



DEPARTMENT ORDER

**477-481 Congress Street Holdings, LLC
 Cumberland County
 Portland, Maine
 A-571-71-K-R/T/M**

**Departmental
 Findings of Fact and Order
 Air Emission License
 Renewal/Transfer/Minor Revision**

FINDINGS OF FACT

After review of the air emission license renewal, transfer, and minor revision applications, staff investigation reports, and other documents in the applicant's file in the Bureau of Air Quality, pursuant to 38 Maine Revised Statutes (M.R.S.) § 344 and § 590, the Maine Department of Environmental Protection (Department) finds the following facts:

I. REGISTRATION

A. Introduction

477-481 Congress Street Holdings, LLC (CSH) has requested the transfer of this Air Emission License from 477 Time & Temperature LLC to 477-481 Congress Street Holdings, LLC through a letter to the Department dated September 22, 2016.

CSH has applied to renew their Air Emission License for the operation of emission sources associated with their office building.

CSH has also applied for a minor revision to their license in order to add natural gas as a fuel for Boiler #1 and to designate both Boiler #1 and Boiler #2 as gas-fired boilers per 40 C.F.R. Part 63, Subpart JJJJJJ.

The equipment addressed in this license is located at 477 Congress Street, Portland, Maine.

B. Emission Equipment

The following equipment is addressed in this air emission license:

Boilers

<u>Equipment</u>	<u>Max. Capacity (MMBtu/hr)</u>	<u>Fuel Type, % sulfur</u>	<u>Maximum Firing Rate</u>	<u>Date of Manuf.</u>	<u>Date of Install.</u>	<u>Stack #</u>
Boiler #1	7.0	Natural gas, negl.	6,806 scf/hr	1984	1984	1
		Distillate fuel, 0.5%	50.1 gal/hr			
Boiler #2	8.4	Natural gas, negl.	8,155 scf/hr	1923	1923	
		Distillate fuel, 0.5%	60 gal/hr			

C. Definitions

Distillate Fuel. For the purposes of this license, *distillate fuel* means the following:

- Fuel oil that complies with the specifications for fuel oil numbers 1 or 2, as defined by the American Society for Testing and Materials (ASTM) in ASTM D396;
- Diesel fuel oil numbers 1 or 2, as defined in ASTM D975;
- Kerosene, as defined in ASTM D3699;
- Biodiesel, as defined in ASTM D6751; or
- Biodiesel blends, as defined in ASTM D7467.

Gas-fired Boiler. For the purposes of this license and in accordance with 40 C.F.R. Part 63, Subpart JJJJJ, *gas-fired boiler* means any boiler that burns gaseous fuels not combined with any solid fuels and burns liquid fuel only during periods of gas curtailment, gas supply interruption, startups, or for periodic testing, maintenance, or operator training on liquid fuel. Periodic testing, maintenance, or operator training on liquid fuel shall not exceed a combined total of 48 hours during any calendar year.

D. Application Classification

All rules, regulations, or statutes referenced in this air emission license refer to the amended version in effect as of the issued date of this license.

This amendment will increase emissions by less than 4 ton/year for each single pollutant not including greenhouse gases (GHG) and less than 8 ton/year for all pollutants combined not including GHG. Therefore, this modification is determined to be a minor revision and has been processed as such.

The application for CSH does include the licensing of increased emissions but does not include the installation of new or modified equipment. Therefore, the license is considered to be a renewal of currently licensed emission units with a minor revision and has been processed through *Major and Minor Source Air Emission License Regulations*, 06-096 Code of Maine Rules (C.M.R.) ch. 115.

With the annual distillate fuel limit on Boilers #1 and #2, the facility is licensed as follows:

- As a natural minor source of air emissions, because the facility is not capable of exceeding the major source thresholds for criteria pollutants; and
- As an area source of hazardous air pollutants (HAP), because the licensed emissions are below the major source thresholds for HAP.

