

**MISSISSIPPI  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF POLLUTION CONTROL**

**TECHNICAL SUPPORT DOCUMENT**

**Attendant to the State Implementation Plan (SIP) Revision  
as it pertains to  
The Construction and/or Operation of Air Emissions Equipment and  
Prevention of Significant Deterioration of Air Quality**

**INCLUDING AMENDMENTS TO  
Permit Regulations for the Construction and/or Operation of Air Emissions Equipment,  
as codified in 11 Mississippi Administrative Code, Part 2, Chapter 2**

**AND**

**Regulations for the Prevention of Significant Deterioration of Air Quality,  
as codified in 11 Mississippi Administrative Code, Part 2, Chapter 5**

**Adopted [Date of Adoption]**

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## I. PURPOSE OF THE REVISION

The purpose of this revision to the State Implementation Plan (“SIP Revision”) is to address various recent federal rules impacting regulations pertaining to permits to construct and/or operate air emissions equipment. Specifically, this SIP Revision addresses the “Revisions to Public Notice Provisions in Clean Air Act Permitting Programs” Final Rule [81 FR 71613, October 18, 2016], as this rule pertains to the Prevention of Significant Deterioration of Air Quality regulations (“the PSD regulations”), minor and nonattainment New Source Review regulations (“the NSR regulations”), and State Operating Permit regulations. The changes and clarifications provided by this rule are addressed in the State of Mississippi’s “Permit Regulations for the Construction and/or Operation of Air Emissions Equipment,” 11 Mississippi Administrative Code, Part 2, Chapter 2, and “Regulations for the Prevention of Significant Deterioration of Air Quality,” 11 Mississippi Administrative Code, Part 2, Chapter 5. The PSD regulations of Chapter 5 also incorporate by reference changes promulgated in the following final rules:

- “Source Determination for Certain Emission Units in the Oil and Natural Gas Sector” [81 FR 35622, June 3, 2016];
- “Rescission of Preconstruction Permits Issued under the Clean Air Act” [81 FR 78043, November 7, 2016];
- “Revisions to the Guideline on Air Quality Models: Enhancements to the AERMOD Dispersion Modeling System and Incorporation of Approaches to Address Ozone and Fine Particulate Matter” [82 FR 5182, January 17, 2017];
- “Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting” [85 FR 74890, November 24, 2020]; and
- “New Source Review Errors Correction” [86 FR 37918, July 19, 2021].

Additional revisions to 11 Miss. Admin. Code Pt. 2, Ch. 2. (“Chapter 2”) were adopted and are proposed to be incorporated into the SIP. One such revision includes streamlining definitions that are already addressed in the PSD regulations of 11 Miss. Admin. Code Pt. 2, Ch. 5. (“Chapter 5”) in order to prevent unintentional discrepancies. Another revision addresses improving consistency between the Public Participation requirements of Chapter 2 and those in Chapters 5 and 6, i.e., the PSD and Title V regulations, respectively. These and other corrections and clarifications to Chapter 2 are discussed in more detail in the following section.

## II. DISCUSSION

The Mississippi Department of Environmental Quality (“MDEQ”) proposes to revise the SIP and amend Chapter 2 and Chapter 5. These State regulations are being revised to address recent changes to the Federal regulations for PSD and minor and nonattainment NSR sources. A discussion of the final Federal rules prompting the SIP Revision is provided below. Additionally, MDEQ proposes to revise Chapter 2 to provide consistency for regulatory definitions, provide consistency for public participation requirements, and make other minor corrections and changes,

which are specifically addressed below. A redline/strikeout version of both Chapters 2 and 5 are available in Attachment 2.

#### **A. Public Participation Revisions**

On October 5, 2016, the U.S. Environmental Protection Agency (EPA) finalized “Revisions to Public Notice Provisions in Clean Air Act Permitting Programs” for the NSR and Title V permit programs of the Clean Air Act. The rule was published in the Federal Register [81 FR 71613] on October 18, 2016. These revisions remove the mandatory requirement to provide public notice of a draft permit through publication in a newspaper and, instead, allow for electronic notice (e-notice) of permitting actions via a public web site identified by the reviewing authority. The selected notification method (i.e., either newspaper or web site) is known as the “consistent noticing method” and must be used for all permits subject to notice under the NSR or Title V permit programs. EPA leaves discretion to the reviewing authority (i.e., MDEQ) to supplement the consistent noticing method with other methods. If using the public web site as the consistent noticing method, the reviewing authority must also provide an electronic copy of the draft permit for review, in addition to the notice itself, and provide instructions regarding how to access the administrative record for the draft permit and request and/or attend a public hearing. This information must be made available on the public web site for the duration of the public comment period.

With regards to the NSR permit program, EPA revised the public participation requirements to address the changes noted above for the PSD permit program in 40 C.F.R. 51.166(q) and for the minor and nonattainment NSR permit program in 40 C.F.R. 51.165(i). The NSR regulations were also revised to clarify that information required to be available for public inspection in the area affected, such as the permit application, could be made available at a physical location or on a public website identified by the reviewing authority. [See 40 C.F.R. 51.165(b)(1) and 40 C.F.R. 51.166(q)(2)(ii).] Additionally, for the PSD permit program, the public comments and final determination may also be made available on a publicly available website in lieu of a physical location per 40 C.F.R. 51.166(q)(2)(vi) and (viii). [Please note that changes to the public participation requirements of the Title V permit program are not addressed in this Technical Support Document (TSD).]

##### **1. Prevention of Significant Deterioration Changes**

The MDEQ has previously incorporated the public participation requirements of 40 C.F.R. 51.166(q) pertaining to the PSD program by reference in 11 Miss. Admin. Code Pt. 2, Ch. 5. However, since the MDEQ incorporates the majority of 40 C.F.R. 52.21 by reference for all PSD regulations except “Public Participation” and “Exclusions from Increment Consumption,” the MDEQ decided it would be best to include the public participation requirements in their entirety in Chapter 5 rather than incorporate them by reference. The public participation requirements are now addressed in Rule 5.7. and are expected to provide both the regulated community and general public greater transparency and clarity regarding the public participation process. A list of specific changes to the PSD regulations in Chapter 5 to address revisions to the public participation requirements follows:

- **Rule 5.7.B(2).** – Allows the option to provide related permit materials, such as the application, on the MDEQ website in lieu of a physical location.
- **Rule 5.7.B(3).** – Specifies the consistent noticing method will be the use of the MDEQ website, rather than a newspaper of general circulation. The public notice, draft permit, and information on accessing the administrative record and requesting and/or attending a public hearing, which is contained in the public notice document, will be available on the MDEQ