall not be a defense for a permittee in an enforcement action to claim that a cessation or reduction in the permitted activity would have been necessary in order to maintain compliance with the conditions of this permit.

**Item H: Property Rights - 6 NYCRR Part 201-6.5(a)(6)**

This permit does not convey any property rights of any sort or any exclusive privilege.

**Item I: Severability - 6 NYCRR Part 201-6.5(a)(9)**



If any provisions, parts or conditions of this permit are found to be invalid or are the subject of a challenge, the remainder of this permit shall continue to be valid.

**Item J: Permit Shield - 6 NYCRR Part 201-6.5(g)**

All permittees granted a Title V facility permit shall be covered under the protection of a permit shield, except as provided under 6 NYCRR Subpart 201-6. Compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that such applicable requirements are included and are specifically identified in the permit, or the Department, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the major stationary source, and the permit includes the determination or a concise summary thereof. Nothing herein shall preclude the Department from revising or revoking the permit pursuant to 6 NYCRR Part 621 or from exercising its summary abatement authority. Nothing in this permit shall alter or affect the following:

- i. The ability of the Department to seek to bring suit on behalf of the State of New York, or the Administrator to seek to bring suit on behalf of the United States, to immediately restrain any person causing or contributing to pollution presenting an imminent and substantial endangerment to public health, welfare or the environment to stop the emission of air pollutants causing or contributing to such pollution;
- ii. The liability of a permittee of the Title V facility for any violation of applicable requirements prior to or at the time of permit issuance;
- iii. The applicable requirements of Title IV of the Act;
- iv. The ability of the Department or the Administrator to obtain information from the permittee concerning the ability to enter, inspect and monitor the facility.

**Item K: Reopening for Cause - 6 NYCRR Part 201-6.5(i)**

This Title V permit shall be reopened and revised under any of the following circumstances:

- i. If additional applicable requirements under the Act become applicable where this permit's remaining term is three or more years, a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the



effective date of the requirement is later than the date on which this permit is due to expire, unless the original permit or any of its terms and conditions has been extended by the Department pursuant to the provisions of Part 201-6.7 and Part 621.

ii. The Department or the Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

iii. The Department or the Administrator determines that the Title V permit must be revised or reopened to assure compliance with applicable requirements.

iv. If the permitted facility is an "affected source" subject to the requirements of Title IV of the Act, and additional requirements (including excess emissions requirements) become applicable. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

Proceedings to reopen and issue Title V facility permits shall follow the same procedures as apply to initial permit issuance but shall affect only those parts of the permit for which cause to reopen exists.

Reopenings shall not be initiated before a notice of such intent is provided to the facility by the Department at least thirty days in advance of the date that the permit is to be reopened, except that the Department may provide a shorter time period in the case of an emergency.

**Item L: Permit Exclusion - ECL 19-0305**

The issuance of this permit by the Department and the receipt thereof by the Applicant does not and shall not be construed as barring, diminishing, adjudicating or in any way affecting any legal, administrative or equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Department may have against the Applicant for violations based on facts and circumstances alleged to have occurred or existed prior to the effective date of this permit, including, but not limited to, any enforcement action authorized pursuant to the provisions of applicable federal law, the Environmental Conservation Law of the State of New York (ECL) and Chapter III of the Official Compilation of the Codes, Rules and Regulations of the State of New York (NYCRR). The issuance of this permit also shall not in any way affect pending or future enforcement actions under the Clean Air Act brought by the United States or any person.



**Item M: Federally Enforceable Requirements - 40 CFR 70.6(b)**

All terms and conditions in this permit required by the Act or any applicable requirement, including any provisions designed to limit a facility's potential to emit, are enforceable by the Administrator and citizens under the Act. The Department has, in this permit, specifically designated any terms and conditions that are not required under the Act or under any of its applicable requirements as being enforceable under only state regulations.

**MANDATORY FEDERALLY ENFORCEABLE PERMIT CONDITIONS  
SUBJECT TO ANNUAL CERTIFICATIONS AT ALL TIMES**

The following federally enforceable permit conditions are mandatory for all Title V permits and are subject to annual compliance certification requirements at all times.

**Condition 1: Acceptable Ambient Air Quality**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable Federal Requirement: 6 NYCRR 200.6**

**Item 1.1:**

Notwithstanding the provisions of 6 NYCRR Chapter III, Subchapter A, no person shall allow or permit any air contamination source to emit air contaminants in quantities which alone or in combination with emissions from other air contamination sources would contravene any applicable ambient air quality standard and/or cause air pollution. In such cases where contravention occurs or may occur, the Commissioner shall specify the degree and/or method of emission control required.

**Condition 2: Fees**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable Federal Requirement: 6 NYCRR 201-6.5(a)(7)**

**Item 2.1:**

The owner and/or operator of a stationary source shall pay fees to the Department consistent with the fee schedule authorized by ECL 72-0302.

**Condition 3: Recordkeeping and reporting of compliance monitoring**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable Federal Requirement: 6 NYCRR 201-6.5(c)**

**Item 3.1:**

The following information must be included in any required compliance monitoring records and reports:

(i) The date, place, and time of sampling or measurements;



(ii) The date(s) analyses were performed;

(iii) The company or entity that performed the analyses;

(iv) The analytical techniques or methods used including quality assurance and quality control procedures if required;

(v) The results of such analyses including quality assurance data where required; and

(vi) The operating conditions as existing at the time of sampling or measurement.

Any deviation from permit requirements must be clearly identified in all records and reports. Reports must be certified by a responsible official, consistent with Section 201-6.3 of this Part 201.

**Condition 4: Monitoring, Related Recordkeeping, and Reporting Requirements.**

**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 6 NYCRR 201-6.5(c)(2)**

**Item 4.1:**

Compliance monitoring and recordkeeping shall be conducted according to the terms and conditions contained in this permit and shall follow all quality assurance requirements found in applicable regulations. Records of all monitoring data and support information must be retained for a period of at least 5 years from the date of the monitoring, sampling, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

**Condition 5: Compliance Certification**

**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 6 NYCRR 201-6.5(c)(3)(ii)**

**Item 5.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 5.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

Monitoring Description:

To meet the requirements of this facility permit with respect to reporting, the permittee must:

Submit reports of any required monitoring at a minimum frequency of every 6 months, based on a calendar year reporting schedule. These reports shall be submitted to the Department within 30 days after the end of a reporting period. All instances of deviations from permit



requirements must be clearly identified in such reports. All required reports must be certified by the responsible official for this facility.

Notify the Department and report permit deviations and incidences of noncompliance stating the probable cause of such deviations, and any corrective actions or preventive measures taken. Where the underlying applicable requirement contains a definition of prompt or otherwise specifies a time frame for reporting deviations, that definition or time frame shall govern. Where the underlying applicable requirement fails to address the time frame for reporting deviations, reports of deviations shall be submitted to the permitting authority based on the following schedule:

(1) For emissions of a hazardous air pollutant or a toxic air pollutant (as identified in an applicable regulation) that continue for more than an hour in excess of permit requirements, the report must be made within 24 hours of the occurrence.

(2) For emissions of any regulated air pollutant, excluding those listed in paragraph (1) of this section, that continue for more than two hours in excess of permit requirements, the report must be made within 48 hours.

(3) For all other deviations from permit requirements, the report shall be contained in the 6 month monitoring report required above.

(4) This permit may contain a more stringent reporting requirement than required by paragraphs (1), (2) or (3) above. If more stringent reporting requirements have been placed in this permit or exist in applicable requirements that apply to this facility, the more stringent reporting requirement shall apply.

If any of the above conditions are met, the source must notify the permitting authority by telephone or facsimile based on the timetable listed in paragraphs (1) through (4) of this section. A written notice, certified by a responsible official consistent with 6 NYCRR Part 201-6.3(d)(12), must be submitted within 10 working days of the occurrence. All deviations reported under paragraph (1) through (4) of this section must also be identified in the 6 month monitoring report required above.

If the permittee seeks to have a violation excused as provided in 201-1.4, the permittee shall report such violations as required under 201-1.4(b). However, in no



case may reports of any deviation be on a less frequent basis than those described in paragraphs (1) through (4) above. In order to have a violation of a federal regulation (such as a new source performance standard or national emissions standard for hazardous air pollutants) excused, the specific federal regulation must provide for an affirmative defense during start-up, shutdowns, malfunctions or upsets.

In the case of any condition contained in this permit with a reporting requirement of "Upon request by regulatory agency" the permittee shall include in the semiannual report, a statement for each such condition that the monitoring or recordkeeping was performed as required or requested and a listing of all instances of deviations from these requirements.

In the case of any emission testing performed during the previous six month reporting period, either due to a request by the Department, EPA, or a regulatory requirement, the permittee shall include in the semiannual report a summary of the testing results and shall indicate whether or not the Department or EPA has approved the results.

All semiannual reports shall be submitted to the Administrator (or his or her representative) as well as two copies to the Department (one copy to the regional air pollution control engineer (RAPCE) in the regional office and one copy to the Bureau of Compliance Monitoring and Enforcement (BCME) in the DEC central office). Mailing addresses for the above referenced persons are contained in the monitoring condition for 6 NYCRR Part 201-6.5(e), contained elsewhere in this permit.

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)  
Reports due 30 days after the reporting period.  
The initial report is due 1-30-2009.  
Subsequent reports are due every 6 calendar month(s).

**Condition 6: Compliance Certification**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable Federal Requirement: 6 NYCRR 201-6.5(e)**

**Item 6.1:**  
The Compliance Certification activity will be performed for the Facility.

**Item 6.2:**  
Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES  
Monitoring Description:



Requirements for compliance certifications with terms and conditions contained in this facility permit include the following:

- i. Compliance certifications shall contain:
  - the identification of each term or condition of the permit that is the basis of the certification;
  - the compliance status;
  - whether compliance was continuous or intermittent;
  - the method(s) used for determining the compliance status of the facility, currently and over the reporting period consistent with the monitoring and related recordkeeping and reporting requirements of this permit;
  - such other facts as the Department may require to determine the compliance status of the facility as specified in any special permit terms or conditions;
  - and
  - such additional requirements as may be specified elsewhere in this permit related to compliance certification.
  
- ii. The responsible official must include in the annual certification report all terms and conditions contained in this permit, including emission limitations, standards, or work practices. That is, the provisions labeled herein as "Compliance Certification" are not the only provisions of this permit for which an annual certification is required.
  
- iii. Compliance certifications shall be submitted annually. Certification reports are due 30 days after the anniversary date of four consecutive calendar quarters. The first report is due 30 days after the calendar quarter that occurs just prior to the permit anniversary date, unless another quarter has been acceptable by the Department.
  