II. TRANSFER REQUIREMENTS

A. Title, Right, or Interest

In their application, 477-481 Congress Street Holdings, LLC submitted copies of property deed transferring ownership of the facility to 477-481 Congress Street Holdings, LLC. The parties have provided sufficient evidence of title, right, or interest in the facility to allow the transfer of the facility's air emission license.

B. Technical Capacity and Intent

477-481 Congress Street Holdings, LLC's acquisition of the facility is not expected to result in any significant change in the employees who currently operate the equipment and facilities and who conduct other activities. The facility's regulatory history with the Department demonstrates that the environmental personnel are competent in air pollution control. The information submitted in the application provides sufficient evidence that 477-481 Congress Street Holdings, LLC has the technical capacity and intent to comply with their air emission license.

C. Full Name and Address

The full name and address of the new owner is:

477-481 Congress Street Holdings, LLC
c/o CWC Capital Asset Management
7501 Wisconsin Avenue, Suite 500 West
Bethesda, Maryland 20814

D. Certification

477-481 Congress Street Holdings, LLC certifies that there will be no increase in air emissions beyond that provided for in the existing license, either in quantity or type, except for those changes accounted for in this air emission license.

III. BEST PRACTICAL TREATMENT (BPT)

A. Introduction

In order to receive a license, the applicant must control emissions from each unit to a level considered by the Department to represent Best Practical Treatment (BPT), as defined in *Definitions Regulation*, 06-096 C.M.R. ch. 100. Separate control requirement categories exist for new and existing equipment.

BPT for existing emissions equipment means that method which controls or reduces emissions to the lowest possible level considering:

- the existing state of technology;
- the effectiveness of available alternatives for reducing emissions from the source being considered; and
- the economic feasibility for the type of establishment involved.

B. Boilers #1 and #2

CSH operates Boilers #1 and #2 for building heat. Boiler #1 is rated at 7.0 MMBtu/hr and Boiler #2 is rated at 8.4 MMBtu/hr. Both boilers are licensed to fire distillate fuel and natural gas. Boiler #1 was manufactured and installed in 1984 and Boiler #2 was manufactured and installed in 1923. Both boilers exhaust through a combined stack, Stack 1.

1. BPT Findings

The BPT emission limits for Boilers #1 and #2 when firing distillate fuel were based on the following:

PM/PM ₁₀	–	0.12 lb/MMBtu based on 06-096 C.M.R. ch. 103
SO ₂	–	0.5 lb/MMBtu based on firing distillate fuel with a maximum sulfur content of 0.5% by weight
NO _x	–	20 lb/1000 gal based on AP-42 Table 1.3-1 dated 5/10
CO	–	5 lb/1000 gal based on AP-42 Table 1.3-1 dated 5/10
VOC	–	0.2 lb/1000 gal based on AP-42 Table 1.3-3 dated 5/10
Visible Emissions	–	06-096 C.M.R. ch. 115, BPT

The BPT emission limits for Boilers #1 and #2 when firing natural gas were based on the following:

PM/PM ₁₀	–	0.05 lb/MMBtu based on 06-096 C.M.R. ch. 115, BPT
SO ₂	–	0.6 lb/MMscf based on AP-42 Table 1.4-2 dated 7/98
NO _x	–	100 lb/MMscf based on AP-42 Table 1.4-1 dated 7/98
CO	–	84 lb/MMscf based on AP-42 Table 1.4-1 dated 7/98
VOC	–	5.5 lb/MMscf based on AP-42 Table 1.4-2 dated 7/98
Visible Emissions	–	06-096 C.M.R. ch. 115, BPT

The BPT emission limits for Boilers #1 and #2 are the following:

Unit	Fuel	Pollutant	lb/MMBtu
Boilers #1 and #2 [each]	Distillate fuel	PM	0.12
Boilers #1 and #2 [each]	Natural gas	PM	0.05

