

**RIPUC Use Only**

Date Application Received: \_\_\_/\_\_\_/\_\_\_  
Date Review Completed: \_\_\_/\_\_\_/\_\_\_  
Date Commission Action: \_\_\_/\_\_\_/\_\_\_  
Date Commission Approved: \_\_\_/\_\_\_/\_\_\_

GIS Certification #:

32561

## RENEWABLE ENERGY RESOURCES ELIGIBILITY FORM

### The Standard Application Form

Required of all Applicants for Certification of Eligibility of Renewable Energy Resource  
(Version 8 – December 5, 2012)

### STATE OF RHODE ISLAND PUBLIC UTILITIES COMMISSION

#### Pursuant to the Renewable Energy Act

#### Section 39-26-1 et. seq. of the General Laws of Rhode Island

**NOTICE:**

When completing this Renewable Energy Resources Eligibility Form and any applicable Appendices, please refer to the State of Rhode Island and Providence Plantations Public Utilities Commission Rules and Regulations Governing the Implementation of a Renewable Energy Standard (RES Regulations, Effective Date: January 1, 2006), and the associated RES Certification Filing Methodology Guide. All applicable regulations, procedures and guidelines are available on the Commission's web site: [www.ripuc.org/utilityinfo/res.html](http://www.ripuc.org/utilityinfo/res.html). Also, all filings must be in conformance with the Commission's Rules of Practice and Procedure, in particular, Rule 1.5, or its successor regulation, entitled "Formal Requirements as to Filings."

- Please complete the Renewable Energy Resources Eligibility Form and Appendices using a typewriter or black ink.
- Please submit one original and three copies of the completed Application Form, applicable Appendices and all supporting documentation to the Commission at the following address:  
Rhode Island Public Utilities Commission  
Attn: Luly E. Massaro, Commission Clerk  
89 Jefferson Blvd  
Warwick, RI 02888

In addition to the paper copies, electronic/email submittals are required under Commission regulations. Such electronic submittals should be sent to [res@puc.state.ri.us](mailto:res@puc.state.ri.us).

- In addition to filing with the Commission, Applicants are required to send, electronically or electronically and in paper format, a copy of the completed Application including all attachments and supporting documentation, to the Division of Public Utilities and Carriers and to all interested parties. A list of interested parties can be obtained from the Commission's website at [www.ripuc.org/utilityinfo/res.html](http://www.ripuc.org/utilityinfo/res.html).
- Keep a copy of the completed Application for your records.
- The Commission will notify the Authorized Representative if the Application is incomplete.
- Pursuant to Section 6.0 of the RES Regulations, the Commission shall provide a thirty (30) day period for public comment following posting of any administratively complete Application.
- Please note that all information submitted on or attached to the Application is considered to be a public record unless the Commission agrees to deem some portion of the application confidential after consideration under section 1.2(g) of the Commission's Rules of Practice and Procedure.
- In accordance with Section 6.2 of the RES Regulations, the Commission will provide prospective reviews for Applicants seeking a preliminary determination as to whether a facility would be eligible prior to the formal certification process described in Section 6.1 of the RES Regulations. Please note that space is provided on the Form for applicant to designate the type of review being requested.
- Questions related to this Renewable Energy Resources Eligibility Form should be submitted in writing, preferably via email and directed to: Luly E. Massaro, Commission Clerk at [res@puc.state.ri.us](mailto:res@puc.state.ri.us).

**SECTION I: Identification Information**

- 1.1 Name of Generation Unit (sufficient for full and unique identification): **Ontario LFGF**
- 1.2 Type of Certification being requested (check one):  
 **Standard Certification**       Prospective Certification (Declaratory Judgment)
- 1.3 This Application includes: (Check all that apply)<sup>1</sup>
- APPENDIX A:** Authorized Representative Certification for Individual Owner or Operator
  - APPENDIX B:** Authorized Representative Certification for Non-Corporate Entities Other Than Individuals
  - APPENDIX C:** Existing Renewable Energy Resources
  - APPENDIX D:** Special Provisions for Aggregators of Customer-sited or Off-grid Generation Facilities
  - APPENDIX E:** Special Provisions for a Generation Unit Located in a Control Area Adjacent to NEPOOL
  - APPENDIX F:** Fuel Source Plan for Eligible Biomass Fuels
- 1.4 Primary Contact Person name and title: **Scott A. Henningham, Sr. VP of Finance**
- 1.5 Primary Contact Person address and contact information:  
Address: **2999 Judge Road Oakfield, New York 14125**  
Phone: **585-948-8580**      Fax: **585-948-8584**  
Email: **shenningham@ieslfge.com**
- 1.6 Backup Contact Person name and title: **Emily Zambuto, Manager of Environmental Programs**
- 1.7 Backup Contact Person address and contact information:  
Address: **2999 Judge Road Oakfield, New York 14125**  
Phone: **585-948-8580**      Fax: **585-948-8584**  
Email: **ezambuto@ieslfge.com**
- 1.8 Name and Title of Authorized Representative (*i.e.*, the individual responsible for certifying the accuracy of all information contained in this form and associated appendices, and whose signature will appear on the application): **Peter H. Zelif, COO**
- Appendix A or B (as appropriate) completed and attached?  
 Yes     No     N/A

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<sup>1</sup> Please note that all Applicants are required to complete the Renewable Energy Resources Eligibility Standard Application Form and all of the Appendices that apply to the Generation Unit or Owner or Operator that is the subject of this Form. Please omit Appendices that do not apply.

1.9 Authorized Representative address and contact information:

Address: **2999 Judge Road Oakfield, New York 14125**

Phone: **585-948-8580** Fax: **585-948-8584**

Email: **pzeliff@ieslfge.com**

1.10 Owner name and title: **Seneca Energy II, LLC**

1.11 Owner address and contact information:

Address: **2999 Judge Road Oakfield, New York 14125**

Phone: **585-948-8580** Fax: **585-948-8584**

Email: \_\_\_\_\_

1.12 Owner business organization type (check one):

Individual

Partnership

**Corporation**

Other: \_\_\_\_\_

1.13 Operator name and title: **Innovative Energy Systems, LLC**

1.14 Operator address and contact information:

Address: **2999 Judge Road Oakfield, New York 14125**

Phone: **585-948-8580** Fax: **585-948-8584**

Email: \_\_\_\_\_

1.15 Operator business organization type (check one):

Individual

Partnership

**Corporation**

Other: \_\_\_\_\_

**SECTION II: Generation Unit Information, Fuels, Energy Resources and Technologies**

2.1 ISO-NE Generation Unit Asset Identification Number or NEPOOL GIS Identification Number (either or both as applicable): **IMP32561**

2.2 Generation Unit Nameplate Capacity: **11.2** MW

2.3 Maximum Demonstrated Capacity: **10** MW

2.4 Please indicate which of the following Eligible Renewable Energy Resources are used by the Generation Unit: (Check ALL that apply) – *per RES Regulations Section 5.0*

- Direct solar radiation
- The wind
- Movement of or the latent heat of the ocean
- The heat of the earth
- Small hydro facilities
- Biomass facilities using Eligible Biomass Fuels and maintaining compliance with all aspects of current air permits; Eligible Biomass Fuels may be co-fired with fossil fuels, provided that only the renewable energy fraction of production from multi-fuel facilities shall be considered eligible.**
- Biomass facilities using unlisted biomass fuel
- Biomass facilities, multi-fueled or using fossil fuel co-firing
- Fuel cells using a renewable resource referenced in this section

2.5 If the box checked in Section 2.4 above is “Small hydro facilities”, please certify that the facility’s aggregate capacity does not exceed 30 MW. – *per RES Regulations Section 3.32*

- ← check this box to certify that the above statement is true
- N/A or other (please explain) \_\_\_\_\_

2.6 If the box checked in Section 2.4 above is “Small hydro facilities”, please certify that the facility does not involve any new impoundment or diversion of water with an average salinity of twenty (20) parts per thousand or less. – *per RES Regulations Section 3.32*

- ← check this box to certify that the above statement is true
- N/A or other (please explain) \_\_\_\_\_

2.7 If you checked one of the Biomass facilities boxes in Section 2.4 above, please respond to the following:

- A. Please specify the fuel or fuels used or to be used in the Unit: **Landfill Gas**
- B. Please complete and attach Appendix F, Eligible Biomass Fuel Source Plan. Appendix F completed and attached?  
 Yes    No    N/A

2.8 Has the Generation Unit been certified as a Renewable Energy Resource for eligibility in another state's renewable portfolio standard?

Yes       No      If yes, please attach a copy of that state's certifying order.

Copy of State's certifying order attached?

Yes     No     N/A

### SECTION III: Commercial Operation Date

Please provide documentation to support all claims and responses to the following questions:

3.1 Date Generation Unit first entered Commercial Operation: **10/15/03** at the site.

If the commercial operation date is after December 31, 1997, please provide independent verification, such as the utility log or metering data, showing that the meter first spun after December 31, 1997. This is needed in order to verify that the facility qualifies as a New Renewable Energy Resource.

Documentation attached?

Yes     No     N/A

3.2 Is there an Existing Renewable Energy Resource located at the site of Generation Unit?

Yes

No

3.3 If the date entered in response to question 3.1 is earlier than December 31, 1997 or if you checked "Yes" in response to question 3.2 above, please complete Appendix C.

Appendix C completed and attached?

Yes     No     N/A

3.4 Was all or any part of the Generation Unit used on or before December 31, 1997 to generate electricity at any other site?

Yes

No

3.5 If you checked "Yes" to question 3.4 above, please specify the power production equipment used and the address where such power production equipment produced electricity (attach more detail if the space provided is not sufficient):

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### SECTION IV: Metering

4.1 Please indicate how the Generation Unit's electrical energy output is verified (check all that apply):

**ISO-NE Market Settlement System**

**Self-reported to the NEPOOL GIS Administrator**

Other (please specify below and see Appendix D: Eligibility for Aggregations):

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Appendix D completed and attached?

- Yes  
 No

**SECTION V: Location**

5.1 Please check one of the following that apply to the Generation Unit:

- Grid Connected Generation**  
 Off-Grid Generation (not connected to a utility transmission or distribution system)  
 Customer Sited Generation (interconnected on the end-use customer side of the retail electricity meter in such a manner that it displaces all or part of the metered consumption of the end-use customer)

5.2 Generation Unit address: **3555 Post Farm Road Stanley, New York 14561**

5.3 Please provide the Generation Unit's geographic location information:

A. Universal Transverse Mercator Coordinates: \_\_\_\_\_

B. Longitude/Latitude: **-77.084418 /42.858959**

5.4 The Generation Unit located: (please check the appropriate box)

- In the NEPOOL control area  
 **In a control area adjacent to the NEPOOL control area**  
 In a control area other than NEPOOL which is not adjacent to the NEPOOL control area ← *If you checked this box, then the generator does not qualify for the RI RES – therefore, please do not complete/submit this form.*

5.5 If you checked "In a control area adjacent to the NEPOOL control area" in Section 5.4 above, please complete Appendix E.

Appendix E completed and attached?

- Yes    No    N/A

**SECTION VI: Certification**

6.1 Please attach documentation, using one of the applicable forms below, demonstrating the authority of the Authorized Representative indicated in Section 1.8 to certify and submit this Application.

**Corporations**

If the Owner or Operator is a corporation, the Authorized Representative shall provide **either**:

- (a) Evidence of a board of directors vote granting authority to the Authorized Representative to execute the Renewable Energy Resources Eligibility Form, **or**
- (b) A certification from the Corporate Clerk or Secretary of the Corporation that the Authorized Representative is authorized to execute the Renewable Energy Resources Eligibility Form or is otherwise authorized to legally bind the corporation in like matters.

Evidence of Board Vote provided?  Yes  No  N/A

Corporate Certification provided?  Yes  No  N/A

**Individuals**

If the Owner or Operator is an individual, that individual shall complete and attach APPENDIX A, or a similar form of certification from the Owner or Operator, duly notarized, that certifies that the Authorized Representative has authority to execute the Renewable Energy Resources Eligibility Form.

Appendix A completed and attached?  Yes  No  N/A

**Non-Corporate Entities**

(Proprietorships, Partnerships, Cooperatives, etc.) If the Owner or Operator is not an individual or a corporation, it shall complete and attach APPENDIX B or execute a resolution indicating that the Authorized Representative named in Section 1.8 has authority to execute the Renewable Energy Resources Eligibility Form or to otherwise legally bind the non-corporate entity in like matters.

Appendix B completed and attached?  Yes  No  N/A

6.2 Authorized Representative Certification and Signature:

I hereby certify, under pains and penalties of perjury, that I have personally examined and am familiar with the information submitted herein and based upon my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties, both civil and criminal, for submitting false information, including possible fines and punishment. My signature below certifies all information submitted on this Renewable Energy Resources Eligibility Form. The Renewable Energy Resources Eligibility Form includes the Standard Application Form and all required Appendices and attachments. I acknowledge that the Generation Unit is obligated to and will notify the Commission promptly in the event of a change in a generator's eligibility status (including, without limitation, the status of the air permits) and that when and if, in the Commission's opinion, after due consideration, there is a material change in the characteristics of a Generation Unit or its fuel stream that could alter its eligibility, such Generation Unit must be re-certified in accordance with Section 9.0 of the RES Regulations. I further acknowledge that the Generation Unit is obligated to and will file such quarterly or other reports as required by the Regulations and the Commission in its certification order. I understand that the Generation Unit will be immediately de-certified if it fails to file such reports.

Signature of Authorized Representative:

SIGNATURE:	DATE:
 _____	<u>5/22/2013</u>
VP - Finance _____ (Title)	

**APPENDIX A**  
**(Required When Owner or Operator is An Individual)**

**STATE OF RHODE ISLAND**  
**PUBLIC UTILITIES COMMISSION**

**RENEWABLE ENERGY RESOURCES ELIGIBILITY FORM**

Pursuant to the Renewable Energy Act  
 Section 39-26-1 et. seq. of the General Laws of Rhode Island

I, Peter H. Zeliff, as Owner or Operator of the Generation Unit named in Section 1.1 of the attached Renewable Energy Resources Eligibility Form, under the pains and penalties of perjury, hereby certify that Scott A. Henningham, named in Section 1.8 of the attached Application, is authorized to execute this Renewable Energy Resource Eligibility Form.

SIGNATURE:

*Scott A. Henningham*

VP - Finance

(Title)

DATE:

5/31/13

State: New YorkCounty: Genesee

(TO BE COMPLETED BY NOTARY) I, Joyce E. Grazzioplene as a notary public, certify that I witnessed the signature of the above named Scott A. Henningham, and said individual verified his/her identity to me on this date: May 31, 2013.

SIGNATURE:

*Joyce E. Grazzioplene*

My commission expires on: \_\_\_\_\_

NOTARY SEAL:

**JOYCE E. GRAZZIOPLENE**  
 Notary Public, State of New York  
 Qualified in Genesee County  
 My Commission Expires June 11, 2015

**APPENDIX B**  
**(Required When Owner or Operator is a Non-Corporate Entity**  
**Other Than An Individual)**

**STATE OF RHODE ISLAND**  
**PUBLIC UTILITIES COMMISSION**

**RENEWABLE ENERGY RESOURCES ELIGIBILITY FORM**  
**Pursuant to the Renewable Energy Act**  
**Section 39-26-1 et. seq. of the General Laws of Rhode Island**

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**RESOLUTION OF AUTHORIZATION**

**Resolved:** that \_\_\_\_\_, named in  
Section 1.8 of the Renewable Energy Resources Eligibility Form as Authorized Representative,  
is authorized to execute the Application on the behalf of \_\_\_\_\_,  
the Owner or Operator of the Generation Unit named in section 1.1 of the Application.

SIGNATURE:

DATE:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

State: \_\_\_\_\_

County: \_\_\_\_\_

(TO BE COMPLETED BY NOTARY) I, \_\_\_\_\_ as a  
notary public, certify that I witnessed the signature of the above named \_\_\_\_\_,  
and that said person stated that he/she is authorized to execute this resolution, and the individual  
verified his/her identity to me, on this date: \_\_\_\_\_.

SIGNATURE:

DATE:

\_\_\_\_\_

\_\_\_\_\_

My commission expires on: \_\_\_\_\_

NOTARY SEAL:

**APPENDIX C**  
**(Revised 6/11/10)**  
**(Required of all Applicants with Generation Units at the Site of Existing**  
**Renewable Energy Resources)**

**STATE OF RHODE ISLAND**  
**PUBLIC UTILITIES COMMISSION**

**RENEWABLE ENERGY RESOURCES ELIGIBILITY FORM**  
**Pursuant to the Renewable Energy Act**  
**Section 39-26-1 et. seq. of the General Laws of Rhode Island**

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If the Generation Unit: (1) first entered into commercial operation before December 31, 1997; or (2) is located at the exact site of an Existing Renewable Energy Resource, please complete the following and attach documentation, as necessary to support all responses:

- C.1 Is the Generating Unit seeking certification, either in whole or in part, as a New Renewable Energy Resource?  Yes  No
- C.2 If you answered "Yes" to question C.1, please complete the remainder of Appendix C. If you answered "No" and are seeking certification entirely as an Existing Renewable Energy Resource, you do NOT need to complete the remainder of Appendix C.
- C.3 If an Existing Renewable Energy Resource is/was located at the site, has such Existing Renewable Energy Resource been retired and replaced with the new Generation Unit at the same site?  Yes  No
- C.4 Is the Generation Unit a Repowered Generation Unit (as defined in Section 3.29 of the RES Regulations) which uses Eligible Renewable Energy Resources and which first entered commercial operation after December 31, 1997 at the site of an existing Generation Unit?  Yes  No
- C.5 If you checked "Yes" to question C.4 above, please provide documentation to support that the entire output of the Repowered Generation Unit first entered commercial operation after December 31, 1997.
- C.6 Is the Generation Unit a multi-fuel facility in which an Eligible Biomass Fuel is first co-fired with fossil fuels after December 31, 1997?  Yes  No

- C.7 If you checked “Yes” to question C.6 above, please provide documentation to support that the renewable energy fraction of the energy output first occurred after December 31, 1997.
- C.8 Is the Generation Unit an Existing Renewable Energy Resource other than an Intermittent Resource (as defined in Sections 3.10 and 3.15 of the RES Regulations)?  Yes  No
- C.9 If you checked “Yes” to question C.8 above, please attach evidence of completed capital investments after December 31, 1997 attributable to efficiency improvements or additions of capacity that are sufficient to, were intended to, and can be demonstrated to increase annual electricity output in excess of ten percent (10%). As specified in Section 3.23.v of the RES Regulations, the determination of incremental production shall not be based on any operational changes at such facility **not directly** associated with the efficiency improvements or additions of capacity.

Please provide the single proposed percentage of production to be deemed incremental, attributable to the efficiency improvements or additions of capacity placed in service after December 31, 1997. Please make this calculation by comparing actual electrical output over the three calendar years 1995-1997 (the “Historical Generation Baseline”) with the actual output following the improvements. The incremental production above the Historical Generation Baseline will be considered “New” generation for the purposes of RES. Please give the percentage of the facility’s total output that qualifies as such to be considered “New” generation.

- C.10 Is the Generating Unit an Existing Renewable Energy Resource that is an Intermittent Resource?  Yes  No
- C.11 If you checked “Yes” to question C.10 above, please attach evidence of completed capital investments after December 31, 1997 attributable to efficiency improvements or additions of capacity that are sufficient to, were intended to, and have demonstrated on a normalized basis to increase annual electricity output in excess of ten percent (10%). The determination of incremental production shall not be based on any operational changes at such facility **not directly** associated with the efficiency improvements or additions of capacity. In no event shall any production that would have existed during the Historical Generation Baseline period in the absence of the efficiency improvements or additions to capacity be considered incremental production. Please refer to Section 3.23.vi of the RES Regulations for further guidance.
- C.12 If you checked “Yes” to C.10, provide the single proposed percentage of production to be deemed incremental, attributable to the efficiency improvements or additions of capacity placed in service after December 31, 1997. The incremental production above the Historical Generation Baseline will be considered “New” generation for the purposes of RES. Please make this calculation by comparing actual monthly electrical output over the three calendar years 1995-1997 (the “Historical Generation Baseline”) with the actual output following the improvements on a normalized basis. Please provide back-up

information sufficient for the Commission to make a determination of this incremental production percentage.

For example, for small hydro facilities, please use historical river flow data to create a monthly normalized comparison (e.g. average MWh produced per cubic foot/second of river flow for each month) between actual output values post-improvements with the Historical Generation Baseline. For solar and wind facilities, please use historical solar irradiation, wind flow, or other applicable data to normalize the facility's current production against the Historical Generation Baseline.

C.13 If you checked "no" to both C.3 and C.4 above, please complete the following:

- a. Was the Existing Renewable Energy Resource located at the exact site at any time during calendar years 1995 through 1997?  Yes  No
- b. If you checked "yes" in Subsection (a) above, please provide the Generation Unit Asset Identification Number and the average annual electrical production (MWhs) for the three calendar years 1995 through 1997, or for the first 36 months after the Commercial Operation Date if that date is after December 31, 1994, for each such Generation Unit.
- c. Please attach a copy of the derivation of the average provided in (b) above, along with documentation support (such as ISO reports) for the information provided in Subsection (b) above. Data must be consistent with quantities used for ISO Market Settlement System.

**APPENDIX D**  
**(Revised 6/11/10)**  
**(Required of Applicants Seeking Eligibility for Customer-Sited and/or Off-Grid Generation Facilities and Associated Aggregations)**

**STATE OF RHODE ISLAND**  
**PUBLIC UTILITIES COMMISSION**

**RENEWABLE ENERGY RESOURCES ELIGIBILITY FORM**  
**Pursuant to the Renewable Energy Act**  
**Section 39-26-1 et. seq. of the General Laws of Rhode Island**

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Customer-sited and Off-grid Generation Facilities located in Rhode Island may be certified as an eligible resource if their NEPOOL GIS Certificates are created by way of an aggregation of Generation Units using the same generation technology, and so long as the aggregation is certified by the Commission. Please complete the following and attach documentation, as necessary to support all responses:

D.1 Please identify the location(s) in Rhode Island of each Generation Unit that is interconnected on the End-use Customer's side of the retail electricity meter in such a manner that it displaces all or part of the metered consumption of the End-use Customer, or not connected to a utility transmission or distribution system.

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D.2 Please attach proposed procedures under which the aggregate Generation Units will operate ("Aggregation Agreement"). In accordance with Section 6.8.(iii) of the RES Regulations, the proposed Aggregation Agreement shall contain the following information:

- (a) Name and contact information of the Aggregator Owner, to which these regulations and stipulations of certification shall apply, and who shall be the initial owner of any NEPOOL GIS Certifications so certified;
- (b) Name, contact information, and qualifications of the Verifier. Qualifications shall include any information the applicant believes will assist the Commission in determining that the Verifier will accurately and efficiently carry out its duties. After receipt of the application, the Commission may require additional evidence of qualifications;

- (c) A declaration of any and all business or financial relations between Aggregator Owner and Verifier, which the Commission will use to evaluate the independence of the Verifier.<sup>2</sup>
  - (c.1) The Aggregation Agreement shall include a statement indicating under what circumstances the Verifier would not be considered sufficiently independent of the individual Generation Unit, and that Generation Units not meeting this independence test would not be allowed to participate in the aggregation;
- (d) Type of technology that will be included in the aggregation, and statement that the aggregation will include only individual Generation Units that meet all the requirements of these regulations, for example physical location, vintage, etc. (All generators within the aggregation must be of the same technology and fuel type);
- (e) Proposed operating procedures for the aggregation, by which the Aggregation Owner shall ensure that individual Generation Units in the aggregation comply with all eligibility requirements and that the NEPOOL GIS Certificates created accurately represent generation;<sup>3</sup>
- (f) Description of how the Verifier will be compensated for its services by the aggregator. In no instances will an aggregation be certified in which the Verifier is compensated in a manner linked to the number of NEPOOL GIS Certificates created by the aggregation; and
- (g) Confirmation and a description of how, no less frequently than quarterly, the Verifier will directly enter into the NEPOOL GIS the quantity of energy production in the applicable time period from each Generation Unit in the aggregation. The entry of generation data by the Verifier must be through an interface designated for this purpose by the NEPOOL GIS and in accordance with NEPOOL GIS Operating Rules applicable to Third-Party Meter Readers, and to which the Aggregation Owner shall not have access<sup>4</sup>.