- iv. All compliance certifications shall be submitted to the Administrator (or his or her representative) as well as two copies to the Department (one copy to the regional air pollution control engineer (RAPCE) in the regional office and one copy to the Bureau of Compliance Monitoring and Enforcement (BCME) in the DEC central office). Please send annual compliance certifications to Chief of the Stationary Source Compliance Section, the Region 2 EPA representative for the Administrator, at the following address:

USEPA Region 2  
Air Compliance Branch  
290 Broadway  
New York, NY 10007-1866



The address for the RAPCE is as follows:

270 Michigan Avenue  
Buffalo, NY 14203-2999

The address for the BCMF is as follows:

NYSDEC  
Bureau of Compliance Monitoring  
and Enforcement  
625 Broadway  
Albany, NY 12233-3258

Monitoring Frequency: ANNUALLY  
Reporting Requirements: ANNUALLY (CALENDAR)  
Reports due 30 days after the reporting period.  
The initial report is due 1/30/2009.  
Subsequent reports are due on the same day each year

**Condition 7: Compliance Certification**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 202-2.1**

**Item 7.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 7.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

Monitoring Description:

Emission statements shall be submitted on or before April  
15th each year for emissions of the previous calendar  
year.

Monitoring Frequency: ANNUALLY  
Reporting Requirements: ANNUALLY (CALENDAR)  
Reports due by April 15th for previous calendar year

**Condition 8: Recordkeeping requirements**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 202-2.5**

**Item 8.1:**

(a) The following records shall be maintained for at least five years:

- (1) a copy of each emission statement submitted to the department; and
- (2) records indicating how the information submitted in the emission statement was determined, including any calculations, data, measurements, and estimates



used.

(b) These records shall be made available at the facility to the representatives of the department upon request during normal business hours.

**Condition 9: Open Fires Prohibited at Industrial and Commercial Sites**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 215**

**Item 9.1:**

No person shall burn, cause, suffer, allow or permit the burning in an open fire of garbage, refuse, rubbish for salvage, or rubbish generated by industrial or commercial activities.

**MANDATORY FEDERALLY ENFORCEABLE PERMIT CONDITIONS**  
**SUBJECT TO ANNUAL CERTIFICATIONS ONLY IF APPLICABLE**

The following federally enforceable permit conditions are mandatory for all Title V permits and are subject to annual compliance certification requirements only if effectuated during the reporting period. [NOTE: The corresponding annual compliance certification for those conditions not effectuated during the reporting period shall be specified as "not applicable".]

**Condition 10: Maintenance of Equipment**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 200.7**

**Item 10.1:**

Any person who owns or operates an air contamination source which is equipped with an emission control device shall operate such device and keep it in a satisfactory state of maintenance and repair in accordance with ordinary and necessary practices, standards and procedures, inclusive of manufacturer's specifications, required to operate such device effectively.

**Condition 11: Recycling and Salvage**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 201-1.7**

**Item 11.1:**

Where practical, any person who owns or operates an air contamination source shall recycle or salvage air contaminants collected in an air cleaning device according to the requirements of the ECL.

**Condition 12: Prohibition of Reintroduction of Collected Contaminants to the air**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 201-1.8**



**Item 12.1:**

No person shall unnecessarily remove, handle or cause to be handled, collected air contaminants from an air cleaning device for recycling, salvage or disposal in a manner that would reintroduce them to the outdoor atmosphere.

**Condition 13: Exempt Sources - Proof of Eligibility**  
Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement:6NYCRR 201-3.2(a)

**Item 13.1:**

The owner and/or operator of an emission source or unit that is eligible to be exempt may be required to certify that it operates within the specific criteria described in this Subpart. The owner or operator of any such emission source must maintain all required records on-site for a period of five years and make them available to representatives of the department upon request. Department representatives must be granted access to any facility which contains emission sources or units subject to this Subpart, during normal operating hours, for the purpose of determining compliance with this and any other State and Federal air pollution control requirements, regulations, or law.

**Condition 14: Trivial Sources - Proof of Eligibility**  
Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement:6NYCRR 201-3.3(a)

**Item 14.1:**

The owner and/or operator of an emission source or unit that is listed as being trivial in this Part may be required to certify that it operates within the specific criteria described in this Subpart. The owner or operator of any such emission source must maintain all required records on-site for a period of five years and make them available to representatives of the department upon request. Department representatives must be granted access to any facility which contains emission sources or units subject to this Subpart, during normal operating hours, for the purpose of determining compliance with this and any other State and Federal air pollution control requirements, regulations, or law.

**Condition 15: Standard Requirement - Provide Information**  
Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement:6NYCRR 201-6.5(a)(4)

**Item 15.1:**

The owner and/or operator shall furnish to the department, within a reasonable time, any information that the department may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the department copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the administrator along with a claim of confidentiality, if the administrator initiated the request for information or otherwise has need of it.

**Condition 16: General Condition - Right to Inspect**  
Effective between the dates of 10/29/2008 and 10/28/2013



**Applicable Federal Requirement:6NYCRR 201-6.5(a)(8)**

**Item 16.1:**

The department or an authorized representative shall be allowed upon presentation of credentials and other documents as may be required by law to:

- (i) enter upon the permittee's premises where a facility subject to the permitting requirements of this Subpart is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;
- (ii) have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
- (iii) inspect at reasonable times any emission sources, equipment (including monitoring and air pollution control equipment), practices, and operations regulated or required under the permit; and
- (iv) sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

**Condition 17: Standard Requirements - Progress Reports**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 201-6.5(d)(5)**

**Item 17.1:**

Progress reports consistent with an applicable schedule of compliance are to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the department. Such progress reports shall contain the following:

- (i) dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and
- (ii) an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

**Condition 18: Off Permit Changes**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 201-6.5(f)(6)**

**Item 18.1:**

No permit revision will be required for operating changes that contravene an express permit term, provided that such changes would not violate applicable requirements as defined under this Part or contravene federally enforceable monitoring (including test methods), recordkeeping, reporting, or compliance certification permit terms and conditions. Such changes may be made without requiring a permit revision, if the changes are not modifications under any provision of title I of the act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions) provided that the facility provides the administrator and the



department with written notification as required below in advance of the proposed changes within a minimum of seven days. The facility owner or operator, and the department shall attach each such notice to their copy of the relevant permit.

(i) For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.

(ii) The permit shield described in section 6 NYCRR 201-6.6 shall not apply to any change made pursuant to this paragraph.

**Condition 19: Required Emissions Tests**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 202-1.1**

**Item 19.1:**

For the purpose of ascertaining compliance or non-compliance with any air pollution control code, rule or regulation, the commissioner may require the person who owns such air contamination source to submit an acceptable report of measured emissions within a stated time. Such person shall bear the cost of measurement and preparing the report of measured emissions. Failure of such person to submit a report acceptable to the commissioner within the time stated shall be sufficient reason for the commissioner to suspend or deny a certificate to operate.

**Condition 20: Visible Emissions Limited**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 211.3**

**Item 20.1:**

Except as permitted by a specific part of this Subchapter and for open fires for which a restricted burning permit has been issued, no person shall cause or allow any air contamination source to emit any material having an opacity equal to or greater than 20 percent (six minute average) except for one continuous six-minute period per hour of not more than 57 percent opacity.

**Condition 21: Accidental release provisions.**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:40CFR 68**

**Item 21.1:**

If a chemical is listed in Tables 1,2,3 or 4 of 40 CFR §68.130 is present in a process in quantities greater than the threshold quantity listed in Tables 1,2,3 or 4, the following requirements will apply:

a) The owner or operator shall comply with the provisions of 40 CFR Part 68 and:

b) The owner or operator shall submit at the time of permit issuance (if not previously submitted) one of the following, if such quantities are present:



1) A compliance schedule for meeting the requirements of 40 CFR Part 68 by the date provided in 40 CFR §68.10(a) or.

2) A certification statement that the source is in compliance with all requirements of 40 CFR Part 68, including the registration and submission of the Risk Management Plan. Information should be submitted to:

Risk Management Plan Reporting Center  
C O CSC  
8400 Corporate Dr  
Carrollton, Md. 20785

**Condition 22:**      **Recycling and Emissions Reduction**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable Federal Requirement: 40 CFR 82, Subpart F**

**Item 22.1:**  
The permittee shall comply with all applicable provisions of 40 CFR Part 82.

The following conditions are subject to annual compliance certification requirements for Title V permits only.

**Condition 23:**      **Emission Unit Definition**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable Federal Requirement: 6NYCRR 201-6**

**Item 23.1:**  
The facility is authorized to perform regulated processes under this permit for:

Emission Unit: 1-LFGAS

Emission Unit Description:

Emission Unit 1-LFGAS consists of the landfill area that generates landfill gas (LFG), an active gas collection system (LFGCS), and an open flare (OFLR) to combust the LFG.

**Item 23.2:**  
The facility is authorized to perform regulated processes under this permit for:

Emission Unit: 1-LFGTE

Emission Unit Description:

Emission Unit 1-LFGTE consists of six (6) lean-burn Caterpillar, Inc. Model G3520C IC engines connected to individual electricity generators. The emission unit includes ancillary equipment that supports the electricity generation operations.





Building(s): ENGBLDG

**Condition 24: Non Applicable requirements  
Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 201-6.5(g)**

**Item 24.1:**

This section contains a summary of those requirements that have been specifically identified as being not applicable to this facility and/or emission units, emission points, processes and/or emission sources within this facility. The summary also includes a justification for classifying any such requirements as non-applicable.

**6NYCRR 227-2**

Reason: The existing facility nitrogen oxide (NOx) emissions emitted by the flare results in a potential to emit (PTE) of 10 tons per year (tpy). The proposed landfill gas to energy project has a NOx PTE of 69 tpy. The resulting facility-wide NOx PTE is 79 tpy which is less than the major facility size threshold of 100 tpy. As such, the combustion sources are not subject to the NOx RACT requirements of 6NYCRR Part 227-2.

**6NYCRR 231-2**

Reason: The existing facility is a non-major source of non-attainment area pollutants, including volatile organic compounds (VOC) and nitrogen oxides (NOx). As such, the proposed project emissions were compared with the major source thresholds of 50 tons per year (tpy) VOC and 100 tpy NOx. The proposed project, by itself, is a minor source of VOC and NOx emissions. In addition, the facility remains a non-major source after the project is complete. The total facility-wide VOC and NOx PTE emissions, including emissions from the existing landfill and the proposed landfill gas to energy (LFGTE) project, are 15 tpy VOC and 79 tpy NOx. Therefore, the facility is not a major source of non-attainment contaminants and is not subject to New Source Review requirements.

**40CFR 52-A.21**

Reason: The existing facility is a minor source of attainment area pollutants including nitrogen oxides (NOx), carbon monoxide (CO), sulfur dioxide (SO2) and particulate matter less than 10 microns (PM-10). As such, the proposed project emissions were compared with the major source threshold of 250 tons per year (tpy) to determine whether or not the project is subject to Prevention of Significant Deterioration (PSD) for the attainment area pollutants. The project potential to emit (PTE) for all these contaminants were below 250 tpy and are as follows:

NOx 69 tpy  
CO 200 tpy



SO<sub>2</sub> 29 tpy  
PM-10 12 tpy

Thus, this project is not subject to PSD. However, total facility-wide PTE emissions after the project is complete will be major for CO. Specifically, the existing facility CO emissions emitted by the flare results in a PTE of 190 tpy. The proposed LFGTE project has a CO PTE of 200 tpy. Both the existing facility and proposed project emissions, by themselves, are less than the major source threshold of 250 tpy. However, the resulting facility-wide CO PTE is 390 tpy which is greater than the major facility size threshold of 250 tpy. As such, the facility will be evaluated as an existing major source for any future PSD projects.

