



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



In the matter of
State of Connecticut
Food Ingredient Specialties, Inc.

TRADING AGREEMENT AND ORDER No. 8096

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

- A. At the request and with the agreement of FIDCO, the Commissioner finds the following:
1. FIDCO is a subsidiary company of the Nestle's corporation.
2. FIDCO is a corporation which owns and operates food production and research facilities in New Milford, Connecticut ("facility").
3. At the facility, FIDCO operates two (2) oil-fired steam boilers ("boilers"), numbers 1 and 2 which are projected to emit 36.9 tons per year of nitrogen oxides ("NOx") between June 1, 1995 and May 31, 1996 without modification to the boilers. Pursuant to Section 22a-174-22, Regulations of Connecticut State Agencies ("Regulations"), the projected NOx emissions limit for these same boilers is 25.2 tons per year (equivalent to .25 pounds/million BTU of heat input[MMBtu]).
4. Pursuant to Section 22a-174-22(j) of the Regulations, FIDCO will acquire 2 tons of approved emission reduction credits ("ERCs"). Approved ERCs are defined for purposes of this order as those for which the Commissioner has provided written authorization for use in compliance with Section 22a-174-22(d)(2) of the Regulations. These credits shall be used for the period from June 1, 1995 to July 31, 1995. Thereafter, FIDCO shall have installed equipment necessary to meet the emission limitations specified in Section 22a-174-22(d)(2) of the Regulations.

B. The Commissioner, in accordance with the provisions of this Trading Order, and pursuant to Sections 22a-174-22(d)(4) and 22a-174-22(j) of the Regulations, hereby allows FIDCO to use the ERCs referenced in Section A herein, to achieve a portion of the nitrogen oxide emission reduction required by Section 22a-174-22(d)(2) of the Regulations.

Provided that all conditions of this trading order have been, and continue to be, met, an extension of one year until May 31, 1996 is allowed by the Commissioner pursuant to the Regulations, Section 22a-174-22(d)(3) and 22a-174-22(k)(5).

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- C. With the agreement of FIDCO, the Commissioner, acting under Sections 22a-6, 22a-171, 22a-174, 22a-176, and 22a-177 of the Connecticut General Statutes, orders FIDCO as follows:
1. After May 31, 1995, FIDCO shall acquire approved ERCs and document and record the amounts of all fuel and ERCs used by the boilers for the months of June and July, 1995, and shall maintain and provide such records in accordance with the following and Section 22a-174-4 of the Regulations, until July 31, 1995:
    - A. Before the first day of each month, calculate projected ERCs required for the next calendar month as follows:
 
$$\text{ERCs (tons)} = (\text{Estimated Fuel Use in MMBtu} \times (.367 \text{ lb/MMBtu} - [.95 \times .25 \text{ lb/MMBtu}])) / 2000 \text{ pounds}$$
    - B. Acquire sufficient approved ERCs no later than the first of each calendar month to assure compliance for, at a minimum, that calendar month, except for the months of June, July, August and September, 1995 for which purchase of approved ERCs must be complete before September 30, 1995;
    - C. No later than the tenth day of each month, calculate ERCs used in the preceding calendar month;
    - D. Document and record monthly fuel and ERCs used;
    - E. No later than March 1, 1996, include with its annual emissions report to the Commissioner, the fuel consumed and ERCs used for the previous calendar year in monthly increments;
    - F. Retain records and supporting documentation as described in this section for a minimum of five years, commencing on the date such records were created;
    - G. Maintain documentation to attest to the fact that ERCs used during the ozone season were generated during the ozone season. The ozone season is May 1 to September 30 in any calendar year. Generator certification of this fact shall be sufficient; and
    - H. Provide the records specified above to the Commissioner within thirty (30) days of receipt of a written request from the Commissioner.
  2. Prior to July 31, 1995, comply during operation of each boiler with a full load emission rate limitation of .367 lb/MMBtu heat input, averaged on a 24-hour basis.
  3. No later than July 31, 1995 comply with the requirements of Section 22a-174-22(d)(2) of the Regulations, as described in FIDCO's September 2, 1994 compliance plan as revised February 8, 1995, incorporated by reference

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herein, unless a written extension of this trading order is given by the Commissioner.

4. On or before August 31, 1995, submit a progress report to the Commissioner describing the actions FIDCO has taken to comply with this Trading Order to date and the status of the installation of new equipment.
5. As used in this Trading Order, "Commissioner" means the Commissioner of Environmental Protection or an agent of the Commissioner.
6. Notification of noncompliance. In the event that FIDCO becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Trading Order or of any document required hereunder, FIDCO shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, FIDCO shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and FIDCO shall comply with any dates which may be approved in writing by the Commissioner. Notification by FIDCO shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
7. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Trading Order shall be signed by the chief executive officer of FIDCO or a duly authorized representative of such officer, as those terms are defined in Section 22a-430-3(b)(2) of the Regulations, and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:  
  
"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense, in accordance with Section 22a-6 of the Connecticut General Statutes, pursuant to Section 53a-157 of the Connecticut General Statutes, and in accordance with any other applicable statute."  
  
8. Final Agreement and Order. This Trading Agreement and Order is the final agreement and order by and between the Commissioner and FIDCO with respect to the matters addressed herein, and shall not be modified without the written agreement of both parties.
9. False statements. Any false statement in any information submitted pursuant to this Trading Order may be punishable as a criminal offense under Section 22a-175 of the Connecticut General Statutes or, in accordance with Section

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22a-6, under Section 53a-157 of the Connecticut General Statutes.

10. Notice of transfer; liability of FIDCO and others. Until May 31, 1996, FIDCO shall notify the Commissioner in writing no later than fifteen (15) days after transferring all or any portion of the operations, the facility or the business which are the subject of this Trading Order, or obtaining a new mailing or location address. FIDCO's obligations under this Trading Order shall not be affected by the passage of title to any property to any other person or municipality.
11. Commissioner's powers. Nothing in this Trading Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law which are willful or criminally negligent or for which penalties have not been specifically provided in this Trading Order, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by FIDCO pursuant to this Trading Order have not fully achieved compliance with Section 22a-174-22(j) of the Regulations, the Commissioner may institute any independent proceeding to require FIDCO to undertake further investigation or further action.
12. FIDCO's obligations under law. Nothing in this Trading Order shall relieve FIDCO of other obligations under applicable federal, state and local law.
13. Access to records and facility. Any representative of the Department of Environmental Protection may enter the facility and inspect and copy records within normal business hours without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Trading Order.
14. No effect on rights of other persons. This Trading Order shall neither create nor affect any rights of persons who or municipalities which are not parties to this Trading Order.
15. Notice to Commissioner of changes. Within fifteen (15) days of the date FIDCO becomes aware of a change in any information submitted to the Commissioner under this Trading Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, FIDCO shall submit the correct or omitted information to the Commissioner.

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

Mr. Eric Davis  
 Department of Environmental Protection  
 Bureau of Air Management  
 Engineering and Enforcement Division  
 79 Elm Street  
 Hartford, Connecticut 06106

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

Food Ingredient Specialties, Inc.

Signature: 

Type Name: Tim Cunningham

Type Title: Vice President - New Milford Facility

Date: 8/21/95

Issued as a final consent order of the Commissioner of Environmental Protection on August  
25, 1995.

  
 Sidney J. Holbrook  
 Commissioner

TOWN OF NEW MILFORD  
 LAND RECORDS

MAILED CERTIFIED MAIL,  
 RETURN RECEIPT REQUESTED

Certified Document No. 345 565 562

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