### D.3 Applicant must acknowledge that:

<sup>2</sup> Reasons for ruling that a Verifier is not sufficiently independent include, but are not limited to: i) If one entity owns, directly or indirectly, or if a natural person so owns, 10% or more of the voting stock or other equity interest in the other entity; ii) If 10% or more of the voting stock or other equity interests in both entities are owned, directly or indirectly, by the same entity or a natural person; or iii) If one entity is a natural person, and such entity or a member of such entity's immediate family is an officer, director, partner, employee or representative of the other entity.

<sup>3</sup> At a minimum, these procedures will: i) require a determination by the Aggregation Owner that the Generation Unit is in compliance with these Renewable Energy Standard regulations and the Aggregation Agreement as approved by the Commission, and an independent determination by the Verifier that the Generation Unit exists; ii) require a meter reading procedure that allows the Verifier to read meters on the Generation Units; meter readings may be manual or remote and via the aggregators own system or via an independent system, but in all cases shall comply with NEPOOL GIS Operating Rules regarding metering; iii) require confirmation that Verifier will be entering the quantity of energy production in to the NEPOOL GIS system as described in paragraph (g) for NEPOOL GIS to create NEPOOL GIS Certificates; and OL GIS Certificates; and ; iv) include a procedure for the Verifier to report to the Commission on the results of their verification process.

<sup>4</sup> Such generation data shall not include any generation data from previous time periods, except as provided for in this section. Output of less than one MWh by any single Generation Unit within the aggregation may be applied to the entire aggregation's generation, and generation of the aggregation less than one full MWh may be applied to the subsequent quarter in accordance with NEPOOL GIS Operating Rules.

(a) any changes to or deviations from the Aggregation Agreement will be considered a change in generator status, and will require recertification by the Commission;

← please check this box to acknowledge this requirement

N/A or other (please explain) \_\_\_\_\_

\_\_\_\_\_

(b) the Commission will be promptly notified of any changes to or deviations from the Aggregation Agreement; and

← please check this box to acknowledge this requirement

N/A or other (please explain) \_\_\_\_\_

\_\_\_\_\_

(c) in the event that notice of such changes or deviations is not promptly given, all Generation Units in the aggregation may be de-certified.

← please check this box to acknowledge this requirement

N/A or other (please explain) \_\_\_\_\_

\_\_\_\_\_

D.4 Applicant must certify that:

If the Generation Unit (or aggregation of generation units) is a Customer-sited or Off-grid Generation Resource, as defined in Section 39-26-2.4 of the General Laws of Rhode Island and Section 3.26 of the RES Regulations, respectively, the associated Generation Attributes have not otherwise been, nor will be sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Rhode Island.

← please check this box to certify that this statement is true

N/A or other (please explain) \_\_\_\_\_

\_\_\_\_\_

**APPENDIX E**  
**(Revised 6/11/10)**

**(Required of all Applicants Located in a Control Area Adjacent to NEPOOL)**

**STATE OF RHODE ISLAND**  
**PUBLIC UTILITIES COMMISSION**

**RENEWABLE ENERGY RESOURCES ELIGIBILITY FORM**

**Pursuant to the Renewable Energy Act**  
**Section 39-26-1 et. seq. of the General Laws of Rhode Island**

Please complete the following and attach documentation, as necessary to support all responses:

E.1 Please indicate in which Control Area adjacent to NEPOOL the Generation Unit is located:

- New York**
- Hydro Quebec
- Maritimes (including Northern Maine Independent System Administrator)

E.2 Applicant must provide to the Commission by July 1<sup>st</sup> of each year assurances that the Generation Unit's New Renewable Energy Resources used for compliance with the Rhode Island's Renewable Energy Act during the previous Compliance Year have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Rhode Island. Such assurances may consist of a report from a neighboring Generation Attribute accounting system or an affidavit from the Generation Unit.

- please check this box to acknowledge this requirement
- N/A or other (please explain) \_\_\_\_\_

E.3 Applicant must acknowledge and provide evidence to support that, in accordance with Section 5.1.(ii) of the RES Regulations, the Generation Attributes associated with the Generation Unit shall be applied to the Rhode Island Renewable Energy Standard only to the extent of the energy produced by the Generation Unit that is or will be actually delivered into NEPOOL for consumption by New England customers. Verification of the delivery of such energy from the Generation Unit into NEPOOL will be performed in accordance with subparagraphs (a), (b) and (c) of RES Regulations Section 5.1.(ii)

- please check this box to acknowledge this requirement.

(a) Under subparagraph 5.1.(ii)(a), Applicant must verify that the energy produced by the Generation Unit is actually delivered into NEPOOL via "a unit-specific bilateral contract for the sale and delivery of such energy into NEPOOL".

← please check this box to acknowledge the requirement for Applicant to provide ongoing evidence of one or more unit-specific bilateral contract(s) for all energy delivery into NEPOOL for which Applicant seeks RI RES certification, prior to creation of certificates in each quarter, and:

i. Please describe the type of evidence to be provided to the GIS Administrator to demonstrate the existence of such unit-specific bilateral contract(s) for the sale and delivery of such energy into NEPOOL, including duration, quantity and counter-party in NEPOOL:

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(attach more detail if the space provided is not sufficient)

✓ N/A or other (please explain): **please refer to the attached Motion for Waiver of Bilateral Contract**

STATE OF RHODE ISLAND PUBLIC UTILITIES COMMISSION

\_\_\_\_\_  
In the Matter of )  
 )  
Ontario LFGE ) Docket No. TBD  
 )  
Petition for Designation as an )  
Eligible Renewable Energy Resource )  
\_\_\_\_\_ )

**MOTION FOR WAIVER OF BILATERAL CONTRACT**

Seneca Energy II, LLC (“SE”), pursuant to Rule 1.10(b) of the State of Rhode Island Public Utilities Commission’s Rules (“Commission”) Rules of Practice and Procedure, hereby petitions the Commission for waiver of certain rules. Specifically, SE requests that the Commission waive Section 5.1(ii)(a) of the Rhode Island RES Rules and Regulations which requires a unit-specific bilateral contract for the sale and delivery of energy into NEPOOL.

SE, on May 16, 2013, filed with the Commission its Application for Certification of Eligibility of Renewable Energy Resources (“Application”). In its Application SE requested standard certification as an eligible renewable energy resource biomass facility using methane gas from the Ontario County Sanitary Landfill, located in Stanley, New York.

As supplemental information to our Application filing, we want to supply the following information,

GIS Registration Number	IMP32561
Start Date for Ontario’s generated energy into ISO-NE	Phase I (3.2 MW) – Oct 2003 Phase II (2.4 MW) – Jun 2005 Phase III (0.8 MW) – Nov 2010 Phase IV (4.8 MW) – Mar 2013 <b>Total Facility Nameplate Capacity 11.2 MW</b>
Status of other New England state REC Registrations	Approved in MA, MD, CT & NH

The process for moving energy in ISO-NE is described below:

The energy management team is currently performing weekly scheduling into the ISO-NE Day Ahead and Real Time Markets. This entails scheduling into the hourly, Day Ahead, Real Time markets within the NYISO and ISO-NE, and linking the schedules from the NYISO to the schedules done in the ISO-NE through a NERC Web Tagging Procedure. On a monthly basis utilizing settlement data from the NYISO and ISO-NE, hourly generation and exports are determined/reviewed and REC claims are performed in the NEPOOL GIS. This supporting data is then sent to the GIS Administrator for final review/approval prior to the GIS Administrator's issuance of Ontario's RECs.

Based on the foregoing, SE respectfully requests that the Commission grant this Petition and waive application of Section 5.1(ii)(a) of the Rhode Island RES Rules and Regulations.

Respectfully submitted,

Seneca Energy II, LLC

By

Dated: 5/22/2013



Scott A. Henningham  
Senior Vice President of Finance  
585-948-8580 (phone)  
585-948-8584 (fax)  
shenningham@ieslfge.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing petition was served on the service list for this Docket on the 31 day of May, 2013.



Emily Zambuto  
Manager of Environmental Programs



**Seneca Energy II, LLC –Application for Certification as Eligible Renewable Energy Resource**

**Service List updated 5/15/13**

Name/Address	E-mail Service List
Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick, RI 02888	<a href="mailto:res@puc.state.ri.us">res@puc.state.ri.us</a>
Scott Albert, Principal & Northeast Region Manager GDS Associates, Inc. 1155 Elm Street, Suite 702 Manchester, NH 03101	
James Webb, GIS Administrator APX - Our Knowledge is Power	<a href="mailto:GIS@apx.com">GIS@apx.com</a>
Thomas R. Teehan, Esq. National Grid	<a href="mailto:Thomas.teehan@us.ngrid.com">Thomas.teehan@us.ngrid.com</a> <a href="mailto:Joanne.scanlon@us.ngrid.com">Joanne.scanlon@us.ngrid.com</a>
Jon Hagopian, Division of Public Utilities & Carriers	<a href="mailto:jhagopian@ripuc.state.ri.us">jhagopian@ripuc.state.ri.us</a>
Dennis Duffy, VP of Regulatory Affairs Cape Wind Associates LLC	<a href="mailto:dduffy@emienergy.com">dduffy@emienergy.com</a>
M. Haggerty, Ridgewood Power	<a href="mailto:mhaggerty@ridgewoodpower.com">mhaggerty@ridgewoodpower.com</a> <a href="mailto:dgulino@ridgewoodpower.com">dgulino@ridgewoodpower.com</a>
Christopher T. Burnett, President SpinBlade Energy LLC	<a href="mailto:cburnett@spinbladeenergy.com">cburnett@spinbladeenergy.com</a>
Hallie Flint Gilman, Associate General Counsel First Wind	<a href="mailto:regulatory@firstwind.com">regulatory@firstwind.com</a>
Gerald M. Eaton, Public Service Co. of New Hampshire	<a href="mailto:eatongm@nu.com">eatongm@nu.com</a>
Alan M. Shoer, Esq., Adler Pollock & Sheehan, P.C.	<a href="mailto:Ashoer@apslaw.com">Ashoer@apslaw.com</a>
Karina Lutz, Director of Development and Advocacy People’s Power & Light LLC	<a href="mailto:karina@ripower.org">karina@ripower.org</a> <a href="mailto:estephens@noreastgroup.com">estephens@noreastgroup.com</a>
Stephan Wollenburg, Energy Consumers Alliance of NE	<a href="mailto:stephan@massenergy.org">stephan@massenergy.org</a>
Patricia D. Stanton, Conservation Services Group	<a href="mailto:Pat.Stanton@csggrp.com">Pat.Stanton@csggrp.com</a>
George Wood, Oak Point Energy Associates	<a href="mailto:george4wood@verizon.net">george4wood@verizon.net</a>
John Morrow, Amerex Renewables	<a href="mailto:jmorrow@amerexenergy.com">jmorrow@amerexenergy.com</a>
Stephen Hickey, Essex Hydro	<a href="mailto:sih@essexhydro.com">sih@essexhydro.com</a>
Gary Gump – Portsmouth EDC Sustainable Energy subcommittee	<a href="mailto:Ggump1@verizon.net">Ggump1@verizon.net</a>
Kimberley A. Barry, PPL Energy Plus LLC Owen Klicker, PPL EnergyPlus, LLC	<a href="mailto:kabarry@pplweb.com">kabarry@pplweb.com</a> <a href="mailto:baveety@pplweb.com">baveety@pplweb.com</a> <a href="mailto:oiklicker@pplweb.com">oiklicker@pplweb.com</a>

Supria Ranade, Evolution Markets	<a href="mailto:sranade@evomarkets.com">sranade@evomarkets.com</a>
Kate Bogart, Mass Energy/People's Power & Light	<a href="mailto:Kate@massenergy.org">Kate@massenergy.org</a>
Joseph Seymour, Renewable Energy Markets Association	<a href="mailto:JSEYMOUR@ttcorp.com">JSEYMOUR@ttcorp.com</a>
John R Tigue III, Mgr., Electric Supply, NYSEG/RG&E	<a href="mailto:jrtigue@nyseg.com">jrtigue@nyseg.com</a>

**APPENDIX F**  
**(Revised 6/11/10)**  
**Eligible Biomass Fuel Source Plan**  
**(Required of all Applicants Proposing to Use An Eligible Biomass Fuel)**

**STATE OF RHODE ISLAND PUBLIC UTILITIES COMMISSION**  
**Part of Application for Certificate of Eligibility**  
**RENEWABLE ENERGY RESOURCES ELIGIBILITY FORM**  
**Pursuant to the Renewable Energy Act**  
**Section 39-26-1 et. seq. of the General Laws of Rhode Island**

**Note to Applicants:** Please refer to the RES Certification Filing Methodology Guide posted on the Commission's web site ([www.ripuc.org/utilityinfo/res.html](http://www.ripuc.org/utilityinfo/res.html)) for information, templates and suggestions regarding the types and levels of detail appropriate for responses to specific application items requested below. Also, please see Section 6.9 of the RES Regulations for additional details on specific requirements.

The phrase "Eligible Biomass Fuel" (per RES Regulations Section 3.7) means fuel sources including brush, stumps, lumber ends and trimmings, wood pallets, bark, wood chips, shavings, slash, yard trimmings, site clearing waste, wood packaging, and other clean wood that is not mixed with other unsorted solid wastes<sup>5</sup>; agricultural waste, food and vegetative material; energy crops; landfill methane<sup>6</sup> or biogas<sup>7</sup>, provided that such gas is collected and conveyed directly to the Generation Unit without use of facilities used as common carriers of natural gas; or neat bio-diesel and other neat liquid fuels that are derived from such fuel sources.

In determining if an Eligible Biomass Generation Unit shall be certified, the Commission will consider if the fuel source plan can reasonably be expected to ensure that only Eligible Biomass Fuels will be used, and in the case of co-firing ensure that only that proportion of generation attributable to an Eligible Biomass Fuel be eligible. Certification will not be granted to those Generation Units with fuel source plans the Commission deems inadequate for these purposes.

<sup>5</sup> Generation Units using wood sources other than those listed above may make application, as part of the required fuel source plan described in Section 6.9 of the RES Regulations, for the Commission to approve a particular wood source as "clean wood." The burden will be on the applicant to demonstrate that the wood source is at least as clean as those listed in the legislation. Wood sources containing resins, glues, laminates, paints, preservatives, or other treatments that would combust or off-gas, or mixed with any other material that would burn, melt, or create other residue aside from wood ash, will not be approved as clean wood.

<sup>6</sup> Landfill gas, which is an Eligible Biomass Fuel, means only that gas recovered from inside a landfill and resulting from the natural decomposition of waste, and that would otherwise be vented or flared as part of the landfill's normal operation if not used as a fuel source.

<sup>7</sup> Gas resulting from the anaerobic digestion of sewage or manure is considered to be a type of biogas, and therefore an Eligible Biomass Fuel that has been fully separated from the waste stream.



premises of the certified Generation Unit. And please check the following box to certify that this statement is true.

- ✓ check this box to certify that the above statement is true
  - N/A or other (please explain)

F.6 If the proposed fuel includes recycled wood waste, please submit documentation that such fuel meets the definition of Eligible Biomass Fuel and also meets material separation, storage, or handling standards acceptable to the Commission and furthermore consistent with the RES Regulations.

Documentation attached?  Yes  No  N/A

Comments: \_\_\_\_\_  
\_\_\_\_\_

F.7 Please certify that you will file all reports and other information necessary to enable the Commission to verify the on-going eligibility of the renewable energy generators pursuant to Section 6.3 of the RES Regulations. Specifically, RES Regulations Section 6.3(i) states that Renewable Energy Resources of the type that combust fuel to generate electricity must file quarterly reports due 60 days after the end of each quarter on the fuel stream used during the quarter. Instructions and filing documents for the quarterly reports can be found on the Commissions website or can be furnished upon request.

- ✓ check this box to certify that the above statement is true
  - N/A or other (please explain) \_\_\_\_\_

F.8 Please attach a copy of the Generation Unit's Valid Air Permit or equivalent authorization.

Valid Air Permit or equivalent attached?

- ✓ Yes  No  N/A

Comments: \_\_\_\_\_  
\_\_\_\_\_

F.9 Effective date of Valid Air Permit or equivalent authorization:

**10/30/12**

F.10 State or jurisdiction issuing Valid Air Permit or equivalent authorization:

**New York State**

## Supporting Documentation

1. State Certifying Orders

Massachusetts, Maryland, Connecticut and New Hampshire

2. Evidence of Commercial Operation Date
3. Gas Purchase Agreement
4. Air Permit



**COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION  
DIVISION OF ENERGY RESOURCES**

**Statement of Qualification**

**Pursuant to the Renewable Energy Portfolio Standard  
225 CMR 14.00**

This Statement of Qualification, provided by the Massachusetts Division of Energy Resources, signifies that the Generation Unit identified below meets the requirements for eligibility as a New Renewable Generation Unit, pursuant to the Renewable Energy Portfolio Standard 225 CMR 14.05, as of the approval date of the Application for Statement of Qualification, this 21<sup>st</sup> day of June 2005.

Authorized Representative's Name and  
Address:

Mr. Stephen L. Cowell  
CEO & Chairman  
CSGServices, Inc  
40 Washington Street  
Westborough, MA 01581

Name of Generation Unit:

Ontario Landfill Gas Facility

Qualification of this Generation Unit is subject to the following provisions:

1. The Generation Unit Owner or Operator shall provide to the Division by July 1<sup>st</sup> of each year a certification that the Generation Unit's New Renewable Generation Attributes used for compliance with the Massachusetts Renewable Energy Portfolio Standard during the previous Compliance Year have not otherwise been, nor will be, sold, retired, claimed or represented as part of electricity output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.
2. The portion of the total electrical energy output that qualifies as New Renewable Generation in a given time period shall meet requirements that include, but are not limited to, the following:
  - (a) An External Unit Contract shall be executed between the Generation Unit Owner or Operator and an electrical energy purchaser located in the ISO-NE Control Area for delivery of the Unit's electrical energy to the ISO-NE Control Area. The External Unit Contract shall include associated transmission rights for delivery of the Unit's electrical energy over the ties from an adjacent control area to the ISO-NE Control Area; and
  - (b) The Generation Unit Owner or Operator shall provide documentation, satisfactory to the Division, that:
    1. the electrical energy delivered pursuant to the External Unit Contract was settled in the ISO-NE Market Settlement System;
    2. the Generation Unit produced, during the applicable month, the amount of MWhs claimed, as verified by the NE-GIS administrator;

Massachusetts Division of Energy Resources  
Renewable Energy Portfolio Standard

Statement of Qualification  
Ontario LFG

- 3. the electrical energy delivered under the External Unit Contract received a North American Electricity Reliability Council Tag confirming transmission from the originating Control Area to the ISO-NE Control Area; and
- 4. the New Renewable Generation Attributes have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

ISO-NE Generation Unit Asset Identification Number or NE-GIS Identification Number:

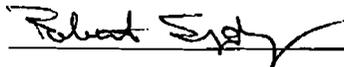
~~REDACTED~~

The Owner or Operator of the New Renewable Generation Unit is responsible for expeditiously informing the Division of the NE-GIS Identification Number upon its assignment by the NE-GIS Administrator.

This New Renewable Generation Unit is assigned a unique Massachusetts RPS Identification Number. Please include MA RPS ID #s on all correspondence with the Division.

**MA RPS ID #: LG-1040-05**

Pursuant to 225 CMR 14.06, the Owner or Operator of the New Renewable Generation Unit is responsible for notifying the Division of any change in eligibility status, and the Division may suspend or revoke this Statement of Qualification if the Owner or Operator of a New Renewable Generation Unit fails to comply with 225 CMR 14.00.



Date: June 21, 2005

Robert Sydney  
General Counsel  
Division of Energy Resources

STATE OF MARYLAND  
PUBLIC SERVICE COMMISSION

**NUMBER:** IR-1141  
**DATE:** November 28, 2007  
**MAIL LOG NO:** 107919

**TO:** Steven B. Larsen, Chairman  
Harold D. Williams, Commissioner  
Allen M. Freifeld, Commissioner  
Susanne Brogan, Commissioner  
Lawrence Brenner, Commissioner

**FROM:** Anthony Myers, Assistant Executive Director *A*

**RE:** Seneca Energy II, LLC – Application for Certification as a Renewable Energy Facility

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**Description of Application:**

On October 18, 2007, Seneca Energy II, LLC (“Seneca II” or “Applicant”) filed with the Commission an application (ML No. 107919) seeking certification as a renewable energy facility under Section 20.61.02.01 of the Code of Maryland Regulations (“COMAR”).

**Groups which should receive a copy of Staff Recommendations:**

Seneca Energy II, LLC  
PJM Environmental Information Services, Inc.  
Maryland Energy Administration  
Power Plant Research Program of the Department of Natural Resources  
Maryland Office of People's Counsel

**Recommended Action (Including Conditions):**

Staff recommends that the Commission grant the application of Seneca Energy II, LLC and issue the Ontario facility a renewable energy facility certification number as specified herein. If the information on which the application is based should change, the Applicant should be directed to file notice with the Commission within 30 days of the change.

*Eric Zent*  
for Robert Howatt  
Director, ERM Division

*Arnold B. Augels*  
for James Boone  
Staff Counsel *Jatey*

Commission Action on \_\_\_\_\_:

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Accept for Filing \_\_\_\_\_

STATE OF MARYLAND  
PUBLIC SERVICE COMMISSION

**Comments of the Energy Resources and Markets Division (IR-1141)**

**Date: November 28, 2007**

**Re: Seneca Energy II, LLC – Application for Certification as a Renewable Energy Facility**

**Mail Log No.: 107919**

**Page 2 of 5**

**Summary of Filing:**

By application filed October 18, 2007 (ML No. 107919), Seneca Energy II, LLC seeks certification of its Ontario facility, as a renewable energy facility under Section 20.61.02.01 of the Code of Maryland Regulations (“COMAR”). The Ontario facility is located in New York. A renewable energy facility includes any person that produces electricity using a Tier 1<sup>1</sup> renewable source or a Tier 2<sup>2</sup> renewable source. Staff has reviewed Seneca II’s application and found it to be complete. Staff recommends that the Commission grant the application for certification as a Maryland Renewable Energy Facility (“REF”).

**Applicable Law:**

Under PUC Article §7-701 *et seq.* a specified amount of all retail sales of electricity, unless specifically exempted, must be offset by the attributes associated with electricity generated from Tier 1 renewable sources, Tier 2 renewable sources, and, beginning in 2007, separate solar resources. The attributes are represented by renewable energy credits (“REC’s”) as defined at PUC Article §7-701(i). To monitor this process, the Commission has established a renewable energy portfolio program (“RPS Program”).

Under the Commission’s RPS Program, REC’s are tracked by the generation attributes tracking system (“GATS”) operated by PJM-Environmental Information Systems, Inc., as required by PUC Article §7-708(a)(2). The method by which REC’s are approved for compliance with Maryland’s RPS are set forth in Title 20, Subtitle 61 of the Code of Maryland Regulations (“COMAR”). Tracking begins with certification of the renewable energy facility (“REF”) under the requirements of COMAR 20.61.02. The application for certification must be on the Commission’s form provided for that purpose and the form must include the following: name and location of the REF; legal name of the owner and certificate of good standing issued by the state in which the owner’s business was formed; name of the operator of the REF if different than the owner; description of the REF technology; rated renewable generation capacity (if co-fired then proportional output by Tier); documentation of fuel source and certification of substantial compliance with all applicable environmental and administrative requirements under PUC Article 7-704. Upon certification a REF must open a GATS account within 30

<sup>1</sup> Tier 1 renewable sources include the following: solar; wind; qualifying biomass; methane from the anaerobic composition of organic materials in a landfill or wastewater treatment plant; geothermal; ocean, including energy from waves, tides, currents and thermal differences; a fuel cell that produces electricity from qualifying biomass or methane; and a small hydro electric plant licensed or exempt from licensing by FERC. See PUC Article §7-701(l).

<sup>2</sup> Tier 2 renewable sources include hydroelectric power other than pump storage generation and incineration of poultry litter under certain conditions. See PUC Article §7-701(m).