40CFR 64

Reason: Chautauqua County does not operate Pollutant-Specific Emission Units (PSEU) at a major source that use a control device to achieve compliance with any emission limitation or standard. Therefore, Chautauqua County Landfill is not subject to the Compliance Assurance Monitoring (CAM) requirements.

**Condition 25: Standards for Emissions from MSW Landfills**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable Federal Requirement: 6NYCRR 208.3(b)**

**Item 25.1:** The owner or operator of this MSW landfill, having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, will submit an initial design capacity report to the Department. This report must also include the calculated non-methane organic compound (NMOC) emission rate for the landfill. This emission rate will be calculated using the procedures defined in 6 NYCRR 360-2.21(c). This emission rate will be re-calculated on an annual basis, except as provided in 6 NYCRR 360-2.21(h)(2)(i)(b').

If the calculated NMOC emission rate is less than 50 megagrams per year, the owner or operator will:

- submit an annual emission report to the Department; and
- recalculate the NMOC emission rate annually until such time as the calculated NMOC emission rate is equal to or greater than 50 megagrams per year.

When the calculated NMOC emission rate exceeds 50 megagrams per year the owner or operator will submit a collection and control system design and permit application, prepared by a professional engineer, to the Department within 1 year. The landfill gas collection system will be addressed in a Part 360 application or modification, while the landfill gas control system will be addressed in a Part 201 permit application or modification. The collection and control system, that captures the gas generated



within the landfill, will be installed within 30 months after the first annual report in which the NMOC emission rate equals or exceeds 50 megagrams per year.

The active collection system will:

- be designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control over the intended use period of the gas control or treatment system equipment;
- collect gas from each area, cell or group of cells in the landfill in which the initial solid waste has been placed for a period of 5 years or more if active or 2 years or more if closed or at final grade;
- collect gas at a sufficient extraction rate;
- be designed to minimize off-site migration of subsurface gas.

**Condition 26:** Collection system for waste-in-place for 2 or 5 years  
Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement:6NYCRR 208.4(a)

**Item 26.1:**

The owner or operator of this landfill gas collection system will operate the collection system such that gas is collected from each area, cell or group of cells in the landfill in which solid waste has been in place for 5 years or more if active or 2 years or more if inactive

**Condition 27:** Compliance Certification  
Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement:6NYCRR 208.4(b)

**Item 27.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 27.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

The collection system shall be operated with a negative pressure at each wellhead, except under the following conditions:

1. A fire or increased well temperature. The owner or operator shall record instances when positive pressure occurs in efforts to avoid a fire. These records shall be submitted with the annual reports as provided in 6 NYCRR Part 208.8.



2. The use of a geomembrane or synthetic cover. The owner or operator shall develop acceptable pressure limits in the design plan.

3. A decommissioned well. A well may experience a static positive pressure after shut down to accommodate for declining flows. All design changes shall be approved by the Department.

If monitoring demonstrates that the operational requirements are not met, corrective action shall be taken as specified in 6 NYCRR Part 208.6(a)(3) through (5). If corrective actions are taken as specified in 6 NYCRR Part 208.6, the monitored exceedance is not a violation of the operational requirements in this section, however the permittee shall report these episodes as deviations.

Work Practice Type: PARAMETER OF PROCESS MATERIAL  
Process Material: LANDFILL GAS  
Parameter Monitored: PRESSURE  
Upper Permit Limit: 0 pounds per cubic inch  
Monitoring Frequency: MONTHLY  
Averaging Method: 1 HOUR MAXIMUM - NOT TO BE EXCEEDED AT ANY TIME  
Reporting Requirements: SEMI-ANNUALLY (CALENDAR)  
Reports due 30 days after the reporting period.  
The initial report is due 1/30/2009.  
Subsequent reports are due every 6 calendar month(s).

**Condition 28: Compliance Certification**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 6 NYCRR 208.4(c)**

**Item 28.1:**  
The Compliance Certification activity will be performed for the Facility.

**Item 28.2:**  
Compliance Certification shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

Each interior wellhead in the collection system shall be operated with an oxygen level in the landfill gas less than 5%. The owner or operator may establish a higher operating oxygen level at a particular well. A higher operating value demonstration shall show supporting data that the elevated parameter does not cause fires or significantly inhibit anaerobic decomposition by killing methanogens.

If monitoring demonstrates that the operational



requirements are not met, corrective action shall be taken as specified in 6 NYCRR Part 208.6(a)(3) through (5). If corrective actions are taken as specified in 6 NYCRR Part 208.6, the monitored exceedance is not a violation of the operational requirements in this section, however the permittee shall report these episodes as deviations.

Work Practice Type: PARAMETER OF PROCESS MATERIAL  
Process Material: LANDFILL GAS  
Parameter Monitored: OXYGEN CONTENT  
Upper Permit Limit: 5 percent  
Monitoring Frequency: MONTHLY  
Reporting Requirements: ANNUALLY (CALENDAR)  
Reports due 30 days after the reporting period.  
The initial report is due 1/30/2009.  
Subsequent reports are due every 12 calendar month(s).

**Condition 29: Compliance Certification**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 6 NYCRR 208.4(c)**

**Item 29.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 29.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

Operate each interior wellhead in the collection system with a landfill gas temperature less than 55 degrees centigrade. The owner or operator may establish a higher operating temperature at a particular well. A higher operating value demonstration shall show supporting data that the elevated parameter does not cause fires or significantly inhibit anaerobic decomposition by killing methanogens.

If monitoring demonstrates that the operational requirements are not met, corrective action shall be taken as specified in 6 NYCRR Part 208.6(a)(3) through (5). If corrective actions are taken as specified in 6 NYCRR Part 208.6, the monitored exceedance is not a violation of the operational requirements in this section, however the permittee shall report these episodes as deviations.

Work Practice Type: PARAMETER OF PROCESS MATERIAL  
Process Material: LANDFILL GAS  
Parameter Monitored: TEMPERATURE  
Upper Permit Limit: 55 degrees Centigrade (or Celsius)



Monitoring Frequency: MONTHLY  
Reporting Requirements: ANNUALLY (CALENDAR)  
Reports due 30 days after the reporting period.  
The initial report is due 1/30/2009.  
Subsequent reports are due every 12 calendar month(s).

**Condition 30: Compliance Certification**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 6 NYCRR 208.4(d)**

**Item 30.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 30.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: AMBIENT AIR MONITORING

Monitoring Description:

The collection system will be operated so that the methane concentration is less than 500 ppm above background on the surface of the landfill. The owner or operator will conduct surface testing around the perimeter of the collection area along a pattern that traverses the landfill at 30 meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover. Areas with steep slopes or other dangerous areas may be excluded from the surface testing. A surface monitoring design plan will be developed that includes a topographical map with the monitoring route. This plan will be submitted to the Department for review and approval within 60 days of the issuance of this permit.

If monitoring demonstrates that the operational requirements are not met, corrective action shall be taken as specified in 6 NYCRR Part 208.6(c). If corrective actions are taken as specified in 6 NYCRR Part 208.6(c)(4), the monitored exceedance is not a violation of the operational requirements in this section, however the permittee shall report these episodes as deviations.

Parameter Monitored: METHANE

Upper Permit Limit: 500 parts per million (by volume)

Monitoring Frequency: QUARTERLY

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 6 calendar month(s).

**Condition 31: NMOC Calculation - Waste Deposition KNOWN**  
**Effective between the dates of 10/29/2008 and 10/28/2013**



**Applicable Federal Requirement:6NYCRR 208.5(a)(1)(i)**

**Item 31.1:**

The following equation will be used to determine the NMOC emission rate, if the year-to-year solid waste acceptance rate is known:

$$M_{NMOC} = \sum_{i=1}^n \{2 k L_0 M_i e^{-kt} C_{NMOC} (3.6 \times 10^{-9})\};$$

where the NMOC emission rate is calculated for each cell (i) and n = the number of cells that are applicable to this rule and the other factors for this equation are used as defined in 6 NYCRR Part 208.5(a)(1)(i)

**Condition 32: Compliance Certification**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 208.5(a)(1)(i)**

**Item 32.1:**

The Compliance Certification activity will be performed for the Facility.

Regulated Contaminant(s):  
 CAS No: 0NY998-20-0 NMOC - LANDFILL USE ONLY

**Item 32.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES  
 Monitoring Description:

1. Applicability and compliance determinations for certain regulations require the landfill to estimate landfill gas emission rates using the equation identified in Part 208.5(a)(1)(i) and to estimate the projected maximum gas generation flow rate using the equation specified in Part 208.6(a). The regulations evaluated for Chautauqua Landfill included the New York State Regulation for Controlling Gas Emissions from Landfills (6NYCRR Part 208), New Source Review (6NYCRR Part 231-2), and Prevention of Significant Deterioration (40CFR52.21).

2. The Landfill Gas Emissions Computer Model (LandGEM) uses these equations to generate the emissions and gas generation flow rates from the landfill. LandGEM relies on several input parameters to estimate emissions. The input parameters can either be site-specific data or default parameters if no site-specific data are available. Site-specific parameters used in LandGEM, which are



typically available, include the permitted waste design capacity of the landfill, the permitted or actual year-to-year solid waste acceptance rates and the actual NMOC concentration. The site-specific and default parameters used in the analysis for Chautauqua County included:

- (i) Permitted waste design capacity = 5,900,000 Mg;
- (ii) Maximum annual waste acceptance rate and alternate daily cover (ADC) equal to 380,896 tons per year.
- (iii) actual measured NMOC concentration = 292 ppmv as hexane
- (iv) Default values of  $L_0 = 170 \text{ m}^3/\text{Mg}$ ,  $k = 0.05$ , methane concentration = 50%.

3. For the purposes of determining waste acceptance rates, waste shall include: municipal solid waste, industrial waste, construction and demolition debris, contaminated soil, sludge, tire waste, and any other solid waste material. Inert materials such as ash, asbestos and other materials may be excluded from the annual waste acceptance rate calculation upon written request and approval by the Region 9 Division of Air Resources. Such a request shall provide sufficient justification the waste in question is not degradable and does not contribute to landfill gas generation.

4. Chautauqua County Landfill shall maintain records to document the actual waste and ADC received per delivery. The combined total actual annual waste and ADC acceptance rates shall be determined by January 30 of each calendar year. The records shall be made available upon request from the Department during normal business hours.

5. If the combined total of the actual annual waste and ADC acceptance rate exceeds 380,896 tons, the facility shall input the actual rate into LandGEM and re-evaluate the emissions from the landfill. A report of the LandGEM results and re-evaluation of the applicability to 6NYCRR Part 231-2 and 40CRF52.21 shall be provided to the Department within 30 days of the recorded waste increase.

Monitoring Frequency: PER DELIVERY

Reporting Requirements: AS REQUIRED - SEE MONITORING DESCRIPTION

**Condition 33: System NMOC Emission Rate**

**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 6NYCRR 208.5(b)**

**Item 33.1:**

After installation of a collection and control system, the owner or operator will calculate the NMOC emission rate, for the purposes of determining when the system can be removed, using the following equation:

$M_{NMOC} = 1.89 \times 10^{-3} (Q_{LFG})(C_{NMOC})$ ; where  $M_{NMOC}$  = mass emission rate of NMOC (megagrams/year),  $Q_{LFG}$  (the flow of landfill gas to the system) is determined by measuring the total landfill gas flow rate at the common header pipe that leads to the control device using a gas flow measuring device and the concentration of NMOC ( $C_{NMOC}$ ) is determined by collecting and analyzing landfill gas using the procedures in Method 25, 25C or Method 18 of Appendix A of 40 CFR Part 60. The system may be removed if the NMOC emission rate drops below 50 megagrams per year.