Unit	PM (lb/hr)	PM₁₀ (lb/hr)	SO₂ (lb/hr)	NO_x (lb/hr)	CO (lb/hr)	VOC (lb/hr)
Boiler #1 Natural gas	0.35	0.35	0.01	0.68	0.57	0.04
Boiler #1 Distillate fuel	0.84	0.84	3.53	1.00	0.25	0.01
Boiler #2 Natural gas	0.42	0.42	0.01	0.82	0.69	0.04
Boiler #2 Distillate fuel	1.01	1.01	4.23	1.20	0.30	0.01

Visible emissions from the shared stack for Boilers #1 and #2 shall not exceed 10% opacity on a six-minute block average basis when both boilers are firing natural gas. When one or both boilers fire distillate fuel, visible emissions from the shared stack for Boilers #1 and #2 shall not exceed 20% opacity on a six-minute block average basis.

CSH shall be limited to 125,000 gallons of distillate fuel in Boilers #1 and #2 on a calendar year total basis. There shall be no limit for natural gas usage in either boiler.

Fuel Sulfur Content Requirements

Boilers #1 and #2 are licensed to fire distillate fuel which, by definition, has a sulfur content of 0.5% or less by weight. Per 38 M.R.S. § 603-A(2)(A)(3), as of July 1, 2018, no person shall import, distribute, or offer for sale any distillate fuel with a sulfur content greater than 0.0015% by weight (15 ppm). Therefore, beginning July 1, 2018, the distillate fuel purchased or otherwise obtained for use in Boilers #1 and #2 shall not exceed 0.0015% by weight (15 ppm).

2. Periodic Monitoring

Periodic monitoring for Boilers #1 and #2 shall include recordkeeping to document distillate fuel use both on a monthly and calendar year total basis. Documentation shall include the type of fuel used and sulfur content of the fuel.

3. New Source Performance Standards (NSPS): 40 C.F.R. Part 60, Subpart Dc

Due to their size and manufacture dates, Boilers #1 and #2 are not subject to *Standards of Performance for Small Industrial-Commercial-Institutional Steam*

Generating Units 40 C.F.R. Part 60, Subpart Dc for units greater than 10 MMBtu/hr manufactured after June 9, 1989. [40 C.F.R. § 60.40c]

4. National Emission Standards for Hazardous Air Pollutants (NESHAP): 40 C.F.R. Part 63, Subpart JJJJJ

Boilers #1 and #2 are not subject to the *National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources*, 40 C.F.R. Part 63, Subpart JJJJJ. The units are considered gas-fired boilers, which are exempt from 40 C.F.R. Part 63, Subpart JJJJJ. [40 C.F.R. §§ 63.11193, 63.11195, and 63.11237]

Any boiler designed to burn fuels besides gaseous fuels prior to June 4, 2010, will be considered an existing boiler under this rule. A boiler which currently fires gaseous fuels, but converts back to firing another fuel (such as distillate fuel) in the future would become subject as an existing boiler at the time it is converted back to oil.

C. Annual Emissions

1. Total Annual Emissions

CSH shall be restricted to the following annual emissions, based on a calendar year total. The tons per year limits for PM, PM₁₀, NO_x, CO, and VOC were calculated based on firing natural gas for 8,760 hours per year in both Boilers #1 and #2 (each) and the tons per year limit for SO₂ was based on the 125,000 gallon/year distillate fuel limit:

Total Licensed Annual Emissions for the Facility
Tons/year
(used to calculate the annual license fee)

	PM	PM₁₀	SO₂	NO_x	CO	VOC
Boilers #1 and #2	3.4	3.4	4.4	6.6	5.5	0.4
Total TPY	3.4	3.4	4.4	6.6	5.5	0.4

2. Greenhouse Gases

Greenhouse gases are considered regulated pollutants as of January 2, 2011, through 'Tailoring' revisions made to EPA's *Approval and Promulgation of Implementation Plans*, 40 C.F.R. Part 52, Subpart A, § 52.21, *Prevention of Significant Deterioration of Air Quality* rule. Greenhouse gases, as defined in 06-096 C.M.R. ch. 100, are the aggregate group of the following gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. For licensing purposes, greenhouse gases (GHG) are calculated and reported as carbon dioxide equivalents (CO₂e).