STATE OF MARYLAND  
PUBLIC SERVICE COMMISSION

**Comments of the Energy Resources and Markets Division (IR-1141)**

**Date: November 28, 2007**

**Re: Seneca Energy II, LLC – Application for Certification as a Renewable Energy Facility**

**Mail Log No.: 107919**

**Page 3 of 5**

days under COMAR 20.61.02.02 and upon opening such an account may record generation for the purpose of receiving Maryland-eligible REC's.

**Company Requested Commission Action:**

Seneca Energy II, LLC asks the Commission to determine whether or not the Ontario facility qualifies as a REF that is eligible to participate in the Maryland Renewable Energy Portfolio Standard Program.

**Background:**

COMAR 20.61 implements Section § 7-701 *et seq.* of the PUC (“RPS Legislation”) and establishes the Maryland Renewable Energy Portfolio Standard (“RPS”) Program. All electricity suppliers are required to comply with the RPS Legislation and COMAR 20.61. Renewable on-site generators may choose to participate in the RPS Program unless the generator is also a supplier or load serving entity.

A supplier’s compliance with the RPS Legislation is accomplished by submitting an amount of renewable energy credits (“RECs”) equal to the supplier’s RPS for a specified reporting period or paying a compliance fee specified at PUC Article §7-705(b). A renewable on-site generator may choose to sell or trade its RECs to a supplier in need of the RECs.

A REC may be earned equal to the attributes associated with each MWh of generation derived from a certified REF. COMAR 20.61.02 describes the procedure by which the Commission may certify a facility as a REF. Specifically, COMAR requires that a facility seeking certification as a REF file a completed application with the Commission that lists the following: 1) name and location of the REF; 2) owner’s legal name and copy of a certificate of good standing issued by the state of the applicant’s formation; 3) operator’s name; 4) description of the facility’s technology; 5) rated renewable capacity, and where co-fired with fossil fuels, the proportion of output per fuel type generated according to the fuel source on file with the generation attributes tracking system operated by PJM Environmental Information Services, Inc.; 6) documentation that the facility meets the requisite Tier 1 or Tier 2 requirements for which certification is sought; and 7) certification that the applicant is substantially in compliance with all applicable environmental and administrative requirements as specified in PUC Article §7-704.

COMAR 20.61.02 further provides that upon Commission certification of a REF, the REF shall apply to PJM-Environmental Information System, Inc. (“PJM-EIS”) to establish a Generation Attributes Tracking System (“GATS”) account in its name. The

STATE OF MARYLAND  
PUBLIC SERVICE COMMISSION

**Comments of the Energy Resources and Markets Division (IR-1141)**

**Date: November 28, 2007**

**Re: Seneca Energy II, LLC – Application for Certification as a Renewable Energy Facility**

**Mail Log No.: 107919**

**Page 4 of 5**

account must be maintained in good standing in order for a REC to be considered eligible to satisfy Maryland's RPS.

Seneca Energy II, LLC seeks to be certified as a REF and be eligible to receive RECs for renewable attributes associated with electricity that it generates using Landfill Gas as a fuel source. Should the application be granted, Seneca II would be given a Maryland REF certification number. This number is to be used to open an account with GATS, which is operated by PJM-EIS.

GATS is an integral part of the RPS Program. This is in keeping with PUC Article § 7- 708(a)(2) which requires the Commission to use, to the extent practicable, a trading system that is consistent with and operates in conjunction with a trading system developed by PJM Interconnection, LLC. GATS is a system designed and operated by PJM-EIS that is used to create, record, and track RECs. GATS monitors the generation of participating units. RECS are created monthly based upon actual renewable output. A GATS certificate from a Commission-certified renewable energy facility is identified as a Maryland eligible Tier 1 or Tier 2 REC.

PJM-GATS collects generation data for facilities certified for RPS programs in various states. Upon issuance of a Maryland RPS Certification Number, a facility may open a GATS account for use with the Maryland RPS Program. Facilities often are eligible for participation with numerous state RPS programs, and, as a result, they will be certified with multiple states and be issued multiple state certification numbers. A facility that is interconnected with PJM will have its electricity generation data automatically uploaded.

The Applicant's facility, Ontario, is located in New York and uses Landfill Gas to generate electricity for on-site use. The Ontario facility began operation in October 2003. According to the EIA-860 form filed, the Ontario facility is comprised of 7 generators that each have a rated capacity of 0.8 MW. The overall rated capacity for the Ontario facility is 5.6 MW.

**Analysis:**

Staff has reviewed the application filed by Seneca II for REF certification of its facility and found it to be complete. Seneca II's facility, Ontario, is located in New York, a state eligible to participate in the RPS. The Applicant uses Landfill Gas to generate electricity for on-site use. Landfill Gas qualifies as a Tier 1 renewable source under PUC Article §7-701(1), and the attributes associated with the generation may be eligible for RECs. The Applicant's facility began operation in October 2003.

STATE OF MARYLAND  
PUBLIC SERVICE COMMISSION

**Comments of the Energy Resources and Markets Division (IR-1141)**

**Date: November 28, 2007**

**Re: Seneca Energy II, LLC – Application for Certification as a Renewable Energy Facility**

**Mail Log No.: 107919**

**Page 5 of 5**

Staff proposes that the following REF certification number be assigned to the Ontario facility: **MD-40127-LFG-01**. The twelve-digit number is consistent with the GATS identification system. The first two letters represent the state that is certifying the facility. The next five digits identify the facility. The following three letters represent the renewable energy source on which RECs from the facility are based. The last two digits indicate whether the renewable energy source is Maryland Tier 1 or Maryland Tier 2.

**Recommendation:**

Staff recommends that the Commission grant the application of Seneca Energy II, LLC and issue the Ontario facility a renewable energy facility certification number as specified herein. If the information on which the application is based should change, the Applicant should be directed to file notice with the Commission within 30 days of the change.

  
\_\_\_\_\_  
Gregory H. Kim  
Regulatory Economist

cc: Douglas R. M. Nazarian, General Counsel  
Terry Romine, Executive Secretary  
Bryan G. Moorhouse, Chief Hearing Examiner  
Lawanda Edwards, Office of External Relations



# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL  
TEN FRANKLIN SQUARE  
NEW BRITAIN, CT 06051

DOCKET NO. 07-09-18 APPLICATION OF SENECA ENERGY II FOR  
QUALIFICATION OF ONTARIO AS A CLASS I  
RENEWABLE ENERGY SOURCE

March 26, 2008

By the following Commissioners:

Anthony J. Palermino  
Anne C. George  
John W. Betkoski, III

## DECISION

### INTRODUCTION

#### A. SUMMARY

In this Decision, the Department of Public Utility Control determines that the Ontario County Landfill generating facility qualifies as a Class I energy source as a methane gas from landfill facility and assigns it Connecticut Renewable Portfolio Standard (RPS) Registration Number CT00227-07.

#### B. BACKGROUND OF THE PROCEEDING

By application dated September 21, 2007 (Application), Conservation Services Group requested that the Department of Public Utility Control (Department) determine that the Ontario County Landfill generating facility qualifies as a Class I renewable energy source.

#### C. CONDUCT OF THE PROCEEDING

There is no statutory requirement for a hearing, no person requested a hearing, and none was held.

#### D. PARTICIPANTS IN THE PROCEEDING

The Department recognized Ontario County Landfill, through its authorized agent Conservation Services Group, 40 Washington Street, Westborough, MA 01581; and the Office of Consumer Counsel, Ten Franklin Square, New Britain, Connecticut 06051, as participants in this proceeding.

## II. DEPARTMENT ANALYSIS

Pursuant to the General Statutes of Connecticut (Conn. Gen. Stat.) §16-1(a)(26), "Class I renewable energy source" includes energy derived from methane gas from landfills.

The Application states that Ontario County Landfill is a methane gas from landfill facility located at 3555 Post Farm Road in Stanley, New York. Ontario County Landfill began commercial operation on October 31, 2003, and has a nameplate capacity of 5.6 MW. Application, p. 2.

As provided in the Application, Ontario County Landfill is a generating facility, fueled by landfill methane gas. Ontario County Landfill is an RPS-Qualified New Renewable Generation Unit, fueled by landfill gas, under the Massachusetts Renewable Portfolio Standard. Ontario County Landfill's MA RPS Number is LG-1040-05. See the report Massachusetts Division of Energy Resources (DOE) Renewable Portfolio Standard, RPS-Qualified New Renewable Generation Units, pp. 3 and 5.<sup>1</sup> Ontario County Landfill has been granted an Air Title V Facility Permit (Permit) No. 8-3244-00040/00002 originally on October 25, 2002 and modified June 22, 2005 from the New York State Department of Environmental Conservation. The Permit describes the Ontario County Landfill as a landfill Gas to Energy Facility. Ontario County Gas to Energy Facility Permit, p.1. The New York State Department of Environmental Conservation, Division of Solid & Hazardous Materials, Solid Waste Management Facilities (SWIMS) report as of October 2007 lists Ontario County Landfill LFG as an active municipal; solid waste landfill operating as a mixed solid waste landfill under permit No. 832440000400001 dated January 21, 2005. SWIMS Report, p.19. See [www.dec.ny.gov/docs/materials\\_minerals\\_pdf/mswlist.pdf](http://www.dec.ny.gov/docs/materials_minerals_pdf/mswlist.pdf).

Conn Gen. Stat. §16-245a(b), defines geographic eligibility to include energy imported into the control area of the regional independent system operator pursuant to New England Power Pool Generation Information System Rule (NEPOOL GIS) 2.7(c), as in effect on January 1, 2006.

The facility is located in New York and New York is recognized as an adjacent control area by the Independent System Operator of New England. Therefore, the facility geographically qualifies to import power into the control area pursuant to NEPOOL GIS rule 2.7(c) and subsequently receive renewable energy certificates.

Based on the foregoing, the Department determines that Ontario County Landfill qualifies as a Class I renewable energy source pursuant to Conn. Gen. Stat. §16-1(a)(26). The Ontario County Landfill must comply with NEPOOL GIS Operating Rule 2.7 regarding imports.

## III. FINDINGS OF FACT

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<sup>1</sup> This document is located at <http://www.mass.gov/doer/rps/approved.htm>. Page 4 indicates that RPS qualified certificates will be awarded this facility only when and if they meet the special provisions of the RPS Regulations at 225 CMR 14.05(5) related to any generation unit that is located outside of the ISO-New England control area.

1. Ontario County Landfill is recognized by the NY State Department of Environmental Conservation as an active municipal, solid waste landfill.
2. Ontario County Landfill began operation on October 31, 2003.
3. Ontario County Landfill has a nameplate capacity of 5.6 megawatts.
4. Ontario County Landfill is located in Stanley, New York.
5. Ontario County Landfill is a generating facility, fueled by methane gas produced at the landfill.

#### **IV. CONCLUSION**

Based on the evidence submitted, the Department finds that Ontario County Landfill qualifies as a Class I renewable generation source pursuant to Conn. Gen. Stat. § 16-1(a)(26).

The Department assigns each renewable generation source a unique Connecticut RPS registration number. Ontario County Landfill's Connecticut RPS registration number is CT00227-07.

The Department's determination in this docket is based on the information submitted by Ontario County Landfill. The Department may reverse its ruling or revoke the Applicant's registration if any material information provided by the Applicant proves to be false or misleading. The Department reminds Ontario County Landfill that it is obligated to notify the Department within 10 days of any changes to any of the information it has provided to the Department.

**DOCKET NO. 07-09-18 APPLICATION OF SENECA ENERGY II FOR  
QUALIFICATION OF ONTARIO AS A CLASS I  
RENEWABLE ENERGY SOURCE**

This Decision is adopted by the following Commissioners:

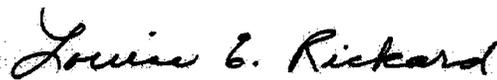
Anthony J. Palermino

Anne C. George

John W. Betkoski, III

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Department of Public Utility Control, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.



\_\_\_\_\_  
Louise E. Rickard  
Acting Executive Secretary  
Department of Public Utility Control

March 27, 2008

\_\_\_\_\_  
Date

THE STATE OF NEW HAMPSHIRE

CHAIRMAN  
Thomas B. Getz

COMMISSIONERS  
Graham J. Morrison  
Clifton C. Below

EXECUTIVE DIRECTOR  
AND SECRETARY  
Debra A. Howland



**PUBLIC UTILITIES COMMISSION**  
21 S. Fruit Street, Suite 10  
Concord, N.H. 03301-2429

Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH  
1-800-735-2964

Website:  
[www.puc.nh.gov](http://www.puc.nh.gov)

March 27, 2009

Patricia Stanton  
Conservation Services Group  
40 Washington Street  
Westborough, MA 01581

Re: DE 08-177, Conservation Services Group's  
Certification Application for Class III Eligibility pursuant to RSA 362-F

Dear Ms. Stanton:

On December 30, 2008, Conservation Services Group submitted an application on behalf of Seneca Energy II, LLC requesting certification of the Ontario County landfill gas facility (Ontario County facility) as eligible to produce Class III renewable energy certificates (RECs) pursuant to RSA 362-F, New Hampshire's Electric Renewable Portfolio Standard law. Staff has reviewed the application and recommended approval noting that the Conservation Services Group application was complete on February 19, 2009.

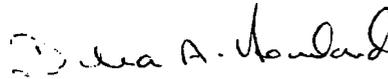
Class III eligibility requires a facility to have begun the production of electricity prior to January 1, 2006 using either eligible biomass technologies having a gross nameplate capacity of 25 megawatts or less or methane gas. The application indicates that the Ontario County facility has a gross nameplate capacity of 5.6 megawatts, is fueled with methane gas and is located at 3555 Post Farm Road Stanley, New York. The facility began commercial operation in October 2003. The facility's NEPOOL generation information system facility code is IMP 32561.

The Commission has reviewed the Conservation Services Group application and determined that it has provided all the necessary information to demonstrate that the Ontario County facility is eligible for certification as a Class III facility. Therefore, the Commission hereby certifies that the Ontario County facility is a Class III renewable energy source effective February 19, 2009 and is eligible to be issued New Hampshire Class III renewable energy certificates. For the issuance of any renewable energy certificates, please be aware that since the facility is located in an adjacent control area, the applicant will need to provide proof to the Commission pursuant to Puc 2504.01 (a)(2) that the associated electricity produced by the facility was imported into the New England control area. The applicant must provide such proof when it submits similar information to the GIS administrator as required by GIS Operating Rule 2.7(c).

March 27, 2009  
Page two

Attached please find a copy of the notice of this certification provided to the GIS administrator. The New Hampshire Renewable Portfolio Standard certification code for the Ontario County landfill methane gas facility is NH-III-09-012.

Sincerely,

A handwritten signature in black ink, appearing to read "Debra A. Howland". The signature is written in a cursive style with a large initial "D".

Debra A. Howland  
Executive Director

Encl.

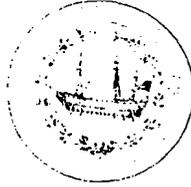
cc: Stephanie Lovejoy Hamilton  
Conservation Services Group

THE STATE OF NEW HAMPSHIRE

CHAIRMAN  
Thomas B. Getz

COMMISSIONERS  
Graham J. Morrison  
Clifton C. Below

EXECUTIVE DIRECTOR  
AND SECRETARY  
Debra A. Howland



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March 27, 2009

James Webb  
Registry Administrator  
APX Environmental Markets  
5201 Great America Parkway, Suite #522  
Santa Clara, CA 95054

Re: DE 08-177, Seneca Energy II, LLC's Ontario County Facility  
Certification as a New Hampshire RPS Class III Facility pursuant to RSA 362-F  
New Hampshire Certification Code NH-III-09-012

Dear Mr. Webb:

Please be advised that, pursuant to NH RSA 362-F, the New Hampshire Public Utilities Commission has certified Seneca Energy II, LLC's Ontario County landfill methane gas facility as a Class III renewable energy source effective February 19, 2009. Accordingly, Seneca Energy II, LLC's Ontario County facility is eligible to be issued New Hampshire Class III renewable energy certificates.

The Ontario County facility has a gross nameplate capacity of 5.6 megawatts, is fueled with methane gas and is located at 3555 Post Farm Road, Stanley, New York. The facility's initial commercial operation date was October 2003. Its NEPOOL GIS facility code is IMP 32561. The New Hampshire RPS certification code is NH-III-09-012.

Sincerely,

Debra A. Howland  
Executive Director

cc: Patricia Stanton  
Conservation Services Group



***Innovative Energy Systems, Inc.***

2917 Judge Road  
Oakfield, NY 14125-9771  
Phone: (585) 948-8580 FAX: (585) 948-8584

---



September 29, 2003

Mr. Gary Freeland  
New York State Electric & Gas Corp.  
4500 Vestal Parkway East  
P.O. Box 3607  
Binghamton, New York 13902

Re: Ontario Landfill LFG to Energy Facility

Dear Mr. Freeland:

This is to certify that the electric generating facility that has been constructed for Seneca Energy II, LLC at the Ontario County Landfill, located in the Town of Stanley, NY, is in complete accordance with all applicable codes.

In addition the Facility has passed inspection by the Underwriters for compliance with electrical codes. The Building Inspector for the Town of Stanley has accepted construction of the Facility for compliance with the Building Code of New York State.

Respectfully submitted,

  
Frederic R. Luff, E.  
Registration No. 4307  
Principal Engineer  
Professional Engineer  
Innovative Energy Systems, Inc.



Cc: Peter H. Zeliff, President,  
Seneca Energy II, LLC

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Office of Markets, Tariffs and Rates

New York State Electric & Gas Corporation  
Docket Nos. ER04-9-000 and  
ER04-9-001

Issued: December 16, 2003

Huber Lawrence & Abell  
605 Third Avenue  
New York, NY 10158

Attention: Serena C. Dignan, Esq.  
Attorney for New York State Electric & Gas Corporation

Reference: Executed Interconnection Agreement with Seneca Energy II, LLC

Ladies and Gentlemen:

New York State Electric & Gas Corporation's (NYSEG) submittal is accepted for filing effective September 16, 2003, as requested. The designation is listed on the Enclosure.

On October 2, 2003, as amended on November 7, 2003, you filed on behalf of NYSEG an executed Interconnection Agreement (IA) with Seneca Energy II, LLC (Seneca) for Seneca's Ontario County Landfill generating plant. Seneca's 3.2 MW generating plant and appurtenant facilities will interconnect with NYSEG's transmission system. New York Independent System Operator, Inc.'s (NYISO) interconnection study and cost procedures do not generally govern 10 MW or smaller projects, since there is an assumption that those projects with a rating of 10 MW or smaller do not pose a reliability issue. However both NYSEG and Seneca must notify NYISO of the IA. The IA is filed under NYISO's Open Access Transmission Tariff, and sets forth the terms and conditions governing the interconnection services to be provided by NYSEG.

The October 2, 2003 filing was noticed on October 14, 2003, with comments due on October 23, 2003. The November 7, 2003 filing was noticed on November 17, 2003, with comments due on November 28, 2003. No protests or adverse comments were filed.

Docket Nos. ER04-9-000 and ER04-9-001

2

This action is taken pursuant to the authority delegated to the Director, Division of Tariffs & Market Development – East under 18 C.F.R. § 375.307.

This acceptance for filing shall not be construed as constituting approval of the referenced filing or of any rate, charge, classification or any rule, regulation or practice affecting such rate or service contained in your filing; nor shall such acceptance be deemed as recognition of any claimed contractual right or obligation associated therewith; and such acceptance is without prejudice to any findings or orders which have been or any which may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against your company.

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Sincerely,

Alice Fernandez, Director  
Division of Tariffs & Market  
Development – East

Enclosure

New York Independent System Operator, Inc.  
Docket No. ER04-9-001  
Rate Schedule Designation<sup>1</sup>  
Effective Date: September 16, 2003

Designation

Description

Substitute Original Service Agreement No. 327  
under New York Independent System Operator,  
Inc.'s FERC Electric Tariff Original Volume No. 1

Interconnection Agreement  
between New York State  
Electric & Gas Corporation  
and Seneca Energy II, LLC  
(Ontario County Landfill)

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<sup>1</sup> Acceptance of Substitute Original Service Agreement No. 327 filed in Docket No. ER04-9-001 renders moot Original Service Agreement No. 327 filed in Docket No. ER04-9-000.



AGREEMENT

This AGREEMENT is made this \_\_\_ day of January, 2008, by and between Casella Waste Systems of Ontario, LLC ("Casella") and Seneca Energy II, LLC ("SE"), and Ontario County (the "County").

WHEREAS, the County owns the Ontario County Landfill ("Landfill");

WHEREAS, on the 8<sup>th</sup> of May, 2002, Innovative Energy Systems, Inc. ("Innovative") and the County entered into a Gas Assignment Agreement (the "GAA"), whereby, *inter alia*, the County assigned certain rights to the naturally occurring gas generated from the Landfill (the "Landfill Gas") to Innovative, and

WHEREAS, Innovative subsequently assigned all of its right, title and interest in and to the GAA to SE and;

WHEREAS, in furtherance of the GAA, Innovative and the County entered into a Lease Agreement (the "Lease") also dated May 8, 2002; and

WHEREAS, Innovative subsequently assigned all of its right, title and interest in and to the Lease to SE; and

WHEREAS, the original parties to the GAA (the County and Innovative) acknowledged therein that future governmental economic incentives (such as tax credits) might become available (the "Credits"), and that in such event, the County would receive 50% of the value received by Innovative as a result of Innovative's utilization of the Credits (the "County's Credit Revenue"); and

WHEREAS, on November 25, 2003, the County and Casella's predecessor-in-interest, New England Waste Services of N.Y., Inc. ("NEWSNY"), entered into an Operation, Management and Lease Agreement ("OMLA"), whereby NEWSNY became the operator of the Landfill and, *inter alia*, the County assigned its rights to the County's Credit Revenue to NEWSNY; and

WHEREAS, on June 30, 2004, NEWSNY assigned all rights and obligations under the OMLA to Casella, including, *inter alia*, the County's Credit Revenue;

NOW THEREFORE, the parties agree as follows:

1. Casella warrants and represents to SE as follows:
  - a. The County has previously assigned all of its rights to the County's Credit Revenue to NEWSNY and such assignment is valid and remains in full force and effect and is binding upon the County;
  - b. Subsequent to the assignment referred to in 1(a) above, NEWSNY assigned all of its rights to the County's Credit Revenue to Casella and such assignment is valid and remains in full force and effect and is binding upon NEWSNY;

**EXECUTION COPY**

c. Casella is now the holder of all of the rights to the County's Credit Revenue that was originally held by the County pursuant to the GAA.

2. In consideration of the warranties and representations of Casella set forth in Section 1 hereof, SE agrees that if and when it utilizes any Credits, whether pursuant to Section 45 of the U.S. Internal Revenue Code or any other similar or related provision under local, State or Federal Law, whether before or after the date of this Agreement, SE shall recognize Casella's rights to the County's Credit Revenue pursuant to the terms of the GAA and shall make payment to Casella as described therein.

3. If any taxing authority with jurisdiction over the Credits utilized by SE subsequently determines that such utilization was not consistent with existing law, and thereby disallows the utilization of the Credit, Casella agrees, that in such circumstance:

- a. If SE makes a good faith determination that the disallowance of the Credits is consistent with existing law, within thirty (30) days after receipt from SE of written notice of such determination, Casella will reimburse SE the amount that SE paid to Casella as the County's Credit Revenue pursuant to the GAA plus Casella's pro rata share (50%) of any penalties and interest charged to SE as a result of the disallowance of the Credits; or
- b. If SE and Casella mutually agree to challenge any ruling of the taxing authority disallowing the Credits, Casella agrees that it will make no reimbursement, but shall pay 50% of the costs of any professional fees (including, accounting and attorneys' fees) incurred by SE in challenging such ruling; provided, however, that the strategy for such challenge and the payments described herein are subject to the reasonable approval of the General Counsel of Casella Waste Systems, Inc. If SE and Casella's challenge is unsuccessful, Casella agrees that within thirty (30) days after final notification of the result of the challenge it will reimburse SE the amount that SE paid to Casella as the County's Credit Revenue pursuant to the GAA plus Casella's pro rata share (50%) of any penalties and interest charged to SE as a result of the disallowance of the Credits.