**Condition 34: Use of emission factors**  
Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement:6NYCRR 208.5(c)

**Item 34.1:**

When calculating emissions for PSD purposes, the owner or operator of each MSW landfill subject to the provisions of this section shall estimate the NMOC emission rate for comparison to the PSD major source and significance levels in 40 CFR section 51.166 or 52.21 (see section 200.9 of 6 NYCRR 200) using AP-42 or other approved measurement procedures

**Condition 35: System Efficiency**  
Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement:6NYCRR 208.5(d)

**Item 35.1:**

For the performance test required in 6 NYCRR Part 208.3(b)(2)(iii)(b), Method 25C, 25 or Method 18 of Appendix A of 40 CFR 60 shall be used to determine compliance with the 98% weight efficiency or the 20 ppmv outlet concentration level. The following equation shall be used to calculate efficiency:

$$\text{Control Efficiency} = \frac{NMOC_{in} - NMOC_{out}}{NMOC_{in}}$$

**Condition 36: Gas Collection System Compliance**  
Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement:6NYCRR 208.6(a)

**Item 36.1:**

Except as provided in 6 NYCRR Part 208.3(b)(2)(i)(b), the specified methods in paragraphs (1) through (6) of this subdivision shall be used to determine whether the gas collection system is in compliance with 6 NYCRR Part 208.3(b)(2)(i).

(1) For the purposes of calculating the maximum expected gas generation flow rate from the landfill to determine compliance with 6 NYCRR Part 208.3(b)(2)(ii)(a)(1), one of the



following equations shall be used. The  $k$  and  $L_0$  kinetic factors should be those published in the most recent Compilation of Air Pollutant Emission Factors (AP-42) or other site specific values demonstrated to be appropriate and approved by the department. If  $k$  has been determined as specified in 6 NYCRR Part 208.5(a)(4), the value of  $k$  determined from the test shall be used. A value of no more than 15 years shall be used for the intended use period of the gas mover equipment. The active life of the landfill is the age of the landfill plus the estimated number of years until closure.

(i) For sites with unknown year-to-year solid waste acceptance rate:

$$Q_m = 2L_0 R (e^{-kt} - e^{-k(t-t)})$$

where,

$Q_m$  = maximum expected gas generation flow rate, cubic meters per year

$L_0$  = methane generation potential, cubic meters per megagram solid waste

$R$  = average annual acceptance rate, megagrams per year

$k$  = methane generation rate constant, year<sup>-1</sup>

$t$  = age of the landfill at equipment installation plus the time the owner or operator intends to use the gas mover equipment or active life of the landfill, whichever is less. If the equipment is installed after closure,  $t$  is the age of the landfill at installation, years

$e^{-kt}$  = time since closure, years (for an active landfill  $e^{-kt} = 0$  and  $e^{-k(t-t)} = 1$ )

(ii) For sites with known year-to-year solid waste acceptance rate:

$$Q_M = \sum 2 k L_0 M_i (e^{-kt_i} - e^{-k(t-t_i)})$$

where,

$Q_M$  = maximum expected gas generation flow rate, cubic meters per year

$k$  = methane generation rate constant, year<sup>-1</sup>

$L_0$  = methane generation potential, cubic meters per megagram solid waste

$M_i$  = mass of solid waste in the  $i$ th section, megagrams

$t_i$  = age of the  $i$ th section, years

(iii) If a collection and control system has been installed, actual flow data may be used to project the maximum expected gas generation flow rate instead of, or in conjunction with,



the equations in subparagraph (i) and (ii) of this paragraph. If the landfill is still accepting waste, the actual measured flow data will not equal the maximum expected gas generation rate, so calculations using the equations in subparagraph (i) or (ii) of this paragraph or other methods shall be used to predict the maximum expected gas generation rate over the intended period of use of the gas control system equipment.

(2) For the purposes of determining sufficient density of gas collectors for compliance with 6 NYCRR Part 208.3(b)(2)(ii)(a)(2), the owner or operator shall design a system of vertical wells, horizontal collectors, or other collection devices, satisfactory to the department, capable of controlling and extracting gas from all portions of the landfill sufficient to meet all operational and performance standards.

(3) For the purpose of demonstrating whether the gas collection system flow rate is sufficient to determine compliance with 6 NYCRR Part 208.3(b)(2)(ii)(a)(3), the owner or operator shall measure gauge pressure in the gas collection header at each individual well, monthly. If a positive pressure exists, action shall be initiated to correct the exceedance within five calendar days, except for the three conditions allowed under 6 NYCRR Part 208.4(b). If negative pressure cannot be achieved without excess air infiltration within 15 calendar days of the first measurement, the gas collection system shall be expanded to correct the exceedance within 120 days of the initial measurement of positive pressure. Any attempted corrective measure shall not cause exceedances of other operational or performance standards. An alternative timeline for correcting the exceedance may be submitted to the department for approval.

(4) Owners or operators are not required to expand the system as required in paragraph (3) of this subdivision during the first 180 days after gas collection system startup.

(5) For the purpose of identifying whether excess air infiltration into the landfill is occurring, the owner or operator shall monitor each well monthly for temperature and nitrogen or oxygen as provided in 6 NYCRR Part 208.4(c). If a well exceeds one of these operating parameters, action shall be initiated to correct the exceedance within five calendar days. If correction of the exceedance cannot be achieved within 15 calendar days of the first measurement, the gas collection system shall be expanded to correct the exceedance within 120 days of the initial exceedance. Any attempted corrective measure shall not cause exceedances of other operational or performance standards. An alternative timeline for correcting the exceedance may be submitted to the department for approval.

(6) An owner or operator seeking to demonstrate compliance with 6 NYCRR Part 208.3(b)(2)(ii)(a)(4) through the use of a collection system not conforming to the specifications provided in 6 NYCRR Part 208.10, shall provide information satisfactory to the USEPA as specified in 6 NYCRR Part 208.3(b)(2)(i)(c) demonstrating that off-site migration is being controlled.

**Condition 37: Well Placement**

**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 6 NYCRR 208.6(b)**

**Item 37.1:**

For purposes of compliance with 6 NYCRR Part 208.4(a), each owner or operator of a controlled landfill shall place each well or design component as specified in the approved



design plan as provided in 6 NYCRR Part 208.3(b)(2)(i). Each well shall be installed no later than 60 days after the date on which the initial solid waste has been in place for a period of:

- (1) five years or more if active; or
- (2) two years or more if closed or at final grade.

**Condition 38: Surface Methane Monitoring**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 6 NYCRR 208.6(c)**

**Item 38.1:**

The following procedures shall be used for compliance with the surface methane operational standard as provided in 6 NYCRR Part 208.4(d).

1) After installation of the collection system, the owner or operator shall monitor surface concentrations of methane along the entire perimeter of the collection area and along a pattern that traverses the landfill at 30-meter intervals (or a site-specific established spacing) for each collection area on a quarterly basis using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in 6 NYCRR Part 208.6(d)

2) The background concentration shall be determined by moving the probe inlet upwind and downwind outside the boundary of the landfill at a distance of at least 30 meters from the perimeter wells. 3) Surface emission monitoring shall be performed in accordance with section 4.3.1 of Method 21 of 40 CFR Part 60 Appendix A, except that the probe inlet shall be placed within 5 to 10 centimeters of the ground. Monitoring shall be performed during typical meteorological conditions.

4) Any reading of 500 parts per million or more above background at any location shall be recorded as a monitored exceedance and the actions specified in (i) through (v) below shall be taken. As long as the specified actions are taken, the exceedance is not a violation of the operational requirements of 6 NYCRR Part 208.4(d).

i) The location of each monitored exceedance shall be marked and the location recorded.

ii) Cover maintenance or adjustments to the vacuum of the adjacent wells to increase the gas collection in the vicinity of each exceedance shall be made and the location shall be re-monitored within 10 calendar days of detecting the exceedance.

iii) If the re-monitoring of the location shows a second exceedance, additional corrective action shall be taken and the location shall be monitored again within 10 days of the second exceedance. If the re-monitoring shows a third exceedance for the same location, the action specified in (5) below shall be taken, and no further monitoring of that location is required until the action specified in (5) has been taken.

iv) Any location that initially showed an exceedance but has a methane concentration less than 500 ppm methane above background at the 10-day re-monitoring specified in (ii) or (iii) above shall be re-monitored 1 month from the initial exceedance. If the 1-month re-monitoring shows a concentration less than 500 parts per million above background, no further monitoring of that location is required until the next quarterly monitoring period. If the 1-month re-monitoring shows an exceedance, the actions specified



in (iii) or (v) shall be taken.

v) For any location where monitored methane concentration equals or exceeds 500 parts per million above background three times within a quarterly period, a new well or other collection device shall be installed within 120 calendar days of the initial exceedance. An alternative remedy to the exceedance, such as upgrading the blower, header pipes or control device, and a corresponding timeline for installation may be submitted to the Administrator for approval.

5) The owner or operator shall implement a program to monitor for cover integrity and implement cover repairs as necessary on a monthly basis

**Condition 39: Instrument Specs for Surface Methane Analyzer**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable Federal Requirement:6NYCRR 208.6(d)**

**Item 39.1:**

Each owner or operator seeking to comply with the provisions in 6 NYCRR Part 208.6(c) shall comply with the following instrumentation specifications and procedures for surface emission monitoring devices:

1) The portable analyzer shall meet the instrument specifications provided in section 3 of Method 21 of 40 CFR Part 60 Appendix A, except that "methane" shall replace all references to VOC.

2) The calibration gas shall be methane, diluted to a nominal concentration of 500 parts per million in air.

3) To meet the performance evaluation requirements in section 3.1.3 of Method 21 of 40 CFR Part 60 Appendix A, the instrument evaluation procedures of section 4.4 of Method 21 shall be used.

4) The calibration procedures provided in section 4.2 of Method 21 of 40 CFR Part 60 Appendix A shall be followed immediately before commencing a surface monitoring survey

5) The provisions of 6 NYCRR Part 208.6(d) apply at all times, except during periods of start-up, shutdown or malfunction, provided that the duration of the start-up, shutdown or malfunction shall not exceed 5 days for collection systems and shall not exceed 1 hour for treatment or control devices.

**Condition 40: Compliance Certification**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable Federal Requirement:6NYCRR 208.7(a)**

**Item 40.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 40.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

Monitoring Description:

Each owner or operator seeking to comply with 6 NYCRR



Part 208.3(b)(2)(ii)(a) with an active gas collection system shall install a sampling port and a thermometer, other temperature measuring device, or an access port for temperature measurements at each wellhead and:

1. Measure the gauge pressure in the gas collection header, as provided in 6 NYCRR Part 208.6(a)(3); and
2. Monitor nitrogen or oxygen concentration in the landfill gas on a monthly basis as provided in 6 NYCRR Part 208.6(a)(5); and
3. Monitor temperature of the landfill gas on a monthly basis as provided in 6 NYCRR Part 208.6(a)(5).