The quantity of CO₂e emissions from this facility is less than 100,000 tons per year, based on the following:

- the facility's fuel use limit;
- worst case emission factors from the following sources: U.S. EPA's AP-42, the Intergovernmental Panel on Climate Change (IPCC), and *Mandatory Greenhouse Gas Reporting*, 40 C.F.R. Part 98; and
- global warming potentials contained in 40 C.F.R. Part 98.

No additional licensing actions to address GHG emissions are required at this time.

IV. AMBIENT AIR QUALITY ANALYSIS

The level of ambient air quality impact modeling required for a minor source is determined by the Department on a case-by case basis. In accordance with 06-096 C.M.R. ch. 115, an ambient air quality impact analysis is not required for a minor source if the total licensed annual emissions of any pollutant released do not exceed the following levels and there are no extenuating circumstances:

<u>Pollutant</u>	<u>Tons/Year</u>
PM ₁₀	25
SO ₂	50
NO _x	50
CO	250

The total licensed annual emissions for the facility are below the emission levels contained in the table above and there are no extenuating circumstances; therefore, an ambient air quality impact analysis is not required as part of this license.

ORDER

Based on the above, the Department concludes that the applicant for the air emission license transfer has the capacity to satisfy all applicable statutory criteria and hereby APPROVES the transfer of Air Emission License A-571-71-J-R, from 477 Time & Temperature LLC to 477-481 Congress Street Holdings, LLC, subject to all conditions attached to it.

Based on the above Findings and subject to conditions listed below, the Department concludes that the emissions from this source:

- will receive Best Practical Treatment,
- will not violate applicable emission standards, and
- will not violate applicable ambient air quality standards in conjunction with emissions from other sources.

The Department hereby grants Air Emission License A-571-71-K-R/T/M subject to the following conditions.

Severability. The invalidity or unenforceability of any provision of this License or part thereof shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

STANDARD CONDITIONS

- (1) Employees and authorized representatives of the Department shall be allowed access to the licensee's premises during business hours, or any time during which any emissions units are in operation, and at such other times as the Department deems necessary for the purpose of performing tests, collecting samples, conducting inspections, or examining and copying records relating to emissions (38 M.R.S. § 347-C).
- (2) The licensee shall acquire a new or amended air emission license prior to commencing construction of a modification, unless specifically provided for in Chapter 115. [06-096 C.M.R. ch. 115]
- (3) Approval to construct shall become invalid if the source has not commenced construction within eighteen (18) months after receipt of such approval or if construction is discontinued for a period of eighteen (18) months or more. The Department may extend this time period upon a satisfactory showing that an extension is justified, but may condition such extension upon a review of either the control technology analysis or the ambient air quality standards analysis, or both. [06-096 C.M.R. ch. 115]
- (4) The licensee shall establish and maintain a continuing program of best management practices for suppression of fugitive particulate matter during any period of construction, reconstruction, or operation which may result in fugitive dust, and shall submit a description of the program to the Department upon request. [06-096 C.M.R. ch. 115]
- (5) The licensee shall pay the annual air emission license fee to the Department, calculated pursuant to Title 38 M.R.S. § 353-A. [06-096 C.M.R. ch. 115]
- (6) The license does not convey any property rights of any sort, or any exclusive privilege. [06-096 C.M.R. ch. 115]
- (7) The licensee shall maintain and operate all emission units and air pollution systems required by the air emission license in a manner consistent with good air pollution control practice for minimizing emissions. [06-096 C.M.R. ch. 115]
- (8) The licensee shall maintain sufficient records to accurately document compliance with emission standards and license conditions and shall maintain such records for a minimum

of six (6) years. The records shall be submitted to the Department upon written request.
[06-096 C.M.R. ch. 115]