4. Casella hereby agrees to assume and be bound by all of the terms and conditions of the GAA and to recognize all of SE's rights under the Lease, to the extent applicable to Casella.

5. SE hereby consents to the assignment of the GAA from the County to NEWSNY and from NEWSNY to Casella, and further agrees to continue to be bound by the terms and conditions of the GAA and Lease.

6. Casella hereby consents to the assignment of the GAA from Innovative to SE .

7. Casella agrees to indemnify, defend, save and hold harmless SE from and against, and to reimburse SE for or in respect of, any and all losses, damages, deficiencies, liabilities, claims, obligations, expenses, fines, penalties, litigations, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements, fees and expenses, including, reasonable fees and disbursements of accountants and counsel of any nature whatsoever, incurred or sustained by SE

**EXECUTION COPY**

arising out of, based upon, resulting from or by reason of any breach of any warranty, representation, covenant or agreement of Casella contained in this Agreement.

8. SE agrees to indemnify, defend, save and hold harmless Casella from and against, and to reimburse Casella for or in respect of, any and all losses, damages, deficiencies, liabilities, claims, obligations, expenses, fines, penalties, litigations, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements, fees and expenses, including, reasonable fees and disbursements of accountants and counsel of any nature whatsoever, incurred or sustained by Casella arising out of, based upon, resulting from or by reason of any breach of any warranty, representation, covenant or agreement of SE contained in this Agreement.

9. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, obligations, and remedies hereunder shall be assigned by any party hereto, including by operation of law, without the prior written consent of the other party. This Agreement is not intended to confer upon any person except the parties any rights, interests, obligations or remedies hereunder.

10. This Agreement may not be amended, modified or supplemented, except in writing and signed by both parties.

11. This Agreement and any and all issues arising hereunder or relating hereto shall be governed and construed according to the laws of the State of New York without reference to principles of conflicts of laws that would result in the application of another jurisdiction's substantive law.

12. This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the parties or to impose any partnership obligation or liability upon either party. Neither 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, the other party.

13. It is understood and agreed by all parties that the County is a signatory to this Agreement for the sole purpose of acknowledging that the statements made in the Whereas clauses and in Section 1 are, to the County's best knowledge, true and correct statements.

WHEREFORE, the parties have executed this Agreement on the date first written above.

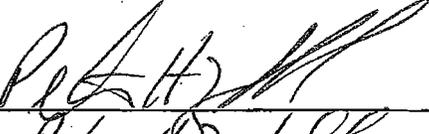
**\*\*\* SIGNATURES APPEAR ON THE FOLLOWING PAGE \*\*\***

EXECUTION COPY

CASELLA WASTE SYSTEMS OF  
ONTARIO, LLC

SENECA ENERGY II, LLC.

By:   
Name: Timothy A. Crehney  
Title: RVP

By:   
Name: Peter A. DeLSt  
Title: CEO

ONTARIO COUNTY

By:   
Name: Geoffrey Astles  
Title: County Administrator

Amigone, Sanchez,  
Mattrey & Marshall, LLP

Attorneys and Counsellors at Law

1300 MAIN PLACE TOWER  
350 MAIN STREET  
BUFFALO, NEW YORK 14202

(716) 852-1300

OF COUNSEL  
DAVID BUCH  
PAUL K. ISAAC

FAX: (716) 852-1344  
FAX: (716) 852-1355

NICHOLAS P. AMIGONE, III  
ARTHUR G. BAUMEISTER, JR.  
DAVID W. BEYER  
STEPHEN E. CAVANAUGH  
RICHARD A. CLACK  
MICHAEL D. DENZ\*  
CHRIST GAETANOS\*\*  
PHILIP M. MARSHALL  
WILLIAM H. MATTREY  
MARK A. MONTOUR\*  
DAVID V. SANCHEZ\*  
VINCENT J. SANCHEZ

May 9, 2003  
VIA OVERNIGHT MAIL

\*ALSO MEMBER FLORIDA BAR  
\*\*ALSO MEMBER WEST VIRGINIA BAR

Ontario County Administrator  
Ontario County Courthouse  
27 North Main Street  
Canandaigua, New York 14424

Attention: Geoff Astles

Re: *Parties: Innovative Energy Systems, Inc. ("Innovative")  
Ontario County*

*Gas Assignment Agreement dated May 8, 2002 and  
Lease Agreement dated May 8, 2002 (the "Agreements")*

Dear Mr. Astles:

As I informed you in our telephone conversation this week, Innovative intends to assign the Agreements to Seneca Energy II, LLC ("Seneca"), a New York limited liability company. In order to avoid a multiplicity of companies, Peter Zeliff and myself have been consolidating our electrical generation operations into Seneca. Innovative is owned by Peter Zeliff and myself and is a principal member of Seneca and operates and controls its day-to-day operations. I note that both the Agreements require the consent of Ontario County to such an assignment which consent may not be unreasonably withheld. Inasmuch as the operators of the project are the same and Innovative will remain obligated under the Agreements, we are hereby requesting Ontario to consent to the assignment of the Agreements to Seneca. Seneca will assume and be bound for the performance of all of the obligations of Innovative under the Agreements and Innovative will also continue to remain liable thereon. I should also point out that Seneca's net worth is significantly higher than that of Innovative which thereby improves the County's security position under the Agreements.

If satisfactory, please indicate Ontario County's consent to the assignment in the appropriate area at the bottom of the page. Upon receipt, I will hold the assignment in escrow pending receipt by you of the fully executed Assumption Agreement which is enclosed for your review.

Amigone, Sanchez,  
Mattrey & Marshall, LLP

Ontario County Administrator  
Attention: Geoff Astles  
Page Two  
May 9, 2003

Also, I note that the Agreements provide that Ontario will supply Innovative with a search or other satisfactory title information with respect to the property being leased and on which the project will be built. I would appreciate it if you could forward this information to me for our review. A survey of the leased property will not be needed.

We intend to commence construction on the project on or about June 1, 2003 and look forward to producing electricity sometime during the month of August. Consequently, your earliest attention to the matters set forth would be greatly appreciated.

Very truly yours,

AMIGONE, SANCHEZ,  
MATTREY & MARSHALL, LLP



Vincent J. Sanchez

VJS:llj  
cc: Mr. Peter Zeliff  
Enclosure

**SUBJECT TO THE RECEIPT OF THE FULLY EXECUTED  
ASSUMPTION AGREEMENT ATTACHED HERETO AND  
PURSUANT TO ITS TERMS, ONTARIO COUNTY HEREBY  
CONSENTS TO THE ASSIGNMENT OF THE AGREEMENTS  
REFERENCED ABOVE TO SENECA ENERGY II, LLC.**

Date: 8/6/03

ONTARIO COUNTY

By: Geoffrey C. Astles

## **ASSIGNMENT AND ASSUMPTION AGREEMENT**

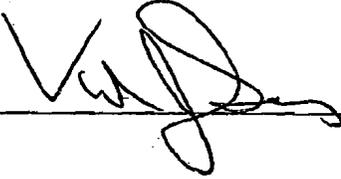
Innovative Energy Systems, Inc. ("Innovative"), a New York corporation, with an office and principal place of business at 2917 Judge Road, Oakfield, New York 14125, hereby assigns unto Seneca Energy II, LLC ("Seneca"), a New York limited liability company, with an office and principal place of business at 2917 Judge Road, Oakfield, New York 14125, all of its right, title and interest in and to the following described agreements (the "Agreements"):

1. Gas Assignment Agreement dated May 8, 2002 by and between Ontario County and Innovative Energy Systems, Inc
2. Lease Agreement dated May 8, 2002 by and between Ontario County and Innovative Energy Systems, Inc.

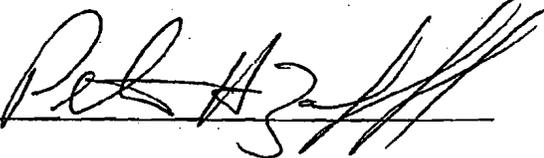
Seneca hereby accepts such assignment and agrees to assume and be obligated for the performance of all of the obligations of Innovative under the Agreements.

Notwithstanding such assignment, Innovative agrees that it will continue to be bound for the performance of all of its obligations under the Agreements.

**INNOVATIVE ENERGY SYSTEMS, INC.**

By: 

**SENECA ENERGY II, LLC**

By: 

Amigone, Sanchez,  
Mattrey & Marshall, LLP

Attorneys and Counsellors at Law

1300 MAIN PLACE TOWER  
350 MAIN STREET  
BUFFALO, NEW YORK 14202

(716) 852-1300

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MICHAEL D. DENZ\*  
CHRIST GAETANOS\*\*  
PHILIP M. MARSHALL  
WILLIAM H. MATTREY  
MARK A. MONTOUR\*  
DAVID V. SANCHEZ\*  
VINCENT J. SANCHEZ

October 20, 2003

\*ALSO MEMBER FLORIDA BAR  
\*\*ALSO MEMBER WEST VIRGINIA BAR

Charles R. Peters, Esq.  
Ontario County Courthouse  
4<sup>th</sup> floor  
27 North Main Street  
Canandaigua, New York 14424

**Re: Parties: Innovative Energy Systems, Inc. ("Innovative")  
Ontario County**

**Gas Assignment Agreement dated May 8, 2002 and  
Lease Agreement dated May 8, 2002 (the "Agreements")**

Dear Mr. Peters:

Pursuant to the May 9, 2003 letter Agreement between Innovative Energy Systems, Inc. and Ontario County. I am enclosing herewith two (2) fully executed Assignment and Assumption Agreements for your records. It is my understanding that the facility is now operational and producing electricity. We appreciate your help in bringing this matter to a successful conclusion.

If you have any questions, please contact me.

Very truly yours,

AMIGONE, SANCHEZ,  
MATTREY & MARSHALL, LLP

Vincent J. Sanchez

VJS:nad  
Enclosures  
cc: Kevin Cotter  
Peter Zelif

# Ontario County

## Board of Supervisors

Canandaigua, New York 14424

Supervisor Baker offered the following resolution and moved its adoption:

### RESOLUTION NO. 422 - 2003

#### AUTHORIZING ASSIGNMENT OF AGREEMENTS FROM INNOVATIVE ENERGY SYSTEMS, INC., TO SENECA ENERGY II, LLC ONTARIO COUNTY LANDFILL

WHEREAS, The County of Ontario has heretofore entered into certain agreements with Innovative Energy Systems, Inc., relating to methane gas recovery and electrical energy generation at the Ontario County Landfill, including a Gas Assignment Agreement and a Lease Agreement both dated May 8, 2002; and

WHEREAS, Innovative Energy Systems, Inc., has requested that the County authorize and approve assignment of the referenced agreements to Seneca Energy II, LLC; and

WHEREAS, The referenced agreements anticipate such assignment, and County staff has determined that the requested assignment will improve the County's security position under the agreements; and

WHEREAS, The Solid Waste Management Committee has reviewed and recommends approval of the requested assignment; now, therefore, be it

RESOLVED, That the County of Ontario hereby authorizes and approves assignment of the Gas Assignment Agreement and Lease Agreement dated May 8, 2002, from Innovative Energy Systems, Inc., to Seneca Energy II, LLC; and further

RESOLVED, That the County Administrator be, and hereby is, authorized and empowered to execute all documents necessary or appropriate to effectuate this assignment, subject to review and approval by the Office of the County Attorney; and further

RESOLVED, That copies of this resolution be forwarded to the County Treasurer, Innovative Energy Systems, Inc., and Seneca Energy II, LLC; and further

RESOLVED, That this resolution shall take effect immediately.

STATE OF NEW YORK }  
County of Ontario }

I do hereby certify that I have compared the preceding with the original thereof, on file in the Office of the Clerk of the Board of Supervisors at Canandaigua, New York, and that the same is a correct transcript therefrom and of the whole of said original; and that said original was duly adopted at a meeting of the Board of Supervisors of Ontario County held at Canandaigua, New York, on the 31<sup>st</sup> day of July 2003.

Given under my hand and official seal August 1, 2003.

Karen R. DeMay  
Karen R. DeMay, Clerk of the Board of Supervisors of Ontario County, NY

## GAS ASSIGNMENT AGREEMENT

THIS AGREEMENT, made and entered into as of this 8<sup>th</sup> day of May, 2002 by and between **ONTARIO COUNTY**, with an office and principal place of business at 3555 Post Farm Road, Stanley, New York 14561, ("Assignor"), and **INNOVATIVE ENERGY SYSTEMS, INC.**, with an office and principal place at 2917 Judge Road, Oakfield, NY 14125 ("Assignee").

WITNESSETH:

WHEREAS, Assignor owns and controls gas ("Gas") in and underlying a certain tract of landfill located in Ontario County, New York (the "Ontario Landfill"); and

WHEREAS, Assignor is desirous of assigning all of the rights in and to the Gas produced at the Ontario Landfill for the uses and purposes set forth herein; and

WHEREAS, Assignee is desirous of accepting the assignment from the Assignor of the Gas produced at the Ontario Landfill and utilizing the Gas to fuel an electrical generation power plant to be constructed by Assignee immediately adjacent to the Ontario Landfill (the plant, the electrical generation equipment, the gas scrubbing system and all piping, wiring and equipment owned by Assignee and incidental to the production of the electricity are hereinafter referred to as the "Electricity Project"); and

WHEREAS, it is in the best interest of Assignor for the Assignee to construct the Electricity Project and to utilize the Gas in the operation thereof; and

WHEREAS, as an inducement to Assignee to enter into this Agreement, Assignor has this date entered into a Lease Agreement (the "Lease") with Assignee, which Lease grants unto

Assignee leasehold rights to the land (the "Leased Premises") on which the Electricity Project is to be constructed and operated.

NOW THEREFORE, in consideration of the covenants and agreements hereinafter contained, and other good and valuable consideration, receipt of which is acknowledged by the parties hereto, the parties, intending to be legally bound hereby, agree as follows:

**ARTICLE I  
VOLUME**

(A) Subject to the terms and conditions hereinafter set forth, Assignor agrees to exclusively assign and Assignee hereby accepts the exclusive assignment of all Assignor's rights in and to all Gas recovered from the Ontario Landfill to the extent needed by Assignee to operate the Electricity Project and all future expansions thereof (Assignee's Requirements). In furtherance of Assignor's agreement to assign the rights to the Gas to Assignee, Assignee agrees to construct on the Leased Premises a 3.2 mega watt Electricity Project, or less at its discretion, which shall be operational on or before January 1, 2003.

Assignee shall have the right to expand the Electricity Project beyond 3.2 mega watts at such time as Assignee deems it to be economically viable to do so, subject to prior written approval of the Assignor, which approval shall not be unreasonably withheld or delayed. Assignee's right to expand the Electricity Project beyond 3.2 mega watts shall be limited only by the quantity of Gas produced at the Ontario Landfill. It being the understanding of the parties that Assignee shall have an unlimited right to produce as much electricity as possible through the utilization of the Gas, subject to prior written approval of the Assignor, and compliance with applicable regulatory

requirements. Assignor agrees that Assignee may utilize the Gas for the operation of an expanded Electricity Project. Gas not utilized by Assignee in the Electricity Project shall be flared in accordance with appropriate federal, state and local laws at the expense of Assignor. Assignee will at all times operate the Electricity Project in substantial compliance with applicable environmental laws and regulations and will make a good faith effort to maximize the economic benefits of the electricity project for the benefit of both the Assignee and Assignor provided, however, that the Assignees reasonable business judgment with respect to the Electricity Project's operation shall be binding upon the Assignor.

(B) Assignor shall promptly notify Assignee by telephone, and confirm by letter the existence of any information which Assignor may obtain concerning any condition, occurrence or circumstances which could adversely affect Assignor's ability to deliver the quantities of Gas covered by this Agreement other than the natural depletion of gas over time. Assignor agrees that it will take no action at any time that will in any way impede the flow of Gas to the Electricity Project. Assignor further agrees that all times it will operate the Ontario Landfill in such a manner so as to ensure the availability of Gas for the Electricity Project, and in furtherance thereof, it will at all times maintain the gas collection system on the Ontario Landfill in good operating condition and repair in order to facilitate the delivery of Gas to the Electricity Project. Assignor does not expressly or impliedly warrant the production or delivery of any volume of gas to the Electricity Project.

(C) Assignee is hereby granted the right to regulate and absolutely control the flow of Gas entering the Electricity Project, including discontinuing same at any time if, in the reasonable

opinion of Assignee, the Gas adversely affects the operations of the Electricity Project or it is no longer economically viable to operate the Electricity Project with the Gas. Assignee shall provide sufficient notice of gas flow rates to Assignor to allow Assignor to appropriately dispose of excess gas in accordance with applicable regulatory requirements.

## ARTICLE II DELIVERY AND ASSIGNMENT

(A) Assignor shall deliver Gas hereunder to Assignee at the point where the Gas leaves the landfill footprint located at Ontario Landfill (the "Delivery Point"). Title to Gas shall pass from Assignor to Assignee at the Delivery Point and the assignment of the Gas shall be consummated at the Delivery Point.

(B) It is expressly agreed and understood that until Gas is delivered to Assignee as herein provided, Assignor shall be deemed to be in exclusive possession and control thereof, and shall be solely liable and responsible therefore.

(C) Except as otherwise expressly provided hereunder, Assignor shall be responsible for all costs related to gathering and transporting to the Delivery Point the Gas to be assigned and delivered hereunder.

(D) Assignor will be responsible, at its expense, for collection and disposing of all condensate generated by the Gas collection and production facilities of Assignor.

(E) Assignor shall not assign or utilize or permit the utilization of the Gas in any manner other than as expressly set forth herein.

## ARTICLE III

## **USE OF GAS; REVIEW**

Provided that Assignee's Requirements are satisfied from Gas production at the Ontario Landfill, Assignee agrees not to purchase or produce Gas from any other source during the term of this Agreement. In the event, that the Gas produced at the Ontario Landfill is not of sufficient quantity or quality to meet Assignee's Requirements, then Assignee may, at its option, purchase or produce fuel to power the Electricity Project from whatever sources it deems appropriate to the extent, and only to the extent, that Assignor is unable to meet Assignee's requirements.

## **ARTICLE IV CONSIDERATION**

The consideration for the assignment of the Gas rights from Assignor to Assignee for production of electricity at the Electricity Project shall be as set forth on Schedule "A."

Assignee shall be entitled to all tax credits created or resulting from the assignment of the Gas to Assignee hereunder and the production and sale of electricity at the Electricity Project. Assignor agrees to reasonably cooperate with Assignee in order to ensure that any such tax credits are available to Assignee or a designee of Assignee.

## **ARTICLE V PAYMENT AND INVOICES**

The amounts owing under Schedule "A" shall be payable in consecutive monthly installments. Such payments shall be due and owing within forty-five days after the close of each

month commencing with the month that the Electricity Project first becomes operational and sells electricity.

Accompanying all invoices pursuant to Schedule "A", Assignee shall enclose a statement or other evidence establishing the total electric revenues for the month in question and the number of KWH of electricity sold during such period. Upon receipt of each payment, Assignor shall examine the accompanying statement to ensure that it has been calculated correctly, and shall promptly notify Assignee of any errors therein, which Assignor in good faith believes have been made together with the facts providing the basis for such belief. Assignee will promptly review Assignor's complaint, and if any error is found, shall promptly correct same.

**ARTICLE VI  
WARRANTY OF TITLE, RESPONSIBILITIES OF THE PARTIES, INSURANCE**

(A) Assignor warrants that it has good and marketable title to, and the right to assign, all Gas to be delivered hereunder, free and clear of all liens, encumbrances and claims whatsoever.

(B) Assignee shall be responsible for the repair and/or replacement of damage to the Electricity Project.

(C) Assignor shall be responsible for the repair and/or replacement of damage to the gas collection system on the Ontario Landfill unless such damage is caused by the negligent acts or omissions of Assignee or its agents or invitees.

(D) Assignee shall be responsible for the repair and/or replacement of damage to the Electricity Project unless such damage is caused by the acts or omissions of Assignor's agents or invitees.

(E) Assignor agrees that it will keep on hand an appropriate inventory of pipeline and incidentals, which may be utilized in the repair, and maintenance of the collection system located on Ontario Landfill. If there is an interruption of Gas production and/or supply, Assignee shall have immediate access to such inventory and Ontario Landfill for purposes of repair and restoration of the collection system. It being agreed by the parties that the continued and unimpeded flow of Gas to the Electricity Project is at the essence of this Agreement, and that Assignor, in agreeing to maintain such inventory and allowing Assignee access thereto and to Ontario Landfill for repairs and restoration, is thereby mitigating any liability that it may have to Assignee as a result of its acts or omissions of those of its employees, agents or invitees.

(F) Neither Assignor nor Assignee shall be in default hereunder if either is unable to fulfill, or is delayed in fulfilling, any of their obligations hereunder by reason of fire or other casualty, strikes or labor troubles, governmental preemption in connection with a national emergency, or by reason of any rule, order or regulation of any governmental authority, or by reason of any supply and demand affected by war or other emergency or by any negligent acts or omissions of the other, their employees, agents or invitees, or any cause beyond their control.

(G) Assignor is the owner of the premises upon which Ontario Landfill is located and has good and clear title thereto.

(H) The parties hereby acknowledge and understand that Assignor is a self-insured municipality pursuant to General Municipal Law Section 6-n, and such self-insurance shall provide coverage for all of Assignor's obligations and operations pursuant to this Agreement. Assignee shall be responsible for property damage insurance for the Electricity Project power plant and the contents thereof and Assignee shall also maintain comprehensive general liability insurance naming Assignor as an additional insured.

(I) Assignor and Assignee shall each use their best efforts to include in the insurance policies required hereunder, appropriate clauses pursuant to which the insurance carrier waives all rights against the Assignor/Assignee, as the case may be, with respect to losses payable under such policies. Assignor and Assignee shall each advise the other promptly as to the language of the clauses included in the insurance policy or policies and shall notify each other promptly of any cancellation or change in the terms of any such policy or policies, which would affect said clauses.

## ARTICLE VII MUTUAL INDEMNIFICATION

(A) Assignor hereby agrees to indemnify, defend, save and hold harmless the Assignee from and against, and to reimburse Assignee for or in respect of any and all losses, damages, deficiencies, liabilities, claims, obligations, expenses, fines, penalties, litigations, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements, fees and expenses including, without limitation, special, indirect, incidental, consequential or punitive damages including loss of profits or revenues and all out-of-pocket expenses, reasonable investigation expenses and

reasonable fees and disbursements of accountants and counsel of any nature whatsoever, incurred or sustained by Assignee arising out of, based upon, resulting from, or by reason of any breach by Assignor of any of its warranties, representations, covenants or agreements contained herein or in the Schedules or Schedules attached hereto.

(B) Assignee hereby agrees to indemnify, defend, save and hold harmless Assignor from and against, and to reimburse Assignor for or in respect of any and all losses, damages, deficiencies, liabilities, claims, obligations, expenses, fines, penalties, litigations, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements, fees and expenses including, without limitation, special, indirect, incidental, consequential or punitive damages including loss of profits or revenues and all out-of-pocket expenses, reasonable investigation expenses and reasonable fees and disbursements of accountants and counsel of any nature whatsoever, incurred or sustained by Assignor arising out of, based upon, resulting from, or by reason of any breach by Assignee of any of its warranties, representations, covenants or agreements contained herein or in the Schedules or Schedules attached hereto.

#### **ARTICLE VIII GOVERNMENTAL REGULATION**

This Agreement, insofar as it is affected thereby, shall be subject to all present and future valid and applicable laws and to the valid and applicable present and future rules, regulations or orders of any regulatory agency or authority having jurisdiction. Nothing contained herein shall be construed as affecting Assignee or Assignor's rights to contest the validity or applicability of any such laws, rules, regulations or orders.

Assignee shall be responsible for obtaining and maintaining all permits, approvals and licenses relating to Assignee's Electricity Project.

#### **ARTICLE IX TERM**

Except as expressly provided herein, this Agreement shall remain in full force for the longer of ~~ten (10) years~~ from the date on which the Electricity Project first produces electric energy for sale to third parties or until such time as, in Assignee's reasonable judgment, it is no longer economically viable for it to produce electricity at the Electricity Project. Assignee shall give Assignor at least ninety (90) days' advance notice of its intention to terminate this Agreement in the event that it determines that it is no longer economically viable to produce electricity at the Electricity Project. This Agreement shall then terminate on the termination date set forth in the notice of termination.