Monitoring Frequency: MONTHLY

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 6 calendar month(s).

**Condition 41: Open Flare with Electronic Ignition**  
Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement:6NYCRR 208.7(e)

**Item 41.1:**

For landfills that use open flares to control landfill gas, the owner or operator of the landfill will install, calibrate, maintain and operate according to the manufacturer's specifications the following equipment:

1. A heat sensing device at the pilot light or flame itself to indicate the continuous presence of a flame or, for flares with electronic ignition, an indicator light to verify the presence of the ignition spark;
2. A device that records flow, at least every 15 minutes, to, or bypass of, the flare.

**Condition 42: Monitoring of Operations - Other Control Devices**  
Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement:6NYCRR 208.7(d)

**Item 42.1:**

For landfills that use a device other than an open flare or enclosed combustor to control the landfill gas, the owner or operator will provide information satisfactory to the Department describing the operation of the control device, the operating parameters that would indicate proper performance and appropriate monitoring procedures. The Department will review the information and either approve it or request that additional information be submitted.

**Condition 43: Surface methane monitoring**  
Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement:6NYCRR 208.7(f)

**Item 43.1:**



Each owner or operator seeking to demonstrate compliance with section 208.6(c) of this Part, shall monitor surface concentrations of methane according to the instrument specifications and procedures provided in section 208.6(d) of this Part. Any closed landfill that has no monitored exceedances of the operational standard in three consecutive quarterly monitoring periods may skip to annual monitoring. Any methane reading of 500 ppm or more above background detected during the annual monitoring returns the monitoring frequency for that landfill to quarterly monitoring

**Condition 44: Compliance Certification**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 6 NYCRR 208.8(f)**

**Item 44.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 44.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES  
Monitoring Description:

Each owner or operator of a landfill seeking to comply with 6 NYCRR Part 208.3(b)(2) using an active collection system designed in accordance with 6 NYCRR Part 208.3(b)(2)(ii) shall submit to the Department annual reports of the recorded information in paragraphs (1) through (6) below. The initial annual report shall be submitted within 180 days of installation and start-up of the collection and control system, and shall include the initial performance test report required under 40 CFR Part 60.8. For enclosed combustion devices and flares, reportable exceedances are defined under 6 NYCRR Part 208.9(c).

- 1) Value and length of time for exceedance of applicable parameters monitored under 6 NYCRR Part 208.7(a), (b), (c) and (d).
- 2) Description and duration of all periods when the gas stream is diverted from the control device through a bypass line or the indication of bypass flow as specified under 6 NYCRR Part 208.7.
- 3) Description and duration of all periods when the control device was not operating for a period exceeding 1 hour and length of time the control device was not operating.
- 4) All periods when the collection system was not operating in excess of 5 days.
- 5) The location of each exceedance of the 500 parts per million methane concentration as provided in 6 NYCRR Part 208.4(c) and the concentration recorded at each location for which an exceedance was recorded in the previous month.
- 6) The date of installation and the location of each well



or collection system expansion added pursuant to 6 NYCRR Part 208.6(a)(3), 208.6(b) and 208.6(c)(4).

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 6 calendar month(s).

**Condition 45: Reporting Requirements**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 208.8(g)**

**Item 45.1:**

Each owner or operator seeking to comply with 6 NYCRR Part 208.3(b)(2)(iii) shall include the following information with the initial performance test report required under 40 CFR Part 60.8:

- 1) A diagram of the collection system showing collection system positioning including all wells, horizontal collectors, surface collectors, or other gas extraction devices, including the locations of any areas excluded from collection and the proposed sites for the future collection system expansion;
- 2) The data upon which the sufficient density of wells, horizontal collectors, surface collectors, or other gas extraction devices and the gas mover equipment sizing are based;
- 3) The documentation of the presence of asbestos or nondegradable material for each area from which collection wells have been excluded based on the presence of asbestos or nondegradable material;
- 4) The sum of the gas generation flow rates for all areas from which collection wells have been excluded based on nonproductivity and the calculations of gas generation flow rate for each excluded area; and
- 5) The provisions for increasing gas mover equipment capacity with increased gas generation flow rate, if the present gas mover equipment is inadequate to move the maximum flow rate expected over the life of the landfill; and
- 6) The provisions for the control of off-site migration.

**Condition 46: Compliance Certification**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 208.9(a)**

**Item 46.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 46.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING MAINTENANCE PROCEDURES  
Monitoring Description:

Except as provided in 6 NYCRR Part 208.3(b)(3)(i)(a), each owner or operator of an MSW landfill subject to the provisions of 6 NYCRR Part 208.3(b) shall keep for at least 7 years up-to-date, readily accessible, on-site records of the maximum design capacity report which triggered 6 NYCRR Part 208.3(b), the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Averaging Method: ANNUAL TOTAL  
Reporting Requirements: ANNUALITY (CALENDAR)  
Reports due 30 days after the reporting period  
The initial report is due 1/30/2009.  
Subsequent reports are due every 12 calendar month(s)

**Condition 47: Compliance Certification**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 6 NYCRR 208.9(b)**

**Item 47.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 47.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING MAINTENANCE PROCEDURES  
Monitoring Description:

Except as provided in 6 NYCRR Part 208.3(b)(2)(i)(b), each owner or operator of a controlled landfill shall keep up-to-date, readily accessible records for the life of the control equipment of the data listed in paragraphs (1) and (2) below as measured during the initial performance test or compliance determination. Records of subsequent tests or monitoring shall be maintained for a minimum of 7 years. Records of the control device vendor specifications shall be maintained until removal.

1) Where an owner or operator seeks to demonstrate compliance with 6 NYCRR Part 208.3(b)(2)(i):

i) The maximum expected gas generation flow rate as calculated in 6 NYCRR Part 208.6(a)(1). The owner or



**Item 46.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING MAINTENANCE PROCEDURES

Monitoring Description:

Except as provided in 6 NYCRR Part 208.3(b)(3)(i)(a'), each owner or operator of an MSW landfill subject to the provisions of 6 NYCRR Part 208.3(b) shall keep for at least 7 years up-to-date, readily accessible, on-site records of the maximum design capacity report which triggered 6 NYCRR Part 208.3(b), the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Averaging Method: ANNUAL TOTAL

Reporting Requirements: ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 12 calendar month(s).

**Condition 47: Compliance Certification**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 6 NYCRR 208.9(b)**

**Item 47.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 47.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING MAINTENANCE PROCEDURES

Monitoring Description:

Except as provided in 6 NYCRR Part 208.3(b)(2)(i)(b'), each owner or operator of a controlled landfill shall keep up-to-date, readily accessible records for the life of the control equipment of the data listed in paragraphs (1) and (2) below as measured during the initial performance test or compliance determination. Records of subsequent tests or monitoring shall be maintained for a minimum of 7 years. Records of the control device vendor specifications shall be maintained until removal.

1) Where an owner or operator seeks to demonstrate compliance with 6 NYCRR Part 208.3(b)(2)(ii):

i) The maximum expected gas generation flow rate as calculated in 6 NYCRR Part 208.6(a)(1). The owner or



operator may use another method to determine the maximum gas generation flow rate, if the method has been approved by the Department.

ii) The density of wells, horizontal collectors, surface collectors, or other gas extraction devices determined using the procedures specified in 6 NYCRR Part 208.10(a)(1)).

2) Where an owner or operator seeks to demonstrate compliance with 6 NYCRR Part 208.3(b)(2)(iii) through use of an open flare, the flare type (i.e., steam-assisted, air-assisted, or nonassisted), all visible emission readings, heat content determination, flow rate or bypass flow rate measurements, and exit velocity determinations made during the performance test as specified in 40 CFR Part 60.18; continuous records of the flare pilot flame, or presence of ignition spark if an electronic ignition system is used for the flare, or flare flame monitoring and records of all periods of operations during which the pilot flame of the flare flame is absent.

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 6 calendar month(s).

**Condition 48: Compliance Certification**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable Federal Requirement: 6 NYCRR 208.9(c)**

**Item 48.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 48.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING MAINTENANCE PROCEDURES

Monitoring Description:

Except as provided in 6 NYCRR Part 208.3(b)(2)(i)(b'), each owner or operator of a controlled landfill shall keep for 7 years up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored in 6 NYCRR Part 208.7) as well as up-to-date, readily accessible records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded.

2) Each owner or operator shall keep up-to-date, readily accessible continuous records of the indication of flow to the control device or the indication of bypass flow or records of monthly inspections of ear-seals or



lock-and-key configurations used to seal bypass lines, specified under 6 NYCRR Part 208.7.

4) Each owner or operator seeking to comply by use of an open flare shall keep up-to-date, readily accessible continuous records of the flame or flare pilot flame monitoring, or the presence of ignition spark if an electronic ignition system is used, specified under 6 NYCRR Part 208.7(c), and up-to-date, readily accessible records of all periods of operation in which the flame or flare pilot flame is absent.

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 6 calendar month(s).

**Condition 49: Compliance Certification**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 6 NYCRR 208.9(d)**

**Item 49.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 49.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING MAINTENANCE PROCEDURES

Monitoring Description:

Except as provided in 6 NYCRR Part 208.3(b)(2)(i)(b'), each owner or operator shall keep for the life of the collection system an up-to-date, readily accessible plot map showing each existing and planned collector in the system and providing a unique identification location label for each collector.

1) Each owner or operator shall keep up-to-date, readily accessible records of the installation date and location of all newly installed collectors as specified under 6 NYCRR Part 208.6(b).

2) Each owner or operator shall keep readily accessible documentation of the nature, date of deposition, amount, and location of asbestos-containing or nondegradable waste excluded from collection as provided in 6 NYCRR Part 208.10(a)(3)(i) as well as any nonproductive areas excluded from collection as provided in 6 NYCRR Part 208.10(a)(3)(ii).

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.



Subsequent reports are due every 6 calendar month(s).

**Condition 50: Compliance Certification**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable Federal Requirement:6NYCRR 208.9(c)**

**Item 50.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 50.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING MAINTENANCE PROCEDURES

Monitoring Description:

Except as provided in 6 NYCRR Part 208.3(b)(2)(i)('b'), each owner or operator shall keep for at least 7 years up-to-date, readily accessible records of all collection and control system exceedances of the operational standards in 6 NYCRR Part 208.4, the reading in the subsequent month whether or not the second reading is an exceedance, and the location of each exceedance.

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 6 calendar month(s).

**Condition 51: Compliance Certification**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable Federal Requirement:6NYCRR 208.10**

**Item 51.1:**

The Compliance Certification activity will be performed for the Facility.

Regulated Contaminant(s):

CAS No: 0NY998-20-0 NMOG - LANDFILL USE ONLY

**Item 51.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING MAINTENANCE PROCEDURES

Monitoring Description:

§208.10 Specifications for active collection systems

(a) Each owner or operator seeking to comply with section 208.3(b)(2)(i) of this Part shall site active collection wells, horizontal collectors, surface collectors, or other extraction devices at a sufficient density throughout all gas producing areas using the following procedures unless alternative procedures have been approved by the USEPA as



provided in section 208.3(b)(2)(i)(c) and (d) of this Part:

(1) The collection devices within the interior and along the perimeter areas shall be certified to achieve comprehensive control of surface gas emissions by a professional engineer. The following issues shall be addressed in the design: depths of refuse, refuse gas generation rates and flow characteristics, cover properties, gas system expendability, leachate and condensate management, accessibility, compatibility with filling operations, integration with closure end use, air intrusion control, corrosion resistance, fill settlement, and resistance to the refuse decomposition heat.