- (9) The licensee shall comply with all terms and conditions of the air emission license. The filing of an appeal by the licensee, the notification of planned changes or anticipated noncompliance by the licensee, or the filing of an application by the licensee for a renewal of a license or amendment shall not stay any condition of the license.
[06-096 C.M.R. ch. 115]
- (10) The licensee may not use as a defense in an enforcement action that the disruption, cessation, or reduction of licensed operations would have been necessary in order to maintain compliance with the conditions of the air emission license.
[06-096 C.M.R. ch. 115]
- (11) In accordance with the Department's air emission compliance test protocol and 40 C.F.R. Part 60 or other method approved or required by the Department, the licensee shall:
- A. Perform stack testing to demonstrate compliance with the applicable emission standards under circumstances representative of the facility's normal process and operating conditions:
 - 1. Within sixty (60) calendar days of receipt of a notification to test from the Department or EPA, if visible emissions, equipment operating parameters, staff inspection, air monitoring or other cause indicate to the Department that equipment may be operating out of compliance with emission standards or license conditions; or
 - 2. Pursuant to any other requirement of this license to perform stack testing.
 - B. Install or make provisions to install test ports that meet the criteria of 40 C.F.R. Part 60, Appendix A, and test platforms, if necessary, and other accommodations necessary to allow emission testing; and
 - C. Submit a written report to the Department within thirty (30) days from date of test completion.
[06-096 C.M.R. ch. 115]
- (12) If the results of a stack test performed under circumstances representative of the facility's normal process and operating conditions indicate emissions in excess of the applicable standards, then:
- A. Within thirty (30) days following receipt of such test results, the licensee shall re-test the non-complying emission source under circumstances representative of the facility's normal process and operating conditions and in accordance with the Department's air emission compliance test protocol and 40 C.F.R. Part 60 or other method approved or required by the Department; and

- B. The days of violation shall be presumed to include the date of stack test and each and every day of operation thereafter until compliance is demonstrated under normal and representative process and operating conditions, except to the extent that the facility can prove to the satisfaction of the Department that there were intervening days during which no violation occurred or that the violation was not continuing in nature; and
- C. The licensee may, upon the approval of the Department following the successful demonstration of compliance at alternative load conditions, operate under such alternative load conditions on an interim basis prior to a demonstration of compliance under normal and representative process and operating conditions.

[06-096 C.M.R. ch. 115]

- (13) Notwithstanding any other provisions in the State Implementation Plan approved by the EPA or Section 114(a) of the CAA, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any statute, regulation, or Part 70 license requirement. [06-096 C.M.R. ch. 115]
- (14) The licensee shall maintain records of malfunctions, failures, downtime, and any other similar change in operation of air pollution control systems or the emissions unit itself that would affect emissions and that is not consistent with the terms and conditions of the air emission license. The licensee shall notify the Department within two (2) days or the next state working day, whichever is later, of such occasions where such changes result in an increase of emissions. The licensee shall report all excess emissions in the units of the applicable emission limitation. [06-096 C.M.R. ch. 115]
- (15) Upon written request from the Department, the licensee shall establish and maintain such records, make such reports, install, use and maintain such monitoring equipment, sample such emissions (in accordance with such methods, at such locations, at such intervals, and in such a manner as the Department shall prescribe), and provide other information as the Department may reasonably require to determine the licensee's compliance status.
[06-096 C.M.R. ch. 115]