#### **ARTICLE X SUCCESSORS AND ASSIGNMENT**

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and legal representatives. This Agreement and each of the rights and obligations of the parties hereunder may not be assigned without the prior written consent of the other party, which consent may not be unreasonably withheld or delayed.

**ARTICLE XI  
CONTINGENCIES**

The obligations of the parties hereunder are subject to the satisfaction or waiver by Assignee or Assignor as applicable of all the following contingencies on or before September 1, 2002:

(A) Assignee obtaining from all governmental or quasi governmental bodies having jurisdiction over the Electricity Project all permits, approvals and authorizations for the construction and operation of the Electricity Project including those necessary for the construction and acquisition of all improvements and assets incident thereto;

(B) Assignee entering into an interconnect agreement with New York State Electric and Gas Company permitting the transmission of the electricity produced at the Electricity Project on terms and conditions in all respects satisfactory to Assignee;

(C) Assignee obtaining financing in amounts and on terms and conditions satisfactory to it so as to permit it to construct a 2.4 mega watt Electricity Project which shall include, but not be limited to, the construction of the physical plant, the acquisition of electrical generating equipment, and the utility interconnects;

(D) Assignor and Assignee executing the Lease;

(E) Assignee obtaining from the Assignor, or third parties, such easements and rights of way as it deems necessary to construct and operate the Electricity Project;

(F) Assignor providing adequate evidence of clear title to Ontario Landfill to the reasonable satisfaction of Assignee. In that regard, Assignor will provide a title abstract updated to

within thirty (30) days of the date of this Agreement and any surveys in Assignor's possession or to which it has access;

(G) No set of facts or circumstances coming to the attention of the Assignee subsequent to the date hereof which would materially impair or interfere with the construction and operation of the Electricity Project or which would make the construction and/or operation thereof, in Assignee's reasonable judgment, economically unfeasible.

If on or before September 1, 2002 all of the above conditions have not been satisfied or waived by Assignee, this Agreement shall become null and void and of no further force and effect.

#### **ARTICLE XII CROSS-DEFAULT**

A default by either party under the Lease shall constitute a default hereunder.

#### **ARTICLE XIII MISCELLANEOUS**

(A) All notices to be given under this Agreement shall be in writing and sent pre-paid, certified United States Mail, return receipt requested, or telegram, addressed to the respective parties at the addresses stated at the beginning of this Agreement or to such other party or address as they shall respectively designate in writing from time to time.

(B) This Agreement shall be construed in accordance with and be governed by the internal laws of the State of New York. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective legal representatives, heirs

and permitted successors and permitted assigns. There are no oral agreements in connection with this Agreement. This Agreement may not be terminated, modified or amended orally or by any course of conduct, but only by an agreement in writing duly executed by the parties hereto. Any waiver of a breach of any of the provisions of this Agreement shall not be deemed a waiver of any other provision of this Agreement. If any article, paragraph, section, portion, subsection, subparagraph or subportion of this Agreement shall be determined to be unenforceable or invalid, it shall not affect the remainder of this Agreement, which shall be and remain binding and effective as against all parties hereto. The headings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the parties hereto, and they should not be used in any manner in construing this Agreement.

IN WITNESS THEREOF, the parties have duly executed this agreement as of the date first above written.

**ONTARIO COUNTY**

By: Geoff Arlles

**INNOVATIVE ENERGY SYSTEMS, INC.**

By: Paul H. [Signature]  
President

SCHEDULE "A"

ROYALTY PAYMENT

In consideration of the assignment of the Gas from Assignor to Assignee, Assignee agrees to pay Assignor a royalty payment calculated as follows:

During each month of the term hereof, Assignor shall receive for such month an amount equal to 50% of the amount by which all sums received by Assignee from the sale of electric energy generated at the Electricity Project in any calendar month of the term hereof exceeds the amount Assignee would have received had it received an average of \$.04 per KWH (the "Initial Base Rate") from its electric energy sales in such month.

For purposes of the following paragraphs, the term "Year 1" shall mean the year, which commences on the date on which the Electricity Project first becomes operational and the term "Year 2" shall mean the year commencing on the first anniversary date after the Electricity Projection has become operational.

Subsequent to Year 1, the Initial Base Rate will be increased to reflect increases in the cost of living as follows:

The Initial Base Rate shall be adjusted annually to reflect increases in the cost of living. The first adjustment shall occur for Year 2 and an adjustment shall be made for each full or partial calendar year thereafter during the term of this Agreement. The Initial Base Rate adjustment shall be determined as follows:

In the event the "Consumer Price Index" published by the Bureau of Labor Statistics of the U. S. Department of Labor, the then higher of either the Revised Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or the Consumer Price Index for all Urban Consumers (CPI-U) hereinafter called "CPI", or successor substitute index appropriately adjusted, reflects an increase in the cost of living over and above such costs as reflected by such Price Index as it exists for the month immediately preceding the first month of Year 1 (the "Base Month"), the adjusted Initial Base Rate payable hereunder for the twelve month period commencing on the first day of Year 2 and for each year or partial year thereafter during the term hereof, shall be an amount which equals the Initial Base Rate plus 50% of the difference between the Initial Base Rate and an amount determined by multiplying the Initial Base Rate by a percentage equal to the fraction (which in no event shall be less than 100%), the numerator of which is the published CPI for the month immediately preceding the first month of Year 2 and thereafter the numerator of which shall be the published CPI for such month in each succeeding calendar year of the term, but the denominator of which shall remain the CPI for the Base Month.

The parties acknowledge that in the future governmental economic incentives such as tax credits

may become available to either or both of the parties as a result of the operation of the Project. In such event, the parties agree that they will each make a reasonable good faith effort to utilize the incentives so as to achieve economic benefit. If such economic benefit is received by either party, the Assignor and the Assignee shall be entitled to 50% of the net economic benefit. By way of example, if tax credits are available to the Assignee and result in a net economic benefit to it of \$100,000.00 in a given year, the Assignee would then owe Assignor \$50,000.00. If tax credits were available to the Assignor and Assignor sold such credits for \$100,000.00 then Assignor would owe Assignee \$50,000.00.

**EXCESS GAS UTILIZATION AGREEMENT**

This EXCESS GAS UTILIZATION AGREEMENT ("Agreement") is made this 31 day of December, 2007 (the "Effective Date") by and between CASELLA WASTE SERVICES OF ONTARIO, LLC ("Casella of Ontario") a New York limited liability corporation having its principal place of business at 803 Cascadilla Street, Ithaca, New York, SENECA ENERGY II, LLC, a New York State limited liability company, with offices at 2917 Judge Road, Oakfield, New York 14125 ("Seneca"); and INNOVATIVE ENERGY SYSTEMS, INC., a New York Corporation with offices at 2917 Judge Road, Oakfield, New York 14125 ("IES").

WHEREAS, Seneca operates a landfill gas treatment and energy facility (the "Facility") at the Ontario County Landfill (the "Landfill"), utilizing gas from the Landfill; and

WHEREAS, the Landfill is operated by Casella of Ontario, which has administrative offices adjacent to the Landfill located at located at 1879 Rte. 5 & 20, Stanley, NY ("Post Manor"), and which has the right to landfill gas that is not required by the Facility for production of electricity; and

WHEREAS the parties desire to enter into this Agreement to provide Casella of Ontario with excess treated landfill gas from the Facility;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which his hereby acknowledged, the parties agree as follows:

**1. EXCESS GAS**

1.1 Availability of Excess Gas. Seneca shall provide Casella of Ontario with a steady flow of up to 150 standard cubic feet per minute of Excess Gas from the Facility at no cost, through the pipeline to be constructed pursuant to Section 2 of this Agreement. At no time will Casella of Ontario be entitled to Excess Gas volumes that exceed Seneca's existing maximum treatment capacity. "Excess Gas" for purposes of this Agreement means any treated landfill gas in excess of what Seneca can use to produce electricity and which would otherwise be flared or destroyed.

1.2 Term. Seneca shall provide treated landfill gas under this Agreement for a term running concurrently with the term of the Gas Assignment Agreement entered into on May 8, 2002 between IES and Ontario County (which agreement was subsequently assigned to Seneca) as may be amended, modified or extended.

**2. CONSTRUCTION**

2.1 Construction Projects.

a. IES shall design and install all required plumbing and equipment inside the Facility, including without limitation connections and controls, and metering, and shall invoice Casella of Ontario for those construction costs, which costs are estimated to be approximately Twenty Five Thousand, Seven Hundred and Fifty US Dollars (\$25,750). IES

shall invoice Casella of Ontario monthly, payment for which shall be due in thirty (30) days from the date of the invoice.

b. Casella of Ontario shall design and install the pipeline from the Facility to the Post Manor at its sole cost and expense and in consultation with IES and Seneca. IES and/or Seneca shall complete the pipeline connection to the Facility.

c. Casella of Ontario shall design and install any and all required equipment at Post Manor at its sole cost and expense and in consultation with IES.

2.2 Schedule. All work to be completed by IES or Seneca pursuant to this Agreement shall be completed within forty-five (45) days from the Effective Date.

2.3 Obligations. IES, Seneca and Casella of Ontario each agree:

a. that it shall perform the construction services described herein in a good and workmanlike manner consistent with applicable best professional practices and standards in the industry for performing similar services;

b. that it and any subcontractor shall comply with all applicable federal, state and local laws and ordinances and all lawful orders, rules and regulations of any governmental authority, including but not limited to, social security and income tax withholding laws, employment compensation laws, environment, safety and health laws;

c. that it and any subcontractor has all necessary permits, licenses and other forms of documentation, and its personnel have received all necessary training including, but not limited to, health and safety training, required to perform services hereunder; and

d. that this subsection shall survive expiration or termination of this Agreement or the Services hereunder.

2.4 Insurance. At all times during the term of this Agreement, each party shall maintain, and shall require its subcontractors to maintain, workers' compensation insurance and commercial general liability insurance.

### **3. MISCELLANEOUS**

3.1 Governing Law. This Agreement and any issues arising hereunder or relating hereto shall be governed by and construed in accordance with the laws of the State of New York except for conflicts of laws provisions that would apply the substantive law of another state.

3.2 Venue. The parties consent to the jurisdiction of the state and federal courts having jurisdiction over Ontario County, New York.

3.3 Notices. All notices to be given under this Agreement shall be in writing and delivered personally, or shall be mailed by U.S. Express, registered or certified mail, return receipt requested or an overnight service with receipt as follows:

**EXECUTION COPY**

Casella of Ontario      803 Cascadilla Street  
Ithaca, NY  
Attn: Regional Engineer

With a copy to      Casella Waste Systems, Inc.  
25 Greens Hill Lane  
Rutland, VT 05701  
Attn: General Counsel

Seneca      2917 Judge Road  
Oakfield, NY 14125  
Attn: \_\_\_\_\_

IES      2917 Judge Road  
Oakfield, NY 14125  
Attn: \_\_\_\_\_

3.4 Limitation of Liability. No party shall be liable to any other for special, incidental, exemplary, punitive or consequential damages including without limitation loss of use, loss of profits or revenues, or cost of substitute or re-performed services, suffered, asserted or alleged by any party or any nonparty arising from or relating to this Agreement.

3.5 Disclaimer of Joint Venture, Partnership, and Agency. This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the parties or to impose any partnership obligation or liability upon any party. This Agreement shall not provide any party with 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 of representative of, or to otherwise bind, the other party.

3.6 Force Majeure.

a. "Force Majeure" means shall mean any act, event or condition materially and adversely affecting the ability of a party to perform or comply with any material obligation, duty or agreement required under this Agreement, if such act, event, or condition is beyond the reasonable control of the nonperforming party or its agents relying thereon, is not the result of the willful or negligent action, inaction or fault of the party relying thereon, and the nonperforming party has been unable to avoid or overcome the act, event or condition by the exercise of due diligence, including, without limitation: (i) an act of God, epidemic, landslide, lightning, earthquake, fire, explosion, storm, flood or similar occurrence; (ii) an act of public enemy, war, blockage, insurrection, riot, general unrest or restraint of government and people, civil disturbance or disobedience, sabotage, act of terrorism or similar occurrence; (iii) a strike, work slowdown, or similar industrial or labor action; (iv) an order or judgment (including without limitation a temporary restraining order, temporary injunction, preliminary injunction, permanent injunction, or cease and desist order) or other act of any federal, state, county or local court, administrative agency or governmental office or body which prevents a party's obligations as contemplated by this Agreement; or (v) adoption or change (including a change in

interpretation or enforcement) of any federal, state or local law after the Effective Date of this Agreement, preventing performance of or compliance with the obligations hereunder.

b. No party shall be liable to the other for damages without limitation (including liquidated damages) if such party's performance is delayed or prevented due to an event of Force Majeure. In such event, the affected party shall promptly notify the other of the event of Force Majeure and its likely duration. During the continuation of the Force Majeure Event, the nonperforming party shall (i) exercise commercially reasonable efforts to mitigate or limit damages to the performing party; (ii) exercise commercially reasonable due diligence to overcome the Force Majeure event; (iii) to the extent it is able, continue to perform its obligations under this Agreement; and (iv) cause the suspension of performance to be of no greater scope and no longer duration than the Force Majeure event requires.

3.7 Representations and Warranties of Authority. Each party represents and warrants to the others that:

a. it is duly qualified to do business and is in good standing in every jurisdiction in which this Agreement requires its performance;

b. it has full power and authority to execute, deliver and perform its obligations under this Agreement;

c. the execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action by such party; and

d. the execution and delivery of this Agreement by such party and the performance of the terms, covenants and conditions contained herein will not violate the articles of incorporation or by-laws of such party, or any order of a court or arbitrator, and will not conflict with and will not constitute a material breach of, or default under, the provisions of any material contract by which any party is bound.

These warranties shall survive the expiration or termination of this Agreement.

3.8 Termination. This Agreement may be terminated

a. by all parties upon mutual written agreement; or

b. immediately upon notice by any party in the event that any of the representations and warranties contained in this Agreement are shown to be untrue; or

c. by any party in the event of a failure by another party to perform a material obligation to the first party as follows (a "Default"): if the Default has not been cured by the defaulting party within thirty (30) days from receipt of notice from the non-defaulting party, the non-defaulting party may terminate this Agreement immediately, or agree in writing that the defaulting party is diligently pursuing a cure, and extend the cure period at its sole discretion, subject to immediate termination upon notice.

3.9 Entire Agreement. It is understood and agreed that all understandings and agreements heretofore had between the parties thereto are merged in this Agreement, which alone fully and completely expresses their agreement and contains all of the terms agreed upon between the parties with respect to the subject matter of this Agreement, and that this Agreement is entered into after full investigation, no party relying upon any statement or representation, not embodied in this Agreement, made by any other.

3.10 Amendment. This Agreement may not be amended, modified or supplemented, except in writing and signed by the parties.

3.11 Non-Waiver. No waiver by any party to this Agreement of any failure or refusal by the other party to comply with its obligations shall be deemed a waiver of any other or subsequent failure or refusal to so comply.

3.12 Severability; Modification Required By Law. If any term or provision of this Agreement shall be found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions thereof or hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreement of the parties herein set forth.

3.13 Headings. The headings of sections and subsections of this Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

3.14 Assignment. This Agreement and all of the provisions thereof and hereof shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, obligations, and remedies hereunder shall be assigned by any party, including by operation of law, without the prior written consent of the other parties. Notwithstanding the preceding sentence, however, this Agreement may be freely assigned by any party, without consent of any other party, to any entity controlling, controlled by or under common control with the party desiring to effect such assignment.

3.15 Construction. This Agreement and its exhibits and schedules are the result of negotiations between the parties and have been reviewed by all parties. Accordingly, this Agreement will be deemed to be the product of the parties thereto and no ambiguity will be construed in favor of or against any party.

3.16 No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer upon any nonparty any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

3.17 Further Acts. Each party agrees to perform any further acts and to execute, acknowledge, and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement.

**EXECUTION COPY**

3.18 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but which together will constitute one and the same instrument.

3.19 Disputes. If a claim or dispute arises out of this Agreement or its performance, the parties agree to endeavor in good faith to resolve it equitably through negotiation, or if that fails, through non-binding mediation under the rules of the American Arbitration Association, before having recourse to the courts. However, prior to or during negotiation or mediation, any party may initiate litigation that would otherwise become barred by a statute of limitations.

3.20 Indemnification. The parties agree to indemnify, save harmless and defend each other from and against any and all liabilities, claims, penalties, forfeitures, suites and the costs and expenses incident thereto which may incur after the Effective Date of this Agreement, become responsible for, or pay out as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects to the environment, or any violation of laws or regulations, as a result of any negligent or willful act or admission by any of its agents, employees or subcontractors in the performance of this Agreement.

WHEREFORE, Seneca, IES, and Casella of Ontario have executed this Agreement on the date first written above.

**SENECA ENERGY II, LLC**

By: \_\_\_\_\_

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

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

**CASELLA WASTE SERVICES OF  
ONTARIO, LLC**

By: \_\_\_\_\_

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

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

**INNOVATIVE ENERGY SYSTEMS, INC.**

By: \_\_\_\_\_

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

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





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

**IDENTIFICATION INFORMATION**

Permit Type: Air Title V Facility  
Permit ID: 8-3244-00040/00002  
Effective Date: 10/30/2012 Expiration Date: 10/29/2017

Permit Issued To: SENECA ENERGY II LLC  
2999 JUDGE RD  
OAKFIELD, NY 14125

Contact: PETER H ZELIFF  
INNOVATIVE ENERGY SYSTEMS LLC  
2999 JUDGE RD  
OAKFIELD, NY 14125-9771  
(585) 948-8580

Facility: ONTARIO COUNTY LFG TO ENERGY FACILITY  
3555 POST FARM RD | ONTARIO COUNTY LANDFILL  
STANLEY, NY 14561

**Description:**

Renewal and modification of the Title V Facility Permit to authorize expanded electrical generating operations utilizing treated landfill gas as fuel.

In addition to re-authorization of current landfill gas to energy generating operations, this Permit authorizes the addition of three 2233 horsepower engine generator sets to the existing eight 1190 horsepower generator sets, increasing current Landfill Gas to Energy Facility generating capacity from 6.4 to 11.2 megawatts.

This facility is subject to Part 201-6 (Title V) requirements due to potential CO and NO<sub>x</sub> emissions in excess of 100 tons per year each.

This Permit limits potential CO emissions after expansion to a maximum of 446.4 tons per year, a 206.6 ton per year increase, below the 250 ton per year threshold in 6 NYCRR Part 231-7 for Modifications to Existing Non-Major Facilities in Attainment Areas (Prevention of Significant Deterioration).

This Permit also limits NO<sub>x</sub> emissions after expansion to a maximum of 157.5 tons per year, a 64.6 ton per year increase, below the 100 ton per year threshold in Part 231-5 for Modifications To Existing Non-Major Facilities In Attainment Areas Of The State Within The Ozone Transport Region.

This Permit includes Part 227-2 NO<sub>x</sub> RACT conditions, due to NO<sub>x</sub> emissions over 100 tons per year. Emissions were restricted below this threshold in the initial Title V Facility Permit.

New York State Department of Environmental Conservation  
Facility DEC ID: 8324400040



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: SCOTT SHEELEY  
NYS DEC  
6274 E AVON-LIMA RD  
AVON, NY 14414

Authorized Signature:

*Scott E. Sheeley*

Date: 10/30/2012



**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.



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**DEC GENERAL CONDITIONS**

**General Provisions**

- 4 1 Facility Inspection by the Department
- 4 2 Relationship of this Permit to Other Department Orders and Determinations
- 4 3 Applications for permit renewals, modifications and transfers
- 5 4 Permit modifications, suspensions or revocations by the Department

**Facility Level**

- 5 5 Submission of application for permit modification or renewal-REGION 8 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: 6 NYCRR 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

**New York State Department of Environmental Conservation**  
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submitted prior to actual transfer of ownership.

**Condition 4: Permit modifications, suspensions or revocations by the Department**  
**Applicable State Requirement: 6 NYCRR 621.13**

**Item 4.1:**

The Department reserves the right to exercise all available authority 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 5: Submission of application for permit modification or renewal-REGION 8 HEADQUARTERS**  
**Applicable State Requirement: 6 NYCRR 621.6 (a)**

**Item 5.1:**

Submission of applications for permit modification or renewal are to be submitted to:  
NYSDEC Regional Permit Administrator  
Region 8 Headquarters  
Division of Environmental Permits  
6274 Avon-Lima Road  
Avon, NY 14414-9519  
(585) 226-2466

**New York State Department of Environmental Conservation**

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

**ARTICLE 19: AIR POLLUTION CONTROL - TITLE V PERMIT**

**IDENTIFICATION INFORMATION**

Permit Issued To: SENECA ENERGY II LLC  
2999 JUDGE RD  
OAKFIELD, NY 14125

Facility: ONTARIO COUNTY LFG TO ENERGY FACILITY  
3555 POST FARM RD | ONTARIO COUNTY LANDFILL  
STANLEY, NY 14561

Authorized Activity By Standard Industrial Classification Code:  
4911 - ELECTRIC SERVICES

Permit Effective Date: 10/30/2012

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9	5	6 NYCRR 201-6.5 (c) (3) (ii): Compliance Certification
11	6	6 NYCRR 201-6.5 (e): Compliance Certification
12	7	6 NYCRR 202-2.1: Compliance Certification
13	8	6 NYCRR 202-2.5: Recordkeeping requirements
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16	18	6 NYCRR 201-6.5 (f) (6): Off Permit Changes
17	19	6 NYCRR 202-1.1: Required Emissions Tests
17	20	40 CFR Part 68: Accidental release provisions.
18	21	40CFR 82, Subpart F: Recycling and Emissions Reduction
18	22	6 NYCRR Subpart 201-6: Emission Unit Definition
18	23	6 NYCRR 201-6.5 (f): Compliance Certification
20	24	6 NYCRR Subpart 201-7: Facility Permissible Emissions
20	*25	6 NYCRR Subpart 201-7: Capping Monitoring Condition
22	*26	6 NYCRR Subpart 201-7: Capping Monitoring Condition
23	*27	6 NYCRR Subpart 201-7: Capping Monitoring Condition
25	28	6 NYCRR 211.1: Air pollution prohibited
25	29	40CFR 60.4, NSPS Subpart A: EPA Region 2 address.
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27	35	40CFR 60.9, NSPS Subpart A: Availability of information.
28	36	40CFR 60.12, NSPS Subpart A: Circumvention.
28	37	40CFR 60.14, NSPS Subpart A: Modifications.
28	38	40CFR 60.4246, NSPS Subpart JJJJ: Subpart A provisions that apply to facilities subject to Subpart JJJJ
28	39	40CFR 60.752(b)(2)(iii)(C), NSPS Subpart WWW: Compliance Certification
31	40	40CFR 63.6665, Subpart ZZZZ: General provisions

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**Emission Unit Level**

- 31 41 6 NYCRR Subpart 201-6: Emission Point Definition By Emission Unit
- 32 42 6 NYCRR Subpart 201-6: Process Definition By Emission Unit

**EU=1-OLFGE**

- 34 43 40CFR 60.4230(a)(4)(i), NSPS Subpart JJJJ: Applicability of facilities subject to Subpart JJJJ
- 34 44 40CFR 60.4243(a)(1), NSPS Subpart JJJJ: Compliance Certification
- 35 45 40CFR 60.4245(a), NSPS Subpart JJJJ: Compliance Certification
- 36 55 40CFR 63.6590(c), Subpart ZZZZ: Stationary RICE subject to regulations under 40 CFR Part 60
- 37 46 40CFR 63.6603(a), Subpart ZZZZ: Compliance Certification
- 37 47 40CFR 63.6625(e), Subpart ZZZZ: Compliance Certification
- 39 48 40CFR 63.6625(h), Subpart ZZZZ: Compliance Certification
- 39 49 40CFR 63.6625(j), Subpart ZZZZ: Compliance Certification
- 40 50 40CFR 63.6655(a), Subpart ZZZZ: Compliance Certification
- 41 51 40CFR 63.6655(e), Subpart ZZZZ: Compliance Certification

**EU=1-OLFGE,Proc=001**

- 42 \*52 6 NYCRR Subpart 201-7: Capping Monitoring Condition
- 44 53 6 NYCRR 227-1.3 (a): Compliance Certification
- 45 54 6 NYCRR 227-2.6 (c): Compliance Certification

**EU=2-OLFGE**

- 46 56 40CFR 60.4230(a)(4)(i), NSPS Subpart JJJJ: Applicability of facilities subject to Subpart JJJJ
- 46 57 40CFR 60.4243(a)(1), NSPS Subpart JJJJ: Compliance Certification
- 48 58 40CFR 60.4245(a), NSPS Subpart JJJJ: Compliance Certification
- 48 59 40CFR 63.6590(c), Subpart ZZZZ: Stationary RICE subject to regulations under 40 CFR Part 60

**EU=2-OLFGE,Proc=002**

- 49 \*60 6 NYCRR Subpart 201-7: Capping Monitoring Condition
- 51 61 6 NYCRR 227-1.3 (a): Compliance Certification
- 52 62 6 NYCRR 227-2.6 (c): Compliance Certification

**STATE ONLY ENFORCEABLE CONDITIONS**

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- 54 63 ECL 19-0301: Contaminant List
- 55 64 6 NYCRR 201-1.4: Unavoidable noncompliance and violations
- 56 65 6 NYCRR 211.2: Visible Emissions Limited

**Emission Unit Level**

**EU=1-OLFGE,Proc=001**

- 56 66 6 NYCRR 227-2.4 (f) (2): Compliance Demonstration

**EU=2-OLFGE,Proc=002**

- 57 67 6 NYCRR 227-2.4 (f) (2): Compliance Demonstration

NOTE: \* preceding the condition number indicates capping.