(2) The sufficient density of gas collection devices determined in paragraph (1) of this subdivision shall address landfill gas migration issues and augmentation of the collection system through the use of active or passive systems at the landfill perimeter or exterior.

(3) The placement of gas collection devices determined in paragraph (1) of this subdivision shall control all gas producing areas, except as provided by subparagraphs (i) and (ii) of this paragraph.

(i) Any segregated area of asbestos or nondegradable material may be excluded from collection if documented as provided under section 208.9(d) of this Part. The documentation shall provide the nature, date of deposition, location and amount of asbestos or nondegradable material deposited in the area, and shall be provided to the department upon request.

(ii) Any nonproductive area of the landfill may be excluded from control, provided that the total of all excluded areas can be shown to contribute less than one percent of the total amount of NMOC emissions from the landfill. The amount, location, and age of the material shall be documented and provided to the department upon request. A separate NMOC emissions estimate shall be made for each section proposed for exclusion, and the sum of all such sections shall be compared to the NMOC emissions estimate for the entire landfill. Emissions from each section shall be computed using the following equation:

$$Q_i = 2 k L_o M_i (e^{-kt_i}) C_{NMOC} (3.6 \times 10^{-9})$$

where,

$Q_i$  = NMOC emission rate from the  $i$ th section, megagrams per year

$k$  = methane generation rate constant, year<sup>-1</sup>

$L_o$  = methane generation potential, cubic meters per megagram solid waste

$M_i$  = mass of the degradable solid waste in the  $i$ th section, megagram



ti = age of the solid waste in the i<sup>th</sup> section,  
years  
CNMOC = concentration of nonmethane organic compounds,  
parts per million by volume  
3.6 x 10<sup>-9</sup> = conversion factor

(iii) The values for k and CNMOC, determined in field testing shall be used, if field testing has been performed in determining the NMOC emission rate or the radii of influence (the distance from the well center to a point in the landfill where the pressure gradient applied by the blower or compressor approaches zero). If field testing has not been performed, the default values for k, 1.0 and CNMOC provided in section 208.5(a)(1)(i) of this Part or the alternative values from section 208.5(a)(5) of this Part shall be used. The mass of nondegradable solid waste contained within the given section may be subtracted from the total mass of the section when estimating emissions provided the nature, location, age, and amount of the nondegradable material is documented as provided in subparagraph (i) of this paragraph.

(b) Each owner or operator seeking to comply with section 208.3(b)(2)(i)(a) of this Part shall construct the gas collection devices using the following equipment or procedures:

(1) the landfill gas extraction components shall be constructed of polyvinyl chloride (PVC), high density polyethylene (HDPE) pipe, fiberglass, stainless steel, or other nonporous corrosion resistant material of suitable dimensions to: convey projected amounts of gases; withstand installation, static, and settlement forces; and withstand planned overburden or traffic loads. The collection system shall extend as necessary to comply with emission and migration standards. Collection devices such as wells and horizontal collectors shall be perforated to allow gas entry without head loss sufficient to impair performance across the intended extent of control. Perforations shall be situated with regard to the need to prevent excessive air infiltration;

(2) vertical wells shall be placed so as not to endanger underlying liners and shall address the occurrence of water within the landfill. Holes and trenches constructed for piped wells and horizontal collectors shall be of sufficient cross-section so as to allow for their proper construction and completion including, for example, centering of pipes and placement of gravel backfill. Collection devices shall be designed so as not to allow indirect short circuiting of air into the cover or refuse into the collection system or gas into the air. Any gravel used around pipe perforations should be of a dimension so



as not to penetrate or block perforations;

(3) collection devices may be connected to the collection header pipes below or above the landfill surface. The connector assembly shall include a positive closing throttle valve, any necessary seals and couplings, access couplings and at least one sampling port. The collection devices shall be constructed of PVC, HDPE, fiberglass, stainless steel, or other nonporous material of suitable thickness.

(c) Each owner or operator seeking to comply with section 208.3(b)(2)(i)(a) of this Part shall convey the landfill gas to a control system in compliance with section 208.3(b)(2)(iii) of this Part through the collection header pipe(s). The gas mover equipment shall be sized to handle the maximum gas generation flow rate expected over the intended use period of the gas moving equipment using the following procedures:

(1) for existing collection systems, the flow data shall be used to project the maximum flow rate. If no flow data exists, the procedures in paragraph (2) of this subdivision shall be used; and

(2) for new collection systems, the maximum flow rate shall be in accordance with section 208.6(a)(1) of this Part.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 6 calendar month(s).

**Condition 52: Compliance Certification**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 40CFR 63.1945, Subpart AAAA**

**Item 52.1:**

The Compliance Certification activity will be performed for the Facility.

Regulated Contaminant(s):

CAS No: 0NY100-00-0 HAP

**Item 52.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING MAINTENANCE PROCEDURES

Monitoring Description:

(f) If your landfill is an existing affected source and



is an area source meeting the criteria in §63.1935(a)(3), you must comply with the requirements in §§63.1955(b) and 63.1960 through 63.1980 by the date your landfill is required to install a collection and control system by 40 CFR 60.752(b)(2) of subpart WWW, the Federal plan, or EPA approved and effective State or tribal plan that applies to your landfill or by January 16, 2004, whichever occurs later.

Chautauqua County Landfill must install a collection and control system in accordance with 6NYCRR Part 208.3(b) which states the approved collection and control system shall be installed within 30 months after the first annual report in which the emission rate equals or exceeds 50 megagrams per year or by June 1, 2010. As such, compliance with this subpart, including development and implementation of a written startup, shutdown, and malfunction (SSM) plan shall be completed by June 1, 2010.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 6 calendar month(s).

**Condition 53: Compliance Certification**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 40CFR 63.1955(b), Subpart AAAAA**

**Item 53.1:**

The Compliance Certification activity will be performed for the Facility.

Regulated Contaminant(s):

CAS No: 0NY100-00-0 HAP

**Item 53.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

Monitoring Description:

If you are required by 40CFR60.752(b)(2) of subpart WWW, the Federal plan, or an EPA approved and effective State or tribal plan to install a collection and control system, you must comply with the requirements in §§63.1960 through 63.1985 and with the general provisions of part 63 as specified in table 1 of Subpart AAAAA.

The facility shall develop and implement a written startup, shutdown, and malfunction (SSM) plan that describes, in detail, procedures for operating and



maintaining the source during periods of startup, shutdown, and malfunction; a program of corrective action for malfunctioning process; and air pollution control and monitoring equipment used to comply with this standard.

This plan must be developed by the facility by the compliance date of 40CFR63, subpart AAAA (the landfill NESHAP) and must comply with all of the provisions as listed in §63.6(e)(3)(ii)-(ix) which includes the following provisions:

- During periods of startup, shutdown, and malfunction, the facility must operate and maintain the affected source in accordance with the procedures specified in the SSM plan.
- When actions taken by the owner operator during a startup, shutdown, or malfunction are consistent with the procedures specified in the affected source's SSM plan, the owner/operator must keep records for that event which demonstrate that the procedures specified in the plan were followed. In addition, the owner operator must keep records of these events as specified in §63.10(b), including records of operation and each malfunction of the air pollution control and monitoring equipment. Furthermore, the owner operator shall confirm that actions taken during the startup, shutdown, and malfunction were consistent with the SSM plan in the semiannual report as required in §63.10(d)(5).
- If an action taken by the facility is not consistent with the SSM plan, and the affected source exceeds the relevant emission standard, then the owner operator must record the actions taken for that event and must report such actions within 2 working days after commencing actions inconsistent with the SSM plan, followed by a letter within 7 working days after the end of the event.
- EPA or NYSDEC may at any time request in writing that the facility submit a copy of the SSM plan (or a portion thereof) which is maintained at the affected source. Upon receipt of such a request, the facility must promptly submit a copy of the requested plan to EPA or NYSDEC. EPA or NYSDEC must request that the facility submit a SSM plan whenever a member of the public submits a specific and reasonable request to examine or to receive a copy of that plan or portion of a plan. If the facility claims that any portion of such a SSM plan is confidential business information entitled to protection from disclosure under section 114(c) of the Act or 40CFR2.301, the material which is claimed as confidential must be clearly



designated in the submission.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING  
DESCRIPTION

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 6 calendar month(s).

**Condition 54: Compliance Certification**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement: 40 CFR 63.1980(a), Subpart AAAA**

**Item 54.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 54.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

Monitoring Description:

Each owner or operator of a landfill seeking to comply with 40 CFR Part 60.752(b)(2) using an active collection system designed in accordance with 40 CFR Part 60.752(b)(2)(ii) shall submit to the Administrator semiannual reports of the recorded information in paragraphs (1) through (6) below. The initial semiannual report shall be submitted within 180 days of installation and start-up of the collection and control system, and shall include the initial performance test report required under 40 CFR Part 60.8. For enclosed combustion devices and flares, reportable exceedances are defined under 40 CFR Part 60.758(c).

(1) Value and length of time for exceedance of applicable parameters monitored under 40 CFR Part 60.756(a), (b), (c), and (d).

(2) Description and duration of all periods when the gas stream is diverted from the control device through a bypass line or the indication of bypass flow as specified under 40 CFR Part 60.756.

(3) Description and duration of all periods when the control device was not operating for a period exceeding 1 hour and length of time the control device was not operating.

(4) All periods when the collection system was not operating in excess of 5 days.

(5) The location of each exceedance of



the 500 parts per million methane concentration as provided in 40 CFR Part 60.753(d) and the concentration recorded at each location for which an exceedance was recorded in the previous month.

(6) The date of installation and the location of each well or collection system expansion added pursuant to paragraphs 40 CFR Part 60.755(a)(3), (b), and (c)(4).

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30 2009.

Subsequent reports are due every 6 calendar month(s).

\*\*\*\* Emission Unit Level \*\*\*\*

**Condition 55: Emission Point Definition By Emission Unit  
Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 201-6**

**Item 55.1:**

The following emission points are included in this permit for the cited Emission Unit:

Emission Unit: 1-LFGAS

Emission Point: FLARE  
Height (ft.): 34                      Diameter (in.): 10

**Item 55.2:**

The following emission points are included in this permit for the cited Emission Unit:

Emission Unit: 1-LFGTE

Emission Point: ENG01  
Height (ft.): 28                      Diameter (in.): 15

Emission Point: ENG02  
Height (ft.): 28                      Diameter (in.): 15

Building: ENGBLDG

Emission Point: ENG03  
Height (ft.): 28                      Diameter (in.): 15

Emission Point: ENG04  
Height (ft.): 28                      Diameter (in.): 15

Building: ENGBLDG

Emission Point: ENG05



Height (ft.): 28

Diameter (in.): 15

Building: ENGBLDG

Emission Point: ENG06

Height (ft.): 28

Diameter (in.): 15

Building: ENGBLDG

**Condition 56: Process Definition By Emission Unit**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable Federal Requirement: 6 NYCRR 201-6**

**Item 56.1:**

This permit authorizes the following regulated processes for the cited Emission Unit:

Emission Unit: 1-LFGAS

Process: FUG

Source Classification Code: 5-01-004-02

Process Description:

Process FUG includes the uncollected, fugitive landfill gas emissions from the entire landfill. It is estimated approximately 25% of the generated landfill gas is not collected.