SPECIFIC CONDITIONS

(16) **Boilers #1 and #2**

A. Fuel

1. Total fuel use for distillate fuel fired in Boilers #1 and #2 combined shall not exceed 125,000 gal/yr, based on a calendar year total. There shall be no limit for the firing of natural gas in either boiler. [06-096 C.M.R. ch. 115, BPT]
2. Prior to July 1, 2018, the facility shall fire distillate fuel with a maximum sulfur content not to exceed 0.5% by weight. [06-096 C.M.R. ch. 115, BPT]

3. Beginning July 1, 2018, the facility shall not purchase or otherwise obtain distillate fuel with a maximum sulfur content that exceeds 0.0015% by weight (15 ppm). [06-096 C.M.R. ch. 115, BPT]
4. Compliance shall be demonstrated by fuel records from the supplier showing the quantity, type, and the percent sulfur of the fuel delivered. Records of annual distillate fuel use shall be kept on a monthly and calendar year total basis. [06-096 C.M.R. ch. 115, BPT]

B. Emissions shall not exceed the following:

<u>Unit</u>	<u>Fuel</u>	<u>Pollutant</u>	<u>lb/MMBtu</u>	<u>Origin and Authority</u>
Boilers #1 and #2 [each]	Distillate fuel	PM	0.12	06-096 C.M.R. ch. 103
Boilers #1 and #2 [each]	Natural gas	PM	0.05	06-096 C.M.R. ch. 115, BPT

C. Emissions shall not exceed the following [06-096 C.M.R. ch. 115, BPT]:

<u>Unit</u>	<u>PM (lb/hr)</u>	<u>PM₁₀ (lb/hr)</u>	<u>SO₂ (lb/hr)</u>	<u>NO_x (lb/hr)</u>	<u>CO (lb/hr)</u>	<u>VOC (lb/hr)</u>
Boiler #1 Natural gas	0.35	0.35	0.01	0.68	0.57	0.04
Boiler #1 Distillate fuel	0.84	0.84	3.53	1.00	0.25	0.01
Boiler #2 Natural gas	0.42	0.42	0.01	0.82	0.69	0.04
Boiler #2 Distillate fuel	1.01	1.01	4.23	1.20	0.30	0.01

D. Visible emissions

1. Visible emissions from the combined stack for Boilers #1 and #2 when both boilers are firing natural gas shall not exceed 10% opacity on a six-minute block average basis. [06-096 C.M.R. ch. 115, BPT]
2. Visible emissions from the combined stack for Boilers #1 and #2 when one or both boilers are firing distillate fuel shall not exceed 20% opacity on a six-minute block average basis. [06-096 C.M.R. ch. 115, BPT]

E. CSH shall maintain records of the yearly operating hours each boiler fires distillate fuel. If either of the boilers exceed 48 hours firing distillate fuel for periodic testing during a calendar year, that boiler will become subject to all applicable requirements for 40 C.F.R. Part 63, Subpart JJJJJ for existing oil-fired boilers, and CSH will be required to notify EPA and the Department of the change within 180 days of the

477-481 Congress Street Holdings, LLC
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**Departmental
Findings of Fact and Order
Air Emission License
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effective date of the fuel switch. [40 C.F.R. § 63.11210(h) and
06-096 C.M.R. ch. 115, BPT]

- (17) CSH shall notify the Department within 48 hours and submit a report to the Department on a quarterly basis if a malfunction or breakdown in any component causes a violation of any emission standard (38 M.R.S. § 605).

DONE AND DATED IN AUGUSTA, MAINE THIS 26 DAY OF January, 2017.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Paul Mercer
PAUL MERCER, COMMISSIONER

The term of this license shall be ten (10) years from the signature date above.

[Note: If a renewal application, determined as complete by the Department, is submitted prior to expiration of this license, then pursuant to Title 5 M.R.S. § 10002, all terms and conditions of the license shall remain in effect until the Department takes final action on the license renewal application.]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: 9/29/2016

Date of application acceptance: 9/30/2016

Date filed with the Board of Environmental Protection:

This Order prepared by Jonathan E. Rice, Bureau of Air Quality.