**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 - 6 NYCRR 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 - 6 NYCRR 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 6 NYCRR Part 616 - Public Access to records and Section 114(c) of the Act.

**Item C: Timely Application for the Renewal of Title V Permits - 6 NYCRR 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

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permit renewal purposes.

**Item D: Certification by a Responsible Official - 6 NYCRR 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 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 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 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 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 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 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

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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 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:

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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.**

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**Condition 1: Acceptable Ambient Air Quality**  
Effective between the dates of 10/30/2012 and 10/29/2017

**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 10/30/2012 and 10/29/2017

**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 72-0303.

**Condition 3: Recordkeeping and reporting of compliance monitoring**  
Effective between the dates of 10/30/2012 and 10/29/2017

**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 10/30/2012 and 10/29/2017

**New York State Department of Environmental Conservation**

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**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 10/30/2012 and 10/29/2017

**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 (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 above paragraphs (1) or (2) are met, the source must notify the permitting authority by telephone during normal business hours at the Regional Office of jurisdiction for this permit, attention Regional Air Pollution Control Engineer (RAPCE) according to the timetable listed in paragraphs (1) and (2) of this section. For deviations and incidences that must be reported outside of normal business hours, on weekends, or holidays, the DEC Spill Hotline phone number at 1-800-457-7362 shall be used. 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 an occurrence for deviations reported under (1) and (2). All deviations reported under paragraphs (1) and (2) of this section must also be identified in the 6 month monitoring report required above.

The provisions of 6 NYCRR 201-1.4 shall apply if the permittee seeks to have a violation excused unless otherwise limited by regulation. 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. Notwithstanding any recordkeeping and reporting requirements in 6 NYCRR 201-1.4, reports of any deviations shall not be on a less frequent basis than the reporting periods described in paragraphs (1) and (4) above.

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

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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 Quality Assurance (BQA) 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 1/30/2013.

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

**Condition 6: Compliance Certification**  
Effective between the dates of 10/30/2012 and 10/29/2017

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 which are identified as being subject to certification, 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.

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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 Quality Assurance (BQA) 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:

6274 East Avon-Lima Road  
Avon, NY 14414-9519

The address for the BQA is as follows:

NYSDEC  
Bureau of Quality Assurance  
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 1/30/2013.  
Subsequent reports are due on the same day each year

**Condition 7: Compliance Certification**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR 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 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR 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 - Prohibitions**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR 215.2**

**Item 9.1:**

Except as allowed by Title 6 NYCRR Section 215.3, no person shall burn, cause, suffer, allow or permit the burning of any materials in an open fire.

**Item 9.2**

Per Section 215.3, burning in an open fire, provided it is not contrary to other law or regulation, will be allowed as follows:

- (a) On-site burning in any town with a total population less than 20,000 of downed limbs and branches (including branches with attached leaves or needles) less than six inches in diameter and eight feet in length between May 15th and the following March 15th. For the purposes of this subdivision, the total population of a town shall include the population of any village or portion thereof located within the town. However, this subdivision shall not be construed to allow burning within any village.
- (b) Barbecue grills, maple sugar arches and similar outdoor cooking devices when actually used for cooking or processing food.
- (c) Small fires used for cooking and camp fires provided that only charcoal or untreated wood is used as fuel and the fire is not left unattended until extinguished.
- (d) On-site burning of agricultural wastes as part of a valid agricultural operation on contiguous agricultural lands larger than five acres actively devoted to agricultural or horticultural use, provided such waste is actually grown or generated on those lands and such waste is capable of being fully burned within a 24-hour period.
- (e) The use of liquid petroleum fueled smudge pots to prevent frost damage to crops.
- (f) Ceremonial or celebratory bonfires where not otherwise prohibited by law, provided that only untreated wood or other agricultural products are used as fuel and the fire is not left unattended until extinguished.



- (g) Small fires that are used to dispose of a flag or religious item, and small fires or other smoke producing process where not otherwise prohibited by law that are used in connection with a religious ceremony.
- (h) Burning on an emergency basis of explosive or other dangerous or contraband materials by police or other public safety organization.
- (i) Prescribed burns performed according to Part 194 of this Title.
- (j) Fire training, including firefighting, fire rescue, and fire/arson investigation training, performed under applicable rules and guidelines of the New York State Department of State's Office of Fire Prevention and Control. For fire training performed on acquired structures, the structures must be emptied and stripped of any material that is toxic, hazardous or likely to emit toxic smoke (such as asbestos, asphalt shingles and vinyl siding or other vinyl products) prior to burning and must be at least 300 feet from other occupied structures. No more than one structure per lot or within a 300 foot radius (whichever is bigger) may be burned in a training exercise.
- (k) Individual open fires as approved by the Director of the Division of Air Resources as may be required in response to an outbreak of a plant or animal disease upon request by the commissioner of the Department of Agriculture and Markets, or for the destruction of invasive plant and insect species.
- (l) Individual open fires that are otherwise authorized under the environmental conservation law, or by rule or regulation of the Department.

**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 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR 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 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR 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 10/30/2012 and 10/29/2017

**Applicable Federal Requirement:6 NYCRR 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 10/30/2012 and 10/29/2017

**Applicable Federal Requirement:6 NYCRR 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 10/30/2012 and 10/29/2017

**Applicable Federal Requirement:6 NYCRR 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 10/30/2012 and 10/29/2017

**Applicable Federal Requirement:6 NYCRR 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

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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 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR 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 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR 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 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR 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,

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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 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR 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.

**Condition 20: Accidental release provisions.**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 40 CFR Part 68**

**Item 20.1:**

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

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**Condition 21: Recycling and Emissions Reduction**  
Effective between the dates of 10/30/2012 and 10/29/2017

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

**Item 21.1:**

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 22: Emission Unit Definition**  
Effective between the dates of 10/30/2012 and 10/29/2017

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

**Item 22.1:**

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

Emission Unit: 1-OLFGE

Emission Unit Description:

The emission unit includes the exhausts from the eight (8) engines at the Ontario Landfill LFG to Energy Facility. The engines are numbered starting with the western-most engine and proceeding to the east in ascending order.

Building(s): ENGBLDG

**Item 22.2:**

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

Emission Unit: 2-OLFGE

Emission Unit Description:

This emission unit will consist of three (3) Caterpillar G3520C landfill gas fueled internal combustion engines connected to individual electricity generators and ancillary equipment (exempt and trivial sources) that supports the electricity generation operations.

Building(s): ENGBLDG2

**Condition 23: Compliance Certification**  
Effective between the dates of 10/30/2012 and 10/29/2017

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

**Item 23.1:**

The Compliance Certification activity will be performed for the Facility.

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**Item 23.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

Monitoring Description:

Operational Flexibility Plan

**Plan Objective**

The objective of this Plan is to maximize operational flexibility by building into the Title V Permit the capability to make minor changes following a pre-established protocol as allowed for in 6NYCRR Part 201-6.5(f).

This plan does not address those types of changes that would invoke the Part 201-6.7(d) "Significant Permit Modification". Rather, it addresses changes that qualify as minor modifications pursuant to the criteria specified by Part 201-6.7(c).

**Protocol for Changes**

(1) Certain changes which meet the criteria under (i) - (iii) below may be conducted without prior approval of the Department and shall not require modification of the permit. The facility owner and/or operator must however maintain records of the date and description of such changes and make such records available for review by Department representatives upon request.

(i) changes that do not cause emissions to exceed any emission limitation contained in regulations or applicable requirements under this Chapter;

(ii) changes which do not cause the subject emission unit, emission source, process, or emission point to become subject to any additional regulations or requirements under this Chapter;

(iii) changes that do not seek to establish or modify a federally-enforceable emission cap or limit.

(2) In addition to the record keeping required under (1) above, the permittee must notify the Department in writing at least 30 calendar days in advance of making changes involving:

(i) the installation or relocation of any emission source, process, or emission point within a facility;

(ii) the emission of any air pollutant not previously authorized or emitted in accordance with a permit issued by the Department;

(iii) the installation or alteration of any air cleaning installation, device or control equipment.

(3) The Department may require a permit modification, in order to



impose new applicable requirements or special permit conditions if it determines that changes proposed pursuant to notification under (2) above do not meet the criteria under (1) or the change may have a significant air quality impact. In such cases the Department may require that the permittee not undertake the proposed change until it completes a more detailed review of the potential air quality impacts and/or applicable requirements. The Department shall respond to the permittee in writing with such a determination within 15 days of receipt of the 30 day advance notification from the permittee. The Department's determination shall include a listing of information necessary to further review the proposed change.

**Reporting**

On an annual basis, the facility must submit a summary of all changes made under the Protocol for Changes during that year. This summary is to be submitted as part of the annual compliance certification pursuant to 6NYCRR Part 201-6.5(e).

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 1/30/2013.

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

**Condition 24: Facility Permissible Emissions**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR Subpart 201-7**

**Item 24.1:**

The sum of emissions from the emission units specified in this permit shall not equal or exceed the following

Potential To Emit (PTE) rate for each regulated contaminant:

CAS No: 000630-08-0 PTE: 892,800 pounds per year  
Name: CARBON MONOXIDE

CAS No: 0NY210-00-0 PTE: 315,000 pounds per year  
Name: OXIDES OF NITROGEN

**Condition 25: Capping Monitoring Condition**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR Subpart 201-7**

**Item 25.1:**

Under the authority of 6 NYCRR Part 201-7, this condition contains an emission cap for the purpose of limiting emissions from the facility, emission unit or process to avoid being subject to the following applicable requirement(s) that the facility, emission unit or process would otherwise be subject to:

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6 NYCRR Subpart 231-7

**Item 25.2:**

Operation of this facility shall take place in accordance with the approved criteria, emission limits, terms, conditions and standards in this permit.

**Item 25.3:**

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.

**Item 25.4:**

On an annual basis, unless otherwise specified below, beginning one year after the granting of an emissions cap, the responsible official shall provide a certification to the Department that the facility has operated all emission units within the limits imposed by the emission cap. This certification shall include a brief summary of the emissions subject to the cap for that time period and a comparison to the threshold levels that would require compliance with an applicable requirement.

**Item 25.5:**

The emission of pollutants that exceed the applicability thresholds for an applicable requirement, for which the facility has obtained an emissions cap, constitutes a violation of Part 201 and of the Act.

**Item 25.6:**

The Compliance Certification activity will be performed for the facility:  
The Compliance Certification applies to:

Emission Unit: 1-OLFGE

Emission Unit: 2-OLFGE

Regulated Contaminant(s):

CAS No: 000630-08-0 CARBON MONOXIDE

**Item 25.7:**

Compliance Certification shall include the following monitoring:

Capping: Yes

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

The sum of emissions of carbon monoxide (CO) from this facility are limited to less than 446.4 tons/year calculated on a rolling 12 month total. This cap will ensure that the facility is not subject to 6NYCRR Part 231-7 for New Source Review in an attainment area. The facility shall calculate monthly CO emissions from the engines using daily individual bHp production data based on the amount of electricity that is generated by each engine and the results from the approved stack test report for emission factors (results of monthly

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instantaneous CO monitoring will be used to confirm proper operation of the engines and the accuracy of the emission factors). All other sources of CO emissions shall be calculated and included in the facility's rolling 12 month total. The facility shall keep these records in a format acceptable to the Department.

Work Practice Type: PARAMETER OF PROCESS MATERIAL

Process Material: ELECTRICAL LOAD OUTPUT

Parameter Monitored: ELECTRICAL LOAD OUTPUT

Upper Permit Limit: 446.4 tons per year

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Averaging Method: 12-month total, rolled monthly

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2013.

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

**Condition 26: Capping Monitoring Condition**  
**Effective between the dates of 10/30/2012 and 10/29/2017**

**Applicable Federal Requirement: 6 NYCRR Subpart 201-7**

**Item 26.1:**

Under the authority of 6 NYCRR Part 201-7, this condition contains an emission cap for the purpose of limiting emissions from the facility, emission unit or process to avoid being subject to the following applicable requirement(s) that the facility, emission unit or process would otherwise be subject to:

6 NYCRR Subpart 231-7

**Item 26.2:**

Operation of this facility shall take place in accordance with the approved criteria, emission limits, terms, conditions and standards in this permit.

**Item 26.3:**

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.

**Item 26.4:**

On an annual basis, unless otherwise specified below, beginning one year after the granting of an emissions cap, the responsible official shall provide a certification to the Department that the facility has operated all emission units within the limits imposed by the emission cap. This certification shall include a brief summary of the emissions subject to the cap for that time period and a comparison to the threshold levels that would require compliance with an applicable requirement.

**Item 26.5:**

The emission of pollutants that exceed the applicability thresholds for an applicable requirement, for which the facility has obtained an emissions cap, constitutes a violation of Part 201 and of

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the Act.

**Item 26.6:**

The Compliance Certification activity will be performed for the facility:  
The Compliance Certification applies to:

Emission Unit: 1-OLFGE

Emission Unit: 2-OLFGE

Regulated Contaminant(s):

CAS No: 000630-08-0      CARBON MONOXIDE

**Item 26.7:**

Compliance Certification shall include the following monitoring:

Capping: Yes

Monitoring Type: INTERMITTENT EMISSION TESTING

Monitoring Description:

The facility must show that they are in compliance with the 446.4 tons/yr limit for carbon monoxide. An emission test using 40 CFR 60 APP A-10 or any other method acceptable to the Department, must be completed on a single engine for each engine type (CAT G3516 or CAT G3520C).

The facility must conduct the required emissions test at 100%+/-10% load on each engine to be tested. The Department will determine the engine(s) to be tested using the CO emission rates as determined by the portable CO analyzer prior to the emissions test.

The initial testing must be completed within 180 days of permit issuance (or engine startup, whichever is later), and once per permit term thereafter. Those engines subject to the more frequent testing requirement of 40 CFR 60 Subpart JJJJ may satisfy this condition.

If a current engine is replaced, the facility must contact the Department, and the Department reserves the right to require a performance test for the replacement engine. These tests must be completed with 180 days of startup of the new engine.

Upper Permit Limit: 446.4 tons per year

Reference Test Method: 40CFR60 APP A-10

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Averaging Method: 1-HOUR AVERAGE

Reporting Requirements: ONCE / BATCH OR MONITORING OCCURRENCE

**Condition 27:      Capping Monitoring Condition**

**Effective between the dates of 10/30/2012 and 10/29/2017**

**Applicable Federal Requirement: 6 NYCRR Subpart 201-7**

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**Item 27.1:**

Under the authority of 6 NYCRR Part 201-7, this condition contains an emission cap for the purpose of limiting emissions from the facility, emission unit or process to avoid being subject to the following applicable requirement(s) that the facility, emission unit or process would otherwise be subject to:

6 NYCRR Subpart 231-5

**Item 27.2:**

Operation of this facility shall take place in accordance with the approved criteria, emission limits, terms, conditions and standards in this permit.

**Item 27.3:**

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.

**Item 27.4:**

On an annual basis, unless otherwise specified below, beginning one year after the granting of an emissions cap, the responsible official shall provide a certification to the Department that the facility has operated all emission units within the limits imposed by the emission cap. This certification shall include a brief summary of the emissions subject to the cap for that time period and a comparison to the threshold levels that would require compliance with an applicable requirement.

**Item 27.5:**

The emission of pollutants that exceed the applicability thresholds for an applicable requirement, for which the facility has obtained an emissions cap, constitutes a violation of Part 201 and of the Act.

**Item 27.6:**

The Compliance Certification activity will be performed for the facility:  
The Compliance Certification applies to:

Emission Unit: 1-OLFGE

Emission Unit: 2-OLFGE

Regulated Contaminant(s):

CAS No: 0NY210-00-0      OXIDES OF NITROGEN

**Item 27.7:**

Compliance Certification shall include the following monitoring:

Capping: Yes

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

The sum of emissions of oxides of nitrogen (NOx) from this facility are limited to less than 157.50 tons/year calculated on a rolling 12

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month total. This facility is now applicable to 6NYCRR Part 227-2 NOx RACT. This cap will ensure that the facility is not subject to 6NYCRR Part 231-5 for New Source Review in a non-attainment area. The facility shall calculate monthly NOx emissions from the engines using daily individual bHp production data based on the amount of electricity that is generated by each engine and the results from the approved stack test report for emission factors (results of monthly instantaneous NOx monitoring will be used to confirm proper operation of the engines and the accuracy of the emission factors). All other sources of NOx emissions shall be calculated and included in the facility's rolling 12 month total. The facility shall keep these records in a format acceptable to the Department.

Work Practice Type: PARAMETER OF PROCESS MATERIAL  
Process Material: ELECTRICAL LOAD OUTPUT  
Parameter Monitored: ELECTRICAL LOAD OUTPUT  
Upper Permit Limit: 157.50 tons per year  
Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION  
Averaging Method: 12-month total, rolled monthly  
Reporting Requirements: SEMI-ANNUALLY (CALENDAR)  
Reports due 30 days after the reporting period.  
The initial report is due 1/30/2013.  
Subsequent reports are due every 6 calendar month(s).

**Condition 28:** Air pollution prohibited  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable Federal Requirement:**6 NYCRR 211.1

**Item 28.1:**  
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.

**Condition 29:** EPA Region 2 address.  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable Federal Requirement:**40CFR 60.4, NSPS Subpart A

**Item 29.1:**  
All requests, reports, applications, submittals, and other communications to the Administrator pursuant to this part shall be submitted in duplicate to the following address:

Director, Division of Enforcement and Compliance Assistance  
USEPA Region 2  
290 Broadway, 21st Floor  
New York, NY 10007-1886

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Copies of all correspondence to the administrator pursuant to this part shall also be submitted to the NYSDEC Regional Office issuing this permit (see address at the beginning of this permit) and to the following address:

NYSDEC  
Bureau of Quality Assurance  
625 Broadway  
Albany, NY 12233-3258

**Condition 30: Recordkeeping requirements.**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 40CFR 60.7(b), NSPS Subpart A**

**Item 30.1:**  
Affected owners or operators shall maintain records of occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

**Condition 31: Compliance Certification**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 40CFR 60.7(c), NSPS Subpart A**

**Item 31.1:**  
The Compliance Certification activity will be performed for the Facility.

**Item 31.2:**  
Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES  
Monitoring Description:

Affected owners or operators shall submit an excess emissions report and/or a summary report form (as defined in 40 CFR 60.7(d)) semi-annually (or more frequently as required by the applicable Subpart or the Administrator), to the Administrator. These reports shall be post marked no later than 30 days after each six (6) month period (or as appropriate), and shall contain the following information:

1) the magnitude of excess emissions computed, any conversion factors used, the date and time of each occurrence, and the process operating time during the reporting period;

2) specific identification of each period of excess emissions that occur during startup, shutdown, or malfunction, where the nature, cause, and corrective action are provided for a malfunction;

3) the date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span

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checks and the nature of the system repairs or adjustments; and

4) when no excess emissions have occurred or when the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be provided in the report.

Monitoring Frequency: CONTINUOUS  
Reporting Requirements: SEMI-ANNUALLY (CALENDAR)  
Reports due 30 days after the reporting period.  
The initial report is due 1/30/2013.  
Subsequent reports are due every 6 calendar month(s).

**Condition 32: Excess emissions report.**  
Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement:40CFR 60.7(d), NSPS Subpart A

**Item 32.1:**

A summary report form, for each pollutant monitored, shall be sent to the Administrator in the form prescribed in Figure 1 of 40 CFR Part 60.7(d).

**Condition 33: Facility files for subject sources.**  
Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement:40CFR 60.7(f), NSPS Subpart A

**Item 33.1:**

The following files shall be maintained at the facility for all affected sources: all measurements, including continuous monitoring systems, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by this part, recorded in permanent form suitable for inspections. The file shall be maintained for at least two years following the date of such measurements, reports, and records.

**Condition 34: Notification Similar to State or Local Agency**  
Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement:40CFR 60.7(g), NSPS Subpart A

**Item 34.1:**

If notification substantially similar to that in 40 CFR Part 60.7(a) is required by any other State or local agency, sending the Administrator a copy of that notification will satisfy the requirements of 40 CFR Part 60.7(a).

**Condition 35: Availability of information.**  
Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement:40CFR 60.9, NSPS Subpart A

**Item 35.1:**

The availability to the public of information provided to, or otherwise obtained by, the



Administrator under this part shall be governed by 40 CFR Part 2.

**Condition 36: Circumvention.**  
Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement: 40CFR 60.12, NSPS Subpart A

**Item 36.1:**  
No owner or operator subject to the provisions of this part shall build, erect, install, or use any article, machine, equipment or process, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere.

**Condition 37: Modifications.**  
Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement: 40CFR 60.14, NSPS Subpart A

**Item 37.1:**  
Within 180 days of the completion of any physical or operational change (as defined in section 60.14), compliance with the applicable standards must be achieved.

**Condition 38: Subpart A provisions that apply to facilities subject to Subpart JJJJ**  
Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement: 40CFR 60.4246, NSPS Subpart JJJJ

**Item 38.1:**  
The following provisions of 40 CFR 60 Subpart A apply to this facility: 60.1 through 60.12, 60.14 through 60.17 and 60.19.

**Condition 39: Compliance Certification \***  
Effective between the dates of 10/30/2012 and 10/29/2017  
Treatment is defined by EPA and the Department as compression, dewatering and filtering of particulate.  
Applicable Federal Requirement: 40CFR 60.752(b)(2)(iii)(C), NSPS  
**Subpart WWW** The following provides a general description of the landfill gas (LFG) treatment system used at the Ontario County LF LFG to Energy Facility.

\* THE CORRECT TEXT OF  
CONDITION NO. 39 IS  
INCLUDED ON  
CORRECTED PAGES  
28 AND 29 FOLLOWING  
THIS PAGE.  
A.E. Shanley 10/30/12

**Item 39.1:**  
The Compliance Certification activity will be performed for the Facility.  
The equipment and processes that treat (de-water, filter and compress)

**Item 39.2:** LFG received from the landfill (prior to its combustion as fuel in the IC engines) consist of:  
**Compliance Certification** shall include the following monitoring:

- Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES  
Monitoring Description:
1. An initial inlet filter, which is used to remove liquid aerosols and solid particulates from the gas;
  2. Gas blowers, which are used to compress the gas to a required pressure;
  3. A water-to-gas cooler (heat exchanger), which will be used to reduce the elevated temperatures of LFG received from the processes the collected gas for subsequent sale or use; compressor;

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**Applicable Federal Requirement:40CFR 60.12, NSPS Subpart A**

**Item 36.1:**

No owner or operator subject to the provisions of this part shall build, erect, install, or use any article, machine, equipment or process, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere.