Emission Source/Control: LNDFL - Process

**Item 56.2:**

This permit authorizes the following regulated processes for the cited Emission Unit:

Emission Unit: 1-LFGAS

Process: GAS

Source Classification Code: 5-01-004-10

Process Description:

Process GAS includes the collected landfill gas from the gas collection system and the operation of the flare.

Emission Source/Control: 01FLR - Control

Control Type: FLARING

Emission Source/Control: LFGCS - Process

**Item 56.3:**

This permit authorizes the following regulated processes for the cited Emission Unit:

Emission Unit: 1-LFGTE

Process: 001

Source Classification Code: 2-01-008-07

Process Description:

Process 001 consists of six (6) Caterpillar G3520C gas internal combustion (IC) engine generator sets. The six (6) IC engines have individual maximum heat input rates of 14.67 MMBtu/hr LHV (88.02 MMBtu/hr combined). At the minimum fuel quality utilization value of 420 Btu/cf (LHV), the maximum fuel use rate of each IC engine is approximately 580 cfm.



The process also includes the following exempt sources:  
two radiator coolant tanks, two lube oil tanks, a single  
emergency electricity generator and a diesel fuel storage  
tank.

Emission Source/Control: 01ENG - Combustion  
Design Capacity: 1,600 kilowatts

Emission Source/Control: 02ENG - Combustion  
Design Capacity: 1,600 kilowatts

Emission Source/Control: 03ENG - Combustion  
Design Capacity: 1,600 kilowatts

Emission Source/Control: 04ENG - Combustion  
Design Capacity: 1,600 kilowatts

Emission Source/Control: 05ENG - Combustion  
Design Capacity: 1,600 kilowatts

Emission Source/Control: 06ENG - Combustion  
Design Capacity: 1,600 kilowatts

**Condition 57: Compliance Certification**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable Federal Requirement:6NYCRR 208.3(b)(2)(iii)(a')**

**Item 57.1:**

The Compliance Certification activity will be performed for:

Emission Unit: 1-LFGAS

Process: GAS

Emission Source: 01FLR

Regulated Contaminant(s):

CAS No: 0NY998-00-0 VOC

CAS No: 0NY100-00-0 HAP

CAS No: 0NY998-20-0 NMOC - LANDFILL USE ONLY

**Item 57.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING MAINTENANCE PROCEDURES

Monitoring Description:

1.) 6NYCRR Part 208.3(b)(2)(iii)(a) states an open  
flare shall be designed and operated in accordance with 40  
CFR Section 60.18. The design and operational  
requirements of 40CFR60.18 are specified below:

a.) §60.18(c)(1) - The flare shall be operated with no  
visible emissions except for periods not to exceed a total  
of 5 minutes during any 2 consecutive hours.



b.) §60.18(c)(2) - The flare shall be operated with a flame present at all times. The presence of a flame shall be monitored using a thermocouple or similar.

c.) §60.18(c)(3)(ii) - The flare shall be used only with the net heating value of the gas being combusted is 200 British Thermal Units per standard cubic foot (Btu scf) or greater.

d.) §60.18(c)(4)(i) - The flare shall be designed for and operated with an exit velocity less than 60 ft/sec.

e.) §60.18(c)(4)(ii) - The flare is allowed to be operated with an exit velocity less than the velocity,  $V_{max}$ , and less than 400 ft/sec as determined by the methods specified in 40CFR60.18(f)(4) and (f)(5).

f.) §60.18(d) - Monitor the flare to ensure it is operated and maintained in conformance with the design:

g.) §60.18(e) - The flare shall be operated at all times when emissions may be vented to it:

2.) Chautauqua County must test the flare for compliance with 40CFR60.18 within 60 days after achieving the maximum production rate but not later than 180 days after initial start-up of the Landfill Gas to Energy Plant (LFGTE). A stack test protocol must be submitted 30 days prior to testing and a final test report submitted within 45 days after the testing is complete. The Department must be notified 10 days prior to the scheduled test date so a Department representative may be present during the test.

3.) A performance test of the flare for compliance with 40CFR60.18 shall be completed, at a minimum, every five years. More frequent performance testing may be required as determined necessary by the Department.

4.) Chautauqua County shall operate the landfill gas flare when gas is not being combusted in the LFGTE or when there is excess gas beyond the capacity of the engines.

5.) Chautauqua County shall maintain operating records and contact Department regional staff within 2 business days of all flare outages. Upon request, a letter shall be sent to the Department to document the cause of the event, a proposed plan for corrective action and a compliance schedule.



6.) Records of each certification shall be kept on-site and be made available to the Department upon request.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 6 calendar month(s).

**Condition 58: Compliance Certification**  
Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement: 6NYCRR 202-1

**Item 58.1:**

The Compliance Certification activity will be performed for:

Emission Unit: 1-LFGFE

Regulated Contaminant(s):

CAS No: 000630-08-0	CARBON MONOXIDE
CAS No: 0NY210-00-0	OXIDES OF NITROGEN

**Item 58.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING MAINTENANCE PROCEDURES

Monitoring Description:

The permitted emission rates of the internal combustion engines for nitrogen oxides (NO<sub>x</sub>) and carbon monoxide (CO) are 0.6 grams per brake horsepower-hour (g bhp-hr) and 3.0 g/bhp-hr, respectively. The permitted emission rates were used to assess the non-applicability of the facility to New Source Review (6NYCRR Part 231-2), Prevention of Significant Deterioration (40CFR52.21) and Reasonably Available Control Technology for Oxides of Nitrogen (6NYCRR Part 227-2). The Department requires routine performance testing and periodic monitoring of the internal combustion engines to confirm the engines consistently operate within the permitted levels.

**ROUTINE PERFORMANCE TESTING**

1.) A performance test to demonstrate compliance with the permitted emission rates of 0.6 g bhp-hr NO<sub>x</sub> and 3.0 g/bhp-hr CO must be completed within 60 days after achieving the maximum production rate but not later than 180 days after initial start-up.

2.) The performance test shall be conducted on one of each similar engine type at the facility. The specific engine to be tested will be selected by the Department.



The test must be completed at the maximum normal operating load.

3.) The methods used to measure NO<sub>x</sub> and CO shall include EPA Methods 7 or 7E and EPA Method 10 from 40CFR60, Appendix A or another reference method approved by the Department.

4.) A performance test protocol shall be submitted to the Department for approval at least 60 days prior to completion of the test. The Department must be notified 10 days prior to the scheduled test date so a Department representative may be present during the test.

5.) A performance test report of the results shall be submitted to this office within 45 days of completion of the test. The test report must include a data quality review, which consists of a separate independent data quality review completed by a person having demonstrated expertise in reviewing stack test reports and associated test procedures. The ultimate purpose of this review is to determine acceptability of the results for determining compliance with applicable standards and or requirements. The data quality review report must include the following:

- a.) Whether test methods used followed those contained in the approved protocol and where variations occurred their acceptability under the test methods.
- b.) Where problems occurred during testing, what corrective measures were used and the adequacy of those measures.
- c.) Determination whether data quality is adequate for determining compliance with performance specifications.
- d.) Determine whether the testing demonstrates compliance or noncompliance with emission limits and or performance requirements.

6.) A performance test shall be completed, at a minimum, every five years on one engine from each similar engine type at the facility. More frequent performance testing may be required as determined necessary by the Department.

#### PERIODIC MONITORING

1.) NO<sub>x</sub> and CO stack emissions on each engine shall be analyzed on a routine basis using a portable combustion analyzer.

2.) Portable Combustion Analyzer - The suitability of the portable analyzer shall be approved by the Department. The preferred method for analyzing NO<sub>x</sub> is by



chemiluminescence. The preferred method for analyzing CO is infra-red (IR). Portable analyzers equipped with electrochemical cells such as a Testo 350 Portable Emission Analyzer are acceptable.

The analyzer shall be calibrated in accordance with the manufactures recommended procedures and schedule. A report for each calibration shall be kept on site and made available for Department review upon request. The analyzer shall be zeroed prior to each use following manufacture procedures.

3.) Sample collection - A permanent sample port shall be installed in each engine stack at a location to obtain a representative sample from the flow profile. To reduce uncertainties in the measurements, standard operating procedures shall be developed and implemented including: instructions on the assembly of the equipment, details of any leak checks, calibration procedures, and time to allow the instrument to stabilize. The sample collection and analysis shall be completed during normal operating conditions.

4.) Monitoring Frequency - The frequency of monitoring shall be determined based on the results of the most current performance test in relation to the permitted emission rate as follows (i.e. a performance test result of 2.4 g/bhp-hr CO requires periodic monitoring every 2 weeks since 2.4 is 80% of 3.0 g/bhp-hr):

Performance test % of permitted emission rate	Monitoring Frequency
50% or less	quarterly
51 - 75%	monthly
76 - 80%	every 2 weeks
81 - 95%	weekly
96% - 100%	daily

5.) Recordkeeping - Records shall be maintained to include: (1) date and time of the measurement, (2) a log of the NOx and CO measurements in ppm, (3) conversion of the measurements into g/bhp-hr, and (4) description of adjustments made to the engine (if any). The records shall be kept on-site and be made available to the Department upon request.



6.) Reporting - If an exceedance of the permitted emission rates is documented during the performance testing or periodic monitoring, the facility shall report the results to the Department within 30 calendar days along with a proposed program for correction, including completion of a performance test (if determined necessary) and a schedule for compliance.

7.) Reporting - A summary of all periodic monitoring results shall be reported to the Department regional office on a quarterly basis.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Reporting Requirements: QUARTERLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 3 calendar month(s).

**Condition 59: Compliance Certification**  
Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement: 6NYCRR 208.3(b)(2)(iii)(c)

**Item 59.1:**

The Compliance Certification activity will be performed for:

Emission Unit: 1-LFGTE

Regulated Contaminant(s):

CAS No: 0NY998-20-0 NMOC - LANDFILL USE ONLY

**Item 59.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING MAINTENANCE PROCEDURES

Monitoring Description:

1.) In accordance with 6NYCRR Part 208.3(b)(2)(iii)(c), route the collected gas to a treatment system that processes the collected gas for subsequent sale or use. All emissions from any atmospheric vent from the gas treatment system shall be subject to the requirements of subclauses (b)(1) and (2) of this subparagraph as follows:

(b) a control system designed and operated to reduce NMOC by 98 weight-percent, or, when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight percent or reduce the outlet NMOC concentration to less than 20 parts per million by volume, dry basis as hexane at three percent oxygen. The reduction efficiency or parts per million by volume shall be established by an



initial performance test to be completed no later than 180 days after the initial startup of the approved system using the test methods specified in section 208.5(d) of this Part:

(1) if a boiler or process heater is used as the control device, the landfill gas stream shall be introduced into the flame zone;

(2) the control device shall be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored are specified in section 208.7 of this Part

2.) On-going compliance monitoring of the landfill gas pre-treatment system for the stationary internal combustion engines shall be monitored as follows:

a.) Landfill gas that is collected and used for fuel in an engine or used for subsequent sale as a fuel shall be treated in a treatment system that has an absolute filtration rating of 10 microns or less, lowers the water dew point of the landfill gas by at least 20 degrees Fahrenheit with a de-watering process, and compresses the landfill gas.

b.) Chautauqua County Landfill shall operate the gas treatment system at all times when gas is routed to the engines for use or subsequent sale.

c.) Within 180 days of startup, Chautauqua County shall submit to the Department a monitoring plan for proper operation of the gas treatment system. The plan shall describe the monitoring methods used for the filtering, dewatering and compression processes to assure the treatment system operates as designed.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 6 calendar month(s).