**Condition 37: Modifications.**  
Effective for entire length of Permit

**Applicable Federal Requirement:40CFR 60.14, NSPS Subpart A**

**Item 37.1:**

Within 180 days of the completion of any physical or operational change (as defined in section 60.14), compliance with the applicable standards must be achieved.

**Condition 38: Subpart A provisions that apply to facilities subject to Subpart JJJJ**  
Effective for entire length of Permit

**Applicable Federal Requirement:40CFR 60.4246, NSPS Subpart JJJJ**

**Item 38.1:**

The following provisions of 40 CFR 60 Subpart A apply to this facility: 60.1 through 60.12, 60.14 through 60.17 and 60.19.

**Condition 39: Compliance Certification**  
Effective for entire length of Permit

**Applicable Federal Requirement:40CFR 60.752(b)(2)(iii)(C), NSPS**

**Subpart WWW**

**Item 39.1:**

The Compliance Certification activity will be performed for the Facility.

**Item 39.2:**

Compliance Certification shall include the following monitoring:

**Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES**

**Monitoring Description:**

In accordance with 40 CFR §60.752(b)(2)(iii)(C), landfill gas collected from a MSW landfill may be either combusted in an appropriate control device or routed to a treatment system that processes the collected gas for subsequent sale or use.

Treatment is defined by EPA and the Department as compression, dewatering and filtering of particulate.

The following provides a general description of the landfill gas (LFG) treatment system used at the Ontario County LF LFG to Energy Facility.

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The equipment and processes that treat (de-water, filter and compress) LFG received from the landfill (prior to its combustion as fuel in the IC engines) consist of:

1. An initial inlet filter, which is used to remove liquid aerosols and solid particulates from the gas;
2. Gas blowers, which are used to compress the gas to a required pressure;
3. A water-to-gas cooler (heat exchanger), which will be used to reduce the elevated temperatures of LFG received from the compressor;
4. A second filter, which is used to remove liquid aerosols and solid particulates from the gas;
5. A glycol scrubber (closed system with no atmospheric vents), which is used to remove moisture and other impurities from the gas; and
6. A third (and final) filter, which is used to remove liquid aerosols and solid particulates from the gas.

Components of the specified gas treatment system are not equipped with atmospheric vents. Therefore, all of the LFG received by the system is directed to the IC engines for use as a fuel.

Initial (primary) filter vessel vacuum pressure: The pressure on the vacuum side of the gas mover (inlet of the gas flow through the vessel) is continuously monitored with a pressure switch. The existence of elevated pressures indicates that the filter is wet, loaded with particulate matter or significant accumulation of condensate is present in the vessel. The pressure at the primary coalescing filter (vacuum side of blower) should be equal to or less than 20 inches of water.

The primary filter typically operates without any noticeable condensate accumulation (no water is typically present in the vessel).

If the vacuum pressure drop at the primary coalescing filter is observed to be greater than 20 inches of water, the filter will be replaced and/or investigations will be performed to evaluate potential malfunctions of upstream landfill gas dewatering equipment.

The replacement filters will be of comparable design for critical air or gas service applications where high-efficiency removal of oil or water droplets and particulate solids is required. The primary filter is rated for particulate matter removal to 5.0 microns.

Second filter vessel differential pressure: The pressure drop across the second coalescing filter (inlet and outlet of the gas flow through the vessel) is continuously monitored with a pressure differential switch. Large differential pressures (dP) indicate that the filter is

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4. A second filter, which is used to remove liquid aerosols and solid particulates from the gas;
5. A glycol scrubber (closed system with no atmospheric vents), which is used to remove moisture and other impurities from the gas; and
6. A third (and final) filter, which is used to remove liquid aerosols and solid particulates from the gas.

Components of the specified gas treatment system are not equipped with atmospheric vents. Therefore, all of the LFG received by the system is directed to the IC engines for use as a fuel.

Initial (primary) filter vessel vacuum pressure: The pressure on the vacuum side of the gas mover (inlet of the gas flow through the vessel) is continuously monitored with a pressure switch. The existence of elevated pressures indicates that the filter is wet, loaded with particulate matter or significant accumulation of condensate is present in the vessel. The pressure at the primary coalescing filter (vacuum side of blower) should be equal to or less than 20 inches of water.

The primary filter typically operates without any noticeable condensate accumulation (no water is typically present in the vessel).

If the vacuum pressure drop at the primary coalescing filter is observed to be greater than 20 inches of water, the filter will be replaced and/or investigations will be performed to evaluate potential malfunctions of upstream landfill gas dewatering equipment.

The replacement filters will be of comparable designed for critical air or gas service applications where high-efficiency removal of oil or water droplets and particulate solids is required. The primary filter is rated for particulate matter removal to 5.0 microns.

Second filter vessel differential pressure: The pressure drop across the second coalescing filter (inlet and outlet of the gas flow through the vessel) is continuously monitored with a pressure differential switch. Large differential pressures (dP) indicate that the filter is wet or loaded with particulate matter and should be replaced. The dP at the second filter (pressure side of blower and downstream of gas cooler) should be equal to or less than 2.0 pounds per square inch differential (psid).

If the pressure drop across the polishing coalescing filter is greater than 2.0 psid, the filter will be replaced and/or investigations will be performed to evaluate potential malfunctions of upstream landfill gas dewatering equipment.

The replacement filters will be of comparable designed for critical air or gas service applications where high-efficiency removal of oil



or water droplets and particulate solids is required. The second filter is rated for particulate matter removal to 1.0 micron.

Third (polishing) filter vessel differential pressure: The pressure drop across the polishing coalescing filter (inlet and outlet of the gas flow through the vessel) is continuously monitored with a pressure differential switch. Large differential pressures (dP) indicate that the filter is wet or loaded with particulate matter and should be replaced. The dP at the polishing filter (pressure side of blower and downstream of the gas cooler) should be equal to or less than 2.0 psid.

If the pressure drop across the polishing coalescing filter is greater than 2.0 psid, the filter will be replaced and/or investigations will be performed to evaluate potential malfunctions of upstream landfill gas dewatering equipment.

The replacement filters will be of comparable designed for critical air or gas service applications where high-efficiency removal of oil or water droplets and particulate solids is required. The polishing filter is rated for particulate matter removal to 0.1 micron.

Blower discharge pressure (gas compression): The pressure of the gas in the treatment system is continuously monitored with a pressure switch that is located before (upstream) of the water-to-gas cooler. The landfill gas treatment system (blower) should be operated so that the minimum pressure observed at the specified monitoring location is at least 1.5 pounds per square inch gauge (psig). Pressures measured before the water-to-gas cooler that are less than 1.5 psig are an indication of problems with the gas compression system.

If the pressure of the gas in the treatment system monitored before the water-to-gas cooler is less than 1.5 psig, an investigation of the equipment will be performed and corrective actions implemented.

Water-to-gas cooler outlet temperature: The temperature of the gas in the treatment system is continuously monitored with a temperature switch that is located before (upstream) of the second filter vessel. The landfill gas treatment system (water-to-gas cooler) should be operated so that the maximum temperature observed at the specified monitoring location is equal to or less than 45°F. Gas temperatures measured before the second filter vessel that are greater than 45°F are an indication of problems with the operation of the water-to-gas cooler.

If the temperature of the gas in the treatment system monitored after the polishing filter vessel is greater than 45°F, an investigation of the water-to-gas cooler will be performed and corrective actions

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implemented.

Monitoring Frequency: DAILY
Reporting Requirements: SEMI-ANNUALLY (CALENDAR)
Reports due 30 days after the reporting period.
The initial report is due 1/30/2013.
Subsequent reports are due every 6 calendar month(s).

Condition 40: General provisions
Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement:40CFR 63.6665, Subpart ZZZZ

Item 40.1:
Table 8 of 40 CFR 63 Subpart ZZZZ shows which parts of the General Provisions 40 CFR 63.1 through 40 CFR 63.15 apply to this facility. Facility is responsible for ensuring they comply with all General Provisions contained in Table 8.

\*\*\*\* Emission Unit Level \*\*\*\*

Condition 41: Emission Point Definition By Emission Unit
Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement:6 NYCRR Subpart 201-6

Item 41.1:
The following emission points are included in this permit for the cited Emission Unit:

- Emission Unit: 1-OLFGE
Emission Point: ENG01
Height (ft.): 26 Diameter (in.): 12
NYTMN (km.): 4747.266 NYTME (km.): 329.704 Building: ENGBLDG
Emission Point: ENG02
Height (ft.): 26 Diameter (in.): 12
NYTMN (km.): 4747.267 NYTME (km.): 329.71 Building: ENGBLDG
Emission Point: ENG03
Height (ft.): 26 Diameter (in.): 12
NYTMN (km.): 4747.267 NYTME (km.): 329.716 Building: ENGBLDG
Emission Point: ENG04
Height (ft.): 26 Diameter (in.): 12
NYTMN (km.): 4747.268 NYTME (km.): 329.721 Building: ENGBLDG
Emission Point: ENG05
Height (ft.): 26 Diameter (in.): 12
NYTMN (km.): 4747.261 NYTME (km.): 329.704 Building: ENGBLDG
Emission Point: ENG06

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Height (ft.): 26 Diameter (in.): 12  
NYTMN (km.): 4747.261 NYTME (km.): 329.711 Building: ENGBLDG

Emission Point: ENG07  
Height (ft.): 26 Diameter (in.): 12  
NYTMN (km.): 4747.262 NYTME (km.): 329.717 Building: ENGBLDG

Emission Point: ENG08  
Height (ft.): 26 Diameter (in.): 12  
NYTMN (km.): 4747.263 NYTME (km.): 329.721 Building: ENGBLDG

**Item 41.2:**

The following emission points are included in this permit for the cited Emission Unit:

Emission Unit: 2-OLFGE

Emission Point: ENG09  
Height (ft.): 28 Diameter (in.): 15  
NYTMN (km.): 4747.29 NYTME (km.): 329.578 Building: ENGBLDG2

Emission Point: ENG10  
Height (ft.): 28 Diameter (in.): 15  
NYTMN (km.): 4747.29 NYTME (km.): 329.578 Building: ENGBLDG2

Emission Point: ENG11  
Height (ft.): 28 Diameter (in.): 15  
NYTMN (km.): 4747.29 NYTME (km.): 329.578 Building: ENGBLDG2

**Condition 42: Process Definition By Emission Unit**  
**Effective between the dates of 10/30/2012 and 10/29/2017**

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

**Item 42.1:**

This permit authorizes the following regulated processes for the cited Emission Unit:

Emission Unit: 1-OLFGE  
Process: 001 Source Classification Code: 2-01-008-02

Process Description:  
Process 001 consists of the eight (8) Caterpillar engines in the facility. Each internal combustion engine consumes approximately 330 standard cubic feet per minute (scfm) of landfill gas at 50% methane.

Emission Source/Control: 01ENG - Combustion  
Design Capacity: 825 kilowatts

Emission Source/Control: 02ENG - Combustion  
Design Capacity: 825 kilowatts

Emission Source/Control: 03ENG - Combustion  
Design Capacity: 825 kilowatts

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Emission Source/Control: 04ENG - Combustion  
Design Capacity: 825 kilowatts

Emission Source/Control: 05ENG - Combustion  
Design Capacity: 825 kilowatts

Emission Source/Control: 06ENG - Combustion  
Design Capacity: 825 kilowatts

Emission Source/Control: 07ENG - Combustion  
Design Capacity: 825 kilowatts

Emission Source/Control: 08ENG - Combustion  
Design Capacity: 825 kilowatts

**Item 42.2:**

This permit authorizes the following regulated processes for the cited Emission Unit:

Emission Unit: 2-OLFGE

Process: 002

Source Classification Code: 2-01-008-02

**Process Description:**

Process 002 will consist of three (3) Caterpillar G3520C landfill gas engine generator sets. Each internal combustion engine consumes approximately 531 standard cubic feet per minute (scfm) of landfill gas at 50% methane. A 100 kilowatt (kW) IC engine generator is operated to supply Process 002 with limited temporary power when utility outages occur. The emergency generator is powered with diesel fuel that is supplied from a 200 gallon above ground storage tank.

Emission Source/Control: 09ENG - Combustion  
Design Capacity: 1,600 kilowatts

Emission Source/Control: 10ENG - Combustion  
Design Capacity: 1,600 kilowatts

Emission Source/Control: 11ENG - Combustion  
Design Capacity: 1,600 kilowatts

**Condition 43:** Applicability of facilities subject to Subpart JJJJ  
Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement: 40CFR 60.4230(a)(4)(i), NSPS Subpart

JJJJ

**Item 43.1:**

This Condition applies to Emission Unit: 1-OLFGE

**Item 43.2:** The provisions of 40 CFR 60 Subpart JJJJ are applicable to manufacturers, owners, and operators of stationary spark ignition (SI) internal combustion engines (ICE) that commence construction after June 12, 2006, and where the stationary SI ICE are manufactured on or after July 1, 2007, for



engines with a maximum engine power greater than or equal to 500 HP (except lean burn engines with a maximum engine power greater than or equal to 500 HP and less than 1,350 HP). For the purposes of this subpart, the date that construction commences is the date the engine is ordered by the owner or operator.

**Condition 44: Compliance Certification**  
Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement: 40CFR 60.4243(a)(1), NSPS Subpart

**JJJJ**

**Item 44.1:**  
The Compliance Certification activity will be performed for:

Emission Unit: 1-OLFGE

Regulated Contaminant(s):  
CAS No: 0NY210-00-0 OXIDES OF NITROGEN

**Item 44.2:**  
Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES  
Monitoring Description:

If you are an owner of a stationary SI internal combustion engine greater than 500 HP that combusts landfill gas, and must comply with the emission standards specified in 40 CFR 60.4233(e), you must demonstrate compliance according to (1) or (2) specified below:

1) Purchasing an engine certified according to procedures specified in 40 CFR 60 Subpart JJJJ, for the same model year and demonstrating compliance according to one of the methods specified in 40 CFR 60.4243(a):

i. If you operate and maintain the certified stationary SI internal combustion engine and control device according to the manufacturer's emission-related written instructions, you must keep records of conducted maintenance to demonstrate compliance, but no performance testing is required if you are an owner or operator.

ii. If you do not operate and maintain the certified stationary SI internal combustion engine and control device according to the manufacturer's emission-related written instructions, your engine will be considered a non-certified engine, and you must demonstrate compliance according to the requirements specified for non-certified engines, given in item (2) below.



2) Purchasing a non-certified engine and demonstrating compliance with emission standards specified in 40 CFR 60.4233(e) according to the requirements specified in 40 CFR 60.4244, as applicable. In addition, for engines that are greater than 500 HP, you must keep a maintenance plan and records of conducted maintenance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions. In addition, you must conduct an initial performance test and conduct subsequent performance testing every 8,760 hours of operation or 3 years, whichever comes first, thereafter to demonstrate compliance.

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 1/30/2013.  
Subsequent reports are due every 6 calendar month(s).

**Condition 45: Compliance Certification**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 40CFR 60.4245(a), NSPS Subpart JJJJ**

**Item 45.1:**  
The Compliance Certification activity will be performed for:

Emission Unit: 1-OLFGE

**Item 45.2:**  
Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES  
Monitoring Description:

Owners or operators of stationary SI ICE that are subject to the provisions of 40 CFR Subpart JJJJ must meet the following notification, reporting and recordkeeping requirements.

- (1) All notifications submitted to comply with this subpart and all documentation supporting any notification.
- (2) Maintenance conducted on the engine.
- (3) If the stationary SI internal combustion engine is a certified engine, documentation from the manufacturer that the engine is certified to meet the emission standards and information as required in 40 CFR parts 90, 1048, 1054, and 1060, as applicable
- (4) If the stationary SI internal combustion engine is not a certified engine or is a certified engine operating in a non-certified manner and subject to §60.4243(a)(2), documentation that the engine meets the emission standards.

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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 1/30/2013.  
Subsequent reports are due every 6 calendar month(s).

**Condition 55: Stationary RICE subject to regulations under 40 CFR Part 60  
Effective between the dates of 10/30/2012 and 10/29/2017**

**Applicable Federal Requirement: 40CFR 63.6590(c), Subpart ZZZZ**

**Item 55.1:**

This Condition applies to Emission Unit: 1-OLFGE

**Item 55.2:**

An affected source that meets any of the criteria listed below must meet the requirements of this part by meeting the requirements of 40 CFR part 60 subpart IIII, for compression ignition engines or 40 CFR part 60 subpart JJJJ, for spark ignition engines. No further requirements apply for such engines under this part.

- new or reconstructed stationary RICE located at an area source,
- new or reconstructed 2SLB stationary RICE with a site rating of less than or equal to 500 brake horsepower located at a major source of HAP emissions,
- new or reconstructed 4SLB stationary RICE with a site rating of less than 250 brake horsepower located at a major source of HAP emissions,
- new or reconstructed spark ignition 4 stroke rich burn (4SRB) stationary RICE with a site rating of less than or equal to 500 brake horsepower located at a major source of HAP emissions,
- new or reconstructed stationary RICE with a site rating of less than or equal to 500 brake horsepower located at a major source of HAP emissions which combusts landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis,
- new or reconstructed emergency or limited use stationary RICE with a site rating of less than or equal to 500 brake horsepower located at a major source of HAP emissions,
- new or reconstructed compression ignition (CI) stationary RICE with a site rating of less than or equal to 500 brake horsepower located at a major source of HAP emissions.

**Condition 46: Compliance Certification  
Effective between the dates of 10/30/2012 and 10/29/2017**

**Applicable Federal Requirement: 40CFR 63.6603(a), Subpart ZZZZ**

**Item 46.1:**

The Compliance Certification activity will be performed for:

Emission Unit: 1-OLFGE

**Item 46.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

**New York State Department of Environmental Conservation**

Permit ID: 8-3244-00040/00002

Facility DEC ID: 8324400040



**Monitoring Description:**

The owner or operator of an existing non-emergency, non-black start landfill or digester gas fired stationary RICE located at an area source of HAP emissions (for engines constructed or reconstructed prior to June 12, 2006) must comply with the following maintenance procedures by October 19, 2013:

- (1) Change oil and filter every 1,440 hours of operation or annually, whichever comes first,
- (2) Inspect spark plugs every 1,440 hours of operation or annually, whichever comes first,
- (3) Inspect all hoses and belts every 1,440 hours of operation or annually, whichever comes first, and replace as necessary.

Initial compliance will be demonstrated according to the provisions in 40 CFR 63.6630.

Continuous compliance will then be demonstrated according to 40 CFR 63.6640. The facility must keep records according to the provisions in 40 CFR 63.6655 and submit the notifications and reports listed in 40 CFR 63.6645 and 63.6650.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Reporting Requirements: AS REQUIRED - SEE MONITORING DESCRIPTION

**Condition 47: Compliance Certification**  
Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement: 40CFR 63.6625(e), Subpart ZZZZ

**Item 47.1:**  
The Compliance Certification activity will be performed for:

Emission Unit: 1-OLFGE

**Item 47.2:**  
Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

**Monitoring Description:**

The owner or operator of any of the following stationary RICE must operate and maintain the stationary RICE and after-treatment control device (if any) according to the manufacturer's emission-related written instructions or develop a maintenance plan which must provide to the extent practicable for the maintenance and operation of the engine in a manner consistent with good air pollution control practice for minimizing emissions:

- (1) An existing stationary RICE with a site rating of less than 100 brake horsepower located at a major source of HAP emissions;
- (2) An existing emergency or black start stationary RICE with a site



rating of less than or equal to 500 brake horsepower located at a major source of HAP emissions;

(3) An existing emergency or black start stationary RICE located at an area source of HAP emissions;

(4) An existing non-emergency, non-black start stationary compression ignition RICE with a site rating less than or equal to 300 brake horsepower located at an area source of HAP emissions;

(5) An existing non-emergency, non-black start 2 stroke lean burn stationary RICE located at an area source of HAP emissions;

(6) An existing non-emergency, non-black start landfill or digester gas stationary RICE located an area source of HAP emissions (for engines constructed or reconstructed prior to June 12, 2006).

(7) An existing non-emergency, non-black start 4 stroke lean burn stationary RICE with a site rating less than or equal to 500 brake horsepower located at an area source of HAP emissions;

(8) An existing non-emergency, non-black start 4 stroke rich burn stationary RICE with a site rating less than or equal to 500 brake horsepower located at an area source of HAP emissions;

(9) An existing, non-emergency, non-black start 4 stroke lean burn stationary RICE with a site rating greater than 500 brake horsepower located an an area source of HAP emissions that is operated 24 hours or less per calendar year; and

(10) An existing, non-emergency, non-black start 4 stroke rich burn stationary RICE with a site rating greater than 500 brake horsepower located at an area source of HAP emissions that is operated 24 hours or less per calendar year.

The Facility must comply with these requirements by October 19, 2013.

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 1/30/2013.

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

**Condition 48: Compliance Certification**

Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement: 40CFR 63.6625(h), Subpart ZZZZ

**Item 48.1:**

The Compliance Certification activity will be performed for:

Emission Unit: 1-OLFGE

**New York State Department of Environmental Conservation**

Permit ID: 8-3244-00040/00002

Facility DEC ID: 8324400040



**Item 48.2:**

Compliance Certification shall include the following monitoring:

**Monitoring Type: MONITORING OF PROCESS OR CONTROL DEVICE  
PARAMETERS AS SURROGATE**

**Monitoring Description:**

The following requirements apply to existing non-emergency non-black start landfill or digester gas fired stationary RICE located at an area source of HAP emissions (for engines constructed or reconstructed prior to June 12, 2006):

For operation of a new, reconstructed, or existing stationary engine, the engine's time spent at idle must be minimized during startup and minimize the engine's startup time to a period needed for appropriate and safe loading of the engine, not to exceed 30 minutes, after which the emission standards applicable to all times other than startup in Tables 1a, 2a, 2c, and 2d to 40 CFR 63 Subpart ZZZZ apply. Compliance with this requirement must be achieved by October 19, 2013.

**Parameter Monitored: DURATION OF START UP**

**Upper Permit Limit: 30 minutes**

**Monitoring Frequency: CONTINUOUS**

**Averaging Method: MAXIMUM - NOT TO BE EXCEEDED PER OCCURRENCE**

**Reporting Requirements: SEMI-ANNUALLY (CALENDAR)**

**Reports due 30 days after the reporting period.**

**The initial report is due 1/30/2013.**

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

**Condition 49: Compliance Certification**

**Effective between the dates of 10/30/2012 and 10/29/2017**

**Applicable Federal Requirement: 40CFR 63.6625(j), Subpart ZZZZ**

**Item 49.1:**

The Compliance Certification activity will be performed for:

**Emission Unit: 1-OLFGE**

**Item 49.2:**

Compliance Certification shall include the following monitoring:

**Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES**

**Monitoring Description:**

The owner or operator of a stationary spark ignition engine that is subject to the work, operation or management practices in items 6, 7, or 8 of Table 2c of subpart ZZZZ or in items 5, 6, 7, 9, or 11 of Table 2d of subpart ZZZZ has the option of utilizing an oil analysis program in order to extend the specified oil change requirement in Tables 2c and 2d of subpart ZZZZ. The oil analysis must be performed at the same frequency specified for changing the oil in Table 2c or 2d of subpart ZZZZ. The analysis program must at a minimum analyze the



following three parameters: Total Acid Number, viscosity, and percent water content. The condemning limits for these parameters are as follows: Total Acid Number increases by more than 3.0 milligrams of potassium hydroxide (KOH) per gram from Total Acid Number of the oil when new; viscosity of the oil has changed by more than 20 percent from the viscosity of the oil when new; or percent water content (by volume) is greater than 0.5. If all of these condemning limits are not exceeded, the engine owner or operator is not required to change the oil. If any of the limits are exceeded, the engine owner or operator must change the oil within 2 days of receiving the results of the analysis; if the engine is not in operation when the results of the analysis are received, the engine owner or operator must change the oil within 2 days or before commencing operation, whichever is later. The owner or operator must keep records of the parameters that are analyzed as part of the program, the results of the analysis, and the oil changes for the engine. The analysis program must be part of the maintenance plan for the engine.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION  
Reporting Requirements: AS REQUIRED - SEE MONITORING DESCRIPTION

**Condition 50: Compliance Certification**  
Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement: 40CFR 63.6655(a), Subpart ZZZZ

**Item 50.1:**  
The Compliance Certification activity will be performed for:

Emission Unit: 1-OLFGE

**Item 50.2:**  
Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES  
Monitoring Description:

For all existing non-emergency non-black start landfill or digester gas fired stationary RICE located at an area source of HAP emissions (for engines constructed or reconstructed prior to June 12, 2006), the Facility must keep the records described in paragraphs (1) through (5) beginning on October 19, 2013.

(1) A copy of each notification and report that the owner or operator submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that he/she submitted, according to the requirement in 40 CFR 63.10(b)(2)(xiv).

(2) Records of the occurrence and duration of each malfunction of operation (i.e., process equipment) or the air pollution control and monitoring equipment.

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(3) Records of performance tests and performance evaluations as required in 40 CFR 63.10(b)(2)(viii).

(4) Records of all required maintenance performed on the air pollution control and monitoring equipment.

(5) Records of actions taken during periods of malfunction to minimize emissions in accordance with 40 CFR 63.6605(b), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

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 1/30/2013.

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

**Condition 51: Compliance Certification**

Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement: 40CFR 63.6655(e), Subpart ZZZZ

**Item 51.1:**

The Compliance Certification activity will be performed for:

Emission Unit: 1-OLFGE

**Item 51.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

Monitoring Description:

The owner or operator must keep records of the maintenance conducted on the stationary RICE in order to demonstrate that he/she operated and maintained the stationary RICE and after-treatment control device (if any) according to the maintenance plan for the following stationary RICE;

(1) An existing stationary RICE with a site rating of less than 100 brake horsepower located at a major source of HAP emissions.

(2) An existing stationary emergency RICE.

(3) An existing stationary RICE located at an area source of HAP emissions subject to management practices as shown in Table 2d to Subpart ZZZZ.

The facility must be in compliance with these record-keeping procedures by October 19, 2013.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

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Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2013.

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

**Condition 52: Capping Monitoring Condition**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR Subpart 201-7**

**Item 52.1:**

Under the authority of 6 NYCRR Part 201-7, this condition contains an emission cap for the purpose of limiting emissions from the facility, emission unit or process to avoid being subject to the following applicable requirement(s) that the facility, emission unit or process would otherwise be subject to:

6 NYCRR Subpart 231-7

**Item 52.2:**

Operation of this facility shall take place in accordance with the approved criteria, emission limits, terms, conditions and standards in this permit.

**Item 52.3:**

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.

**Item 52.4:**

On an annual basis, unless otherwise specified below, beginning one year after the granting of an emissions cap, the responsible official shall provide a certification to the Department that the facility has operated all emission units within the limits imposed by the emission cap. This certification shall include a brief summary of the emissions subject to the cap for that time period and a comparison to the threshold levels that would require compliance with an applicable requirement.

**Item 52.5:**

The emission of pollutants that exceed the applicability thresholds for an applicable requirement, for which the facility has obtained an emissions cap, constitutes a violation of Part 201 and of the Act.

**Item 52.6:**

The Compliance Certification activity will be performed for:

Emission Unit: 1-OLFGE

Process: 001

Regulated Contaminant(s):

CAS No: 000630-08-0 CARBON MONOXIDE

**Item 52.7:**

New York State Department of Environmental Conservation

Permit ID: 8-3244-00040/00002

Facility DEC ID: 8324400040



Compliance Certification shall include the following monitoring:

Capping: Yes

Monitoring Type: INTERMITTENT EMISSION TESTING

Monitoring Description:

In order to show compliance with the 446.4 ton per year limit for carbon monoxide, the facility is required to perform the following periodic monitoring for carbon monoxide (CO) emissions in the exhaust stacks of the 8-CAT 3516 internal combustion (IC) engines (emission sources 01ENG-08ENG):

1. CO emissions shall be measured monthly, at a stack location acceptable to the Department, while the engine is operating at base load (base load is a normal operating load) using a properly calibrated portable gas analyzer approved for use by the Department.
2. The CO measurement will consist of the average of three instantaneous concentration readings that are obtained over a 3 minute period.
3. The first of the three CO concentration readings will start after the portable analyzer has sampled engine exhaust for at least one (1) minute.
4. The second and third CO concentration readings will occur at consecutive 1 minute intervals.
5. The three CO concentration readings will be recorded and their average calculated.
6. The calculated average will be the CO measurement for that month and must not exceed the permitted emissions rate of the engines. A threshold for CO (ppm) will be established based on the permitted emission factor of the engines (2.71 g/bHp-hr) and the measured exhaust stack conditions from the most recent performance test.

If the concentration is greater than 110% of the threshold, the permittee shall take corrective action as soon as possible, but not later than 5 days after detection, and shall retake the CO measurement as outlined above within 24 hours of taking corrective action.

If corrective action taken does not bring the reading back into compliance with this limit, a new stack test shall be scheduled within 60 days of the initial reading in order to verify that the current operating conditions can meet the limit for carbon monoxide.

If the corrective actions are taken as specified in this Condition, the monitored exceedance is not a violation of the permit operational requirements, however, the permittee shall report these episodes as deviations on the annual compliance certification and the semi-annual monitoring report that cover the monitoring period when the deviations



occurred.

Parameter Monitored: CARBON MONOXIDE  
Upper Permit Limit: 446.4 tons per year  
Reference Test Method: See Monitoring Description  
Monitoring Frequency: MONTHLY  
Averaging Method: ANNUAL MAXIMUM ROLLED MONTHLY  
Reporting Requirements: SEMI-ANNUALLY (CALENDAR)  
Reports due 30 days after the reporting period.  
The initial report is due 1/30/2013.  
Subsequent reports are due every 6 calendar month(s).

**Condition 53: Compliance Certification**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR 227-1.3 (a)**

**Item 53.1:**  
The Compliance Certification activity will be performed for:

Emission Unit: 1-OLFGE  
Process: 001

**Item 53.2:**  
Compliance Certification shall include the following monitoring:

Monitoring Type: MONITORING OF PROCESS OR CONTROL DEVICE  
PARAMETERS AS SURROGATE

Monitoring Description:

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. The facility will perform a visual observation on a daily basis. If any opacity is noted, corrective action will be taken immediately or a Method 9 will be performed within two business days.

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  
Reporting Requirements: SEMI-ANNUALLY (CALENDAR)  
Reports due 30 days after the reporting period.  
The initial report is due 1/30/2013.  
Subsequent reports are due every 6 calendar month(s).

**Condition 54: Compliance Certification**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR 227-2.6 (c)**

**Item 54.1:**

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Permit ID: 8-3244-00040/00002 Facility DEC ID: 8324400040



The Compliance Certification activity will be performed for:

Emission Unit: 1-OLFGE  
Process: 001

Regulated Contaminant(s):  
CAS No: 0NY210-00-0 OXIDES OF NITROGEN

**Item 54.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: INTERMITTENT EMISSION TESTING

Monitoring Description:

In order to show compliance with the NO<sub>x</sub> RACT standard of sources firing landfill gas of 2.0 grams per brake horsepower-hour, the facility is required to conduct an emission test under 6NYCRR Part 227-2.6(a)(7). In accordance with this requirement, the facility must:

1) submit a compliance test protocol to the Department for approval at least 30 days prior to emission testing. The conditions of the testing and the locations of the sampling devices must be acceptable to the Department; and

2) utilize the procedures set forth in 40 CFR Part 60, Appendix A or any other method acceptable to the Department and the Administrator for determining compliance with the NO<sub>x</sub> limit of 2.0 grams per brake horsepower-hour, and must, in addition, follow the procedures set forth in 6NYCRR Part 202 as follows:

For stationary internal combustion engines, utilize Method 7, 7E, or 19 from 40 CFR Part 60, Appendix A or another reference method approved by the Department;

3) submit a compliance test report containing the results of the emission test to the Department no later than 60 days after completion of the emission test.

The facility must conduct the required emissions test at 100% +/- 10% load on one (1) of the eight (8) identical permitted engines in Emission Unit 1-OLFGE. The Department will base its decision on which engine requires testing using the NO<sub>x</sub> emission rates as determined by the portable NO<sub>x</sub> analyzer prior to the emissions test.

The initial testing shall be completed within 180 days of permit issuance, and once per permit term thereafter.

If a current engine is replaced, the facility must contact the Department, and the Department reserves the right to require a performance test for the replacement engine.





in 40 CFR 60 Subpart JJJJ, for the same model year and demonstrating compliance according to one of the methods specified in 40 CFR 60.4243(a):

i. If you operate and maintain the certified stationary SI internal combustion engine and control device according to the manufacturer's emission-related written instructions, you must keep records of conducted maintenance to demonstrate compliance, but no performance testing is required if you are an owner or operator.

ii. If you do not operate and maintain the certified stationary SI internal combustion engine and control device according to the manufacturer's emission-related written instructions, your engine will be considered a non-certified engine, and you must demonstrate compliance according to the requirements specified for non-certified engines, given in item (2) below.

2) Purchasing a non-certified engine and demonstrating compliance with emission standards specified in 40 CFR 60.4233(e) according to the requirements specified in 40 CFR 60.4244, as applicable. In addition, for engines that are greater than 500 HP, you must keep a maintenance plan and records of conducted maintenance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions. In addition, you must conduct an initial performance test and conduct subsequent performance testing every 8,760 hours of operation or 3 years, whichever comes first, thereafter to demonstrate compliance.

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 1/30/2013.  
Subsequent reports are due every 6 calendar month(s).

**Condition 58: Compliance Certification**  
Effective between the dates of 10/30/2012 and 10/29/2017

Applicable Federal Requirement: 40CFR 60.4245(a), NSPS Subpart JJJJ

**Item 58.1:**  
The Compliance Certification activity will be performed for:

Emission Unit: 2-OLFGE

**Item 58.2:**  
Compliance Certification shall include the following monitoring:

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Facility DEC ID: 8324400040



**Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES**

**Monitoring Description:**

Owners or operators of stationary SI ICE that are subject to the provisions of 40 CFR Subpart JJJJ must meet the following notification, reporting and recordkeeping requirements.

(1) All notifications submitted to comply with this subpart and all documentation supporting any notification.

(2) Maintenance conducted on the engine.

(3) If the stationary SI internal combustion engine is a certified engine, documentation from the manufacturer that the engine is certified to meet the emission standards and information as required in 40 CFR parts 90, 1048, 1054, and 1060, as applicable

(4) If the stationary SI internal combustion engine is not a certified engine or is a certified engine operating in a non-certified manner and subject to §60.4243(a)(2), documentation that the engine meets the emission standards.

**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 1/30/2013.

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

**Condition 59: Stationary RICE subject to regulations under 40 CFR Part 60  
Effective between the dates of 10/30/2012 and 10/29/2017**

**Applicable Federal Requirement: 40 CFR 63.6590(c), Subpart ZZZZ**

**Item 59.1:**

This Condition applies to Emission Unit: 2-OLFGE

**Item 59.2:**

An affected source that meets any of the criteria listed below must meet the requirements of this part by meeting the requirements of 40 CFR part 60 subpart IIII, for compression ignition engines or 40 CFR part 60 subpart JJJJ, for spark ignition engines. No further requirements apply for such engines under this part.

- new or reconstructed stationary RICE located at an area source,
- new or reconstructed 2SLB stationary RICE with a site rating of less than or equal to 500 brake horsepower located at a major source of HAP emissions,
- new or reconstructed 4SLB stationary RICE with a site rating of less than 250 brake horsepower located at a major source of HAP emissions,
- new or reconstructed spark ignition 4 stroke rich burn (4SRB) stationary RICE with a site rating of less than or equal to 500 brake horsepower located at a major source of HAP emissions,
- new or reconstructed stationary RICE with a site rating of less than or equal to 500 brake horsepower located at a major source of HAP emissions which combusts landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis,

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- new or reconstructed emergency or limited use stationary RICE with a site rating of less than or equal to 500 brake horsepower located at a major source of HAP emissions,
- new or reconstructed compression ignition (CI) stationary RICE with a site rating of less than or equal to 500 brake horsepower located at a major source of HAP emissions.

**Condition 60: Capping Monitoring Condition**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable Federal Requirement: 6 NYCRR Subpart 201-7**

**Item 60.1:**

Under the authority of 6 NYCRR Part 201-7, this condition contains an emission cap for the purpose of limiting emissions from the facility, emission unit or process to avoid being subject to the following applicable requirement(s) that the facility, emission unit or process would otherwise be subject to:

6 NYCRR Subpart 231-7

**Item 60.2:**

Operation of this facility shall take place in accordance with the approved criteria, emission limits, terms, conditions and standards in this permit.

**Item 60.3:**

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.

**Item 60.4:**

On an annual basis, unless otherwise specified below, beginning one year after the granting of an emissions cap, the responsible official shall provide a certification to the Department that the facility has operated all emission units within the limits imposed by the emission cap. This certification shall include a brief summary of the emissions subject to the cap for that time period and a comparison to the threshold levels that would require compliance with an applicable requirement.

**Item 60.5:**

The emission of pollutants that exceed the applicability thresholds for an applicable requirement, for which the facility has obtained an emissions cap, constitutes a violation of Part 201 and of the Act.

**Item 60.6:**

The Compliance Certification activity will be performed for:

Emission Unit: 2-OLFGE  
Process: 002

Regulated Contaminant(s):  
CAS No: 000630-08-0 CARBON MONOXIDE

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Permit ID: 8-3244-00040/00002

Facility DEC ID: 8324400040



**Item 60.7:**

Compliance Certification shall include the following monitoring:

Capping: Yes

Monitoring Type: INTERMITTENT EMISSION TESTING

Monitoring Description:

In order to show compliance with the 446.4 ton per year limit for carbon monoxide, the facility is required to perform the following periodic monitoring for carbon monoxide (CO) emissions in the exhaust stacks of the 3-CAT 3520 internal combustion (IC) engines (emission sources 09ENG-11ENG):

1. CO emissions shall be measured monthly, at a stack location acceptable to the Department, while the engine is operating at base load (base load is a normal operating load) using a properly calibrated portable gas analyzer approved for use by the Department.
2. The CO measurement will consist of the average of three instantaneous concentration readings that are obtained over a 3 minute period.
3. The first of the three CO concentration readings will start after the portable analyzer has sampled engine exhaust for at least one (1) minute.
4. The second and third CO concentration readings will occur at consecutive 1 minute intervals.
5. The three CO concentration readings will be recorded and their average calculated.
6. The calculated average will be the CO measurement for that month and must not exceed the permitted emissions rate of the engines. A threshold for CO (ppm) will be established based on the permitted emission factor of the engines (3.2 g/bHp-hr) and the measured exhaust stack conditions from the most recent performance test or engine specifications if a performance test has not yet been conducted.

If the concentration is greater than 110% of the threshold, the permittee shall take corrective action as soon as possible, but not later than 5 days after detection, and shall retake the CO measurement as outlined above within 24 hours of taking corrective action.

If corrective action taken does not bring the reading back into compliance with this limit, a new stack test shall be scheduled within 60 days of the initial reading in order to verify that the current operating conditions can meet the limit for carbon monoxide.

If the corrective actions are taken as specified in this Condition, the monitored exceedance is not a violation of the permit operational requirements, however, the permittee shall report these episodes as



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**Item 62.1:**

The Compliance Certification activity will be performed for:

Emission Unit: 2-OLFGE

Process: 002

Regulated Contaminant(s):

CAS No: 0NY210-00-0 OXIDES OF NITROGEN

**Item 62.2:**

Compliance Certification shall include the following monitoring:

Monitoring Type: INTERMITTENT EMISSION TESTING

Monitoring Description:

In order to show compliance with the NO<sub>x</sub> RACT standard of sources firing landfill gas of 2.0 grams per brake horsepower-hour, the facility is required to conduct an emission test under 6NYCRR Part 227-2.6(a)(7). Those engines subject to the more frequent testing requirement of 40 CFR 60 Subpart JJJJ may satisfy this condition. In accordance with this requirement, the facility must:

1) submit a compliance test protocol to the Department for approval at least 30 days prior to emission testing. The conditions of the testing and the locations of the sampling devices must be acceptable to the Department; and

2) utilize the procedures set forth in 40 CFR Part 60, Appendix A or any other method acceptable to the Department and the Administrator for determining compliance with the NO<sub>x</sub> limit of 2.0 grams per brake horsepower-hour, and must, in addition, follow the procedures set forth in 6NYCRR Part 202 as follows:

For stationary internal combustion engines, utilize Method 7, 7E, or 19 from 40 CFR Part 60, Appendix A or another reference method approved by the Department;

3) submit a compliance test report containing the results of the emission test to the Department no later than 60 days after completion of the emission test.

The facility must conduct the required emissions test at 100% +/- 10% load on one (1) of the three (3) identical permitted engines in Emission Unit 2-OLFGE. The Department will base its decision on which engine requires testing using the NO<sub>x</sub> emission rates as determined by the portable NO<sub>x</sub> analyzer prior to the emissions test.

The initial testing shall be completed within 180 days of permit issuance (or engine startup, whichever is later), and once per permit term thereafter.

If a current engine is replaced, the facility must contact the

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Department, and the Department reserves the right to require a performance test for the replacement engine.

Upper Permit Limit: 2.0 grams per brake horsepower-hour

Reference Test Method: EPA Method 7, 7E or 19

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Averaging Method: 1-HOUR AVERAGE

Reporting Requirements: ONCE / BATCH OR MONITORING OCCURRENCE



**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 10/30/2012 and 10/29/2017

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: 0NY210-00-0  
Name: OXIDES OF NITROGEN

**Condition 64: Unavoidable noncompliance and violations**



Effective between the dates of 10/30/2012 and 10/29/2017

Applicable State Requirement: 6 NYCRR 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.

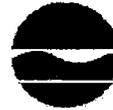
(a) The facility owner and/or operator shall compile and maintain records of all equipment maintenance or start-up/shutdown activities when they can be expected to result in an exceedance of any applicable emission standard, and shall submit a report of such activities to the commissioner's representative 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 superceded 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: Visible Emissions Limited**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable State Requirement: 6 NYCRR 211.2**

**Item 65.1:**

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.

**\*\*\*\* Emission Unit Level \*\*\*\***

**Condition 66: Compliance Demonstration**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable State Requirement: 6 NYCRR 227-2.4 (f) (2)**

**Item 66.1:**

The Compliance Demonstration activity will be performed for:

Emission Unit: 1-OLFGE  
Process: 001

Regulated Contaminant(s):  
CAS No: 0NY210-00-0 OXIDES OF NITROGEN

**Item 66.2:**

Compliance Demonstration shall include the following monitoring:

**Monitoring Type: MONITORING OF PROCESS OR CONTROL DEVICE  
PARAMETERS AS SURROGATE**

**Monitoring Description:**

In order to show compliance with the NO<sub>x</sub> RACT standard of sources firing landfill gas of 2.0 grams per brake horsepower-hour, the facility is required to perform the following periodic monitoring for oxides of nitrogen (NO<sub>x</sub>) emissions in the exhaust stacks of the 8-CAT 3516 internal combustion (IC) engines (emission sources 01ENG-08ENG):

1. NO<sub>x</sub> emissions shall be measured monthly, at a stack location acceptable to the Department, while the engine is operating at base load (base load is a normal operating load) using a properly calibrated portable gas analyzer approved for use by the Department.
2. The NO<sub>x</sub> measurement will consist of the average of three instantaneous concentration readings that are obtained over a 3 minute period.



3. The first of the three NOx concentration readings will start after the portable analyzer has sampled engine exhaust for at least one (1) minute.
4. The second and third NOx concentration readings will occur at consecutive 1 minute intervals.
5. The three NOx concentration readings will be recorded and their average calculated.
6. The calculated average will be the NOx measurement for that month and must not exceed the permitted emission rate of the engines. A threshold for NOx (ppm) will be established based on the permitted emission factor of the engines (1.05 g/bHp-hr) and the measured exhaust stack conditions from the most recent performance test.

If the concentration is greater than 110% of the threshold, the permittee shall take corrective action as soon as possible, but not later than 5 days after detection, and shall retake the NOx measurement as outlined above within 24 hours of taking corrective action.

If corrective action taken does not bring the reading back into compliance with this limit, a new stack test shall be scheduled within 60 days of the initial reading in order to verify that the current operating conditions can meet the permitted emission rate of the engines.

If the corrective actions are taken as specified in this Condition, the monitored exceedance is not a violation of the permit operational requirements, however, the permittee shall report these episodes as deviations on the annual compliance certification and the semi-annual monitoring report that cover the monitoring period when the deviations occurred.

Parameter Monitored: OXIDES OF NITROGEN  
Upper Permit Limit: 1.05 grams per brake horsepower-hour  
Reference Test Method: Handheld NOx monitor  
Monitoring Frequency: MONTHLY  
Averaging Method: 3-MINUTE AVERAGE  
Reporting Requirements: SEMI-ANNUALLY (CALENDAR)  
Reports due 30 days after the reporting period.  
The initial report is due 1/30/2013.  
Subsequent reports are due every 6 calendar month(s).

**Condition 67: Compliance Demonstration**  
Effective between the dates of 10/30/2012 and 10/29/2017

**Applicable State Requirement: 6 NYCRR 227-2.4 (f) (2)**

**New York State Department of Environmental Conservation**

Permit ID: 8-3244-00040/00002

Facility DEC ID: 8324400040



**Item 67.1:**

The Compliance Demonstration activity will be performed for:

Emission Unit: 2-OLFGE

Process: 002

Regulated Contaminant(s):

CAS No: 0NY210-00-0 OXIDES OF NITROGEN

**Item 67.2:**

Compliance Demonstration shall include the following monitoring:

Monitoring Type: MONITORING OF PROCESS OR CONTROL DEVICE  
PARAMETERS AS SURROGATE

Monitoring Description:

In order to show compliance with the NO<sub>x</sub> RACT standard of sources firing landfill gas of 2.0 grams per brake horsepower-hour, the facility is required to perform the following periodic monitoring for oxides of nitrogen (NO<sub>x</sub>) emissions in the exhaust stacks of the 3-CAT 3520 internal combustion (IC) engines (emission sources 09ENG-1 IENG):

1. NO<sub>x</sub> emissions shall be measured monthly, at a stack location acceptable to the Department, while the engine is operating at base load (base load is a normal operating load) using a properly calibrated portable gas analyzer approved for use by the Department.
2. The NO<sub>x</sub> measurement will consist of the average of three instantaneous concentration readings that are obtained over a 3 minute period.
3. The first of the three NO<sub>x</sub> concentration readings will start after the portable analyzer has sampled engine exhaust for at least one (1) minute.
4. The second and third NO<sub>x</sub> concentration readings will occur at consecutive 1 minute intervals.
5. The three NO<sub>x</sub> concentration readings will be recorded and their average calculated.
6. The calculated average will be the NO<sub>x</sub> measurement for that month and must not exceed the permitted emission rate of the engines. A threshold for NO<sub>x</sub> (ppm) will be established based on the permitted emission factor of the engines (1.0 g/bHp-hr) and the measured exhaust stack conditions from the most recent performance test.

If the concentration is greater than 110% of the threshold, the permittee shall take corrective action as soon as possible, but not later than 5 days after detection, and shall retake the NO<sub>x</sub> measurement as outlined above within 24 hours of taking corrective



action.

If corrective action taken does not bring the reading back into compliance with this limit, a new stack test shall be scheduled within 60 days of the initial reading in order to verify that the current operating conditions can meet the permitted emission rate of the engines.

If the corrective actions are taken as specified in this Condition, the monitored exceedance is not a violation of the permit operational requirements, however, the permittee shall report these episodes as deviations on the annual compliance certification and the semi-annual monitoring report that cover the monitoring period when the deviations occurred.

Parameter Monitored: OXIDES OF NITROGEN  
Upper Permit Limit: 1.0 grams per brake horsepower-hour  
Reference Test Method: Handheld NOx monitor  
Monitoring Frequency: MONTHLY  
Averaging Method: 3-MINUTE AVERAGE  
Reporting Requirements: SEMI-ANNUALLY (CALENDAR)  
Reports due 30 days after the reporting period.  
The initial report is due 1/30/2013.  
Subsequent reports are due every 6 calendar month(s).