**Condition 60: Compliance Certification**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable Federal Requirement: 6NYCRR 227-1.3(a)**

**Item 60.1:**

The Compliance Certification activity will be performed for:

Emission Unit: I-LFGFE

**Item 60.2:**

Compliance Certification shall include the following monitoring:



Monitoring Type: MONITORING OF PROCESS OR CONTROL  
DEVICE PARAMETERS AS SURROGATE

Monitoring Description:

- 1.) No person shall operate a stationary combustion installation which exhibits greater than 20 percent opacity (six minute average), except for one six-minute period per hour of not more than 27 percent opacity. Compliance with the opacity standard may be determined by: (1) conducting observations in accordance with Reference Method 9; (2) evaluating Continuous Opacity Monitoring System (COMS) records and reports; and or (3) considering any other credible evidence.
- 2.) On-going compliance monitoring of the opacity limit for the stationary internal combustion engines shall be monitored as follows:
  - a.) A weekly visible emission survey of each emission point shall be completed whenever an engine is in operation.
  - b.) Visible emission observations shall be performed, as best as possible, at a location to obtain the proper sun angle, background, and line of sight. The observer must be knowledgeable regarding the effects on the visibility of emissions caused by background contrast, ambient lighting, observer position relative to lighting, wind, and the presence of uncombined water (condensing water vapor):
  - c.) Document if visible emissions are observed and whether the emissions are within normal conditions or above normal conditions. Normal conditions may be zero percent opacity for many or all emission sources:
  - d.) If visible emissions above those that are normal and in compliance are observed, an inspection of the source shall be completed, corrective action taken, and the source restored to its normal operation as expeditiously as practicable.
  - e.) If visible emissions above those that are normal continue to be present after corrections are made, then a certified trained observer shall conduct a minimum six minute opacity observation according to EPA Method 9 within the next operating day of the source:
  - f.) If an exceedance of the 20 percent opacity limit is documented during the Method 9 opacity evaluations, then the facility shall notify the Department within two business days and provide a written report of the results within 30 calendar days along with a proposed program for correction and a schedule for compliance.



3.) Records shall be maintained and include the following information: date, time, staff name, results of the visible emission survey, results of any Method 9 evaluations (if applicable), results of each inspection, and a description of the corrective action taken (if applicable). The records shall be kept on-site and be made available to the Department upon request.

4.) Within 180 days of startup, Chautauqua County Landfill shall submit an Operation and Maintenance (O&M) plan for the engines. The O&M plan shall outline proper operation and maintenance procedures to minimize emission from the engines. The plan shall include, but is not limited to: operation requirements, maintenance schedule, reporting, and recordkeeping.

5.) Records shall be kept on-site and be made available to the Department upon request.

Parameter Monitored: OPACITY

Upper Permit Limit: 20 percent

Reference Test Method: EPA Method 9

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Averaging Method: 6-MINUTE AVERAGE (METHOD 9)

Reporting Requirements: UPON REQUEST BY REGULATORY AGENCY

**Condition 61: Compliance Certification**

Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement: 40CFR 60, NSPS Subpart JJJJ

**Item 61.1:**

The Compliance Certification activity will be performed for:

Emission Unit: 1-LFGTE

Regulated Contaminant(s):

CAS No: 000630-08-0 CARBON MONOXIDE

CAS No: 0NY998-00-0 VOC

CAS No: 0NY210-00-0 OXIDES OF NITROGEN

**Item 61.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING MAINTENANCE PROCEDURES

Monitoring Description:

40 CFR 60 Subpart JJJJ - Standards of Performance for Stationary Spark Ignition Internal Combustion Engines (SICE):

1. In accordance with 40 CFR 60.4230(a)(4)(i), owners or



operators of stationary SI ICE that are ordered after June 12, 2006 and are manufactured after July 1, 2007 must comply with the emission standards in Table 1 as follows:

NO<sub>x</sub> 3.0 g/HP-hr

CO 5.0 g/HP-hr

VOC 1.0 g/HP-hr

2. 40 CFR 60.4243 specifies the compliance requirements for owners and operators.
3. 40 CFR 60.4244 specifies the testing requirements for owners and operators.
4. 40 CFR 60.4245 specifies the notification, reports and record keeping requirements for owners and operators.
5. If Chautauqua County is an owner or operator of a SI ICE, then the applicable requirements for this regulation shall be determined and compliance maintained.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 6 calendar month(s).

**Condition 62: Compliance Certification**

Effective between the dates of 10/29/2008 and 10/28/2013

Applicable Federal Requirement: 40CFR 63.6590(a)(2), Subpart ZZZZ

**Item 62.1:**

The Compliance Certification activity will be performed for:

Emission Unit: 1-LEGTE

Regulated Contaminant(s):

CAS No: 0NY100-00-0 HAP

**Item 62.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING MAINTENANCE PROCEDURES

Monitoring Description:

40 CFR 63 Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating



Internal Combustion Engines (RICE):

1. In accordance with 40 CFR 63.6595(a)(7), if you start up a new stationary RICE located at an area source of HAP emissions after January 18, 2008, you must comply with the applicable emission limitations and operating limitations in this subpart upon startup of the affected source.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2009.

Subsequent reports are due every 6 calendar month(s).



**STATE ONLY ENFORCEABLE CONDITIONS**

\*\*\*\* Facility Level \*\*\*\*

**NOTIFICATION OF GENERAL PERMITTEE OBLIGATIONS**

This section contains terms and conditions which are not federally enforceable. Permittees may also have other obligations under regulations of general applicability

**Item A: General Provisions for State Enforceable Permit Terms and Condition - 6 NYCRR Part 201-5**

Any person who owns and or operates stationary sources shall operate and maintain all emission units and any required emission control devices in compliance with all applicable Parts of this Chapter and existing laws, and shall operate the facility in accordance with all criteria, emission limits, terms, conditions, and standards in this permit. Failure of such person to properly operate and maintain the effectiveness of such emission units and emission control devices may be sufficient reason for the Department to revoke or deny a permit.

The owner or operator of the permitted facility must maintain all required records on-site for a period of five years and make them available to representatives of the Department upon request. Department representatives must be granted access to any facility regulated by this Subpart, during normal operating hours, for the purpose of determining compliance with this and any other state and federal air pollution control requirements, regulations or law.

**STATE ONLY APPLICABLE REQUIREMENTS**

The following conditions are state applicable requirements and are not subject to compliance certification requirements unless otherwise noted or required under 6 NYCRR Part 201.

**Condition 63: Contaminant List**  
Effective between the dates of 10/29/2008 and 10/28/2013

**Applicable State Requirement: ECL 19-0301**

**Item 63.1:**

Emissions of the following contaminants are subject to contaminant specific requirements in this permit (emission limits, control requirements or compliance monitoring conditions):

CAS No: 000630-08-0  
Name: CARBON MONOXIDE

CAS No: 0NY100-00-0



Name: HAP

CAS No: 0NY210-00-0

Name: OXIDES OF NITROGEN

CAS No: 0NY998-00-0

Name: VOC

CAS No: 0NY998-20-0

Name: NMOC - LANDFILL USE ONLY

**Condition 64: Unavoidable noncompliance and violations  
Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable State Requirement: 6NYCRR 201-1.4**

Item 64.1:

At the discretion of the commissioner a violation of any applicable emission standard for necessary scheduled equipment maintenance, start-up/shutdown conditions and malfunctions or upsets may be excused if such violations are unavoidable. The following actions and recordkeeping and reporting requirements must be adhered to in such circumstances.

(a) The facility owner and/or operator shall compile and maintain records of all equipment maintenance or start-up/shutdown activities when they can be expected to result in an exceedance of any applicable emission standard, and shall submit a report of such activities to the commissioner's representative when requested to do so in writing or when so required by a condition of a permit issued for the corresponding air contamination source except where conditions elsewhere in this permit which contain more stringent reporting and notification provisions for an applicable requirement, in which case they supercede those stated here. Such reports shall describe why the violation was unavoidable and shall include the time, frequency and duration of the maintenance and/or start-up/shutdown activities and the identification of air contaminants, and the estimated emission rates. If a facility owner and/or operator is subject to continuous stack monitoring and quarterly reporting requirements, he need not submit reports for equipment maintenance or start-up/shutdown for the facility to the commissioner's representative.

(b) In the event that emissions of air contaminants in excess of any emission standard in 6 NYCRR Chapter III Subchapter A occur due to a malfunction, the facility owner and/or operator shall report such malfunction by telephone to the commissioner's representative as soon as possible during normal working hours, but in any event not later than two working days after becoming aware that the malfunction occurred. Within 30 days thereafter, when requested in writing by the commissioner's representative, the facility owner and/or operator shall submit a written report to the commissioner's representative describing the malfunction, the corrective action taken, identification of air contaminants, and an estimate of the emission rates. These reporting requirements are superceeded by conditions elsewhere in this permit which contain reporting and notification provisions for applicable requirements more stringent than those above.

(c) The Department may also require the owner and/or operator to include in reports described under (a) and (b) above an estimate of the maximum ground level concentration of each air contaminant emitted and the effect of such emissions depending on the deviation



of the malfunction and the air contaminants emitted.

(d) In the event of maintenance, start-up/shutdown or malfunction conditions which result in emissions exceeding any applicable emission standard, the facility owner and/or operator shall take appropriate action to prevent emissions which will result in contravention of any applicable ambient air quality standard. Reasonably available control technology, as determined by the commissioner, shall be applied during any maintenance, start-up/shutdown or malfunction condition subject to this paragraph.

(e) In order to have a violation of a federal regulation (such as a new source performance standard or national emissions standard for hazardous air pollutants) excused, the specific federal regulation must provide for an affirmative defense during start-up, shutdowns, malfunctions or upsets.

**Condition 65: Air pollution prohibited**  
**Effective between the dates of 10/29/2008 and 10/28/2013**

**Applicable State Requirement:6NYCRR 211.2**

**Item 65.1:**

No person shall cause or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration which are injurious to human, plant or animal life or to property, or which unreasonably interfere with the comfortable enjoyment of life or property. Notwithstanding the existence of specific air quality standards or emission limits, this prohibition applies, but is not limited to, any particulate, fume, gas, mist, odor, smoke, vapor, pollen, toxic or deleterious emission, either alone or in combination with others.

New York State Department of Environmental Conservation

Permit ID: 9-0636-00006/00017

Facility DEC ID: 9063600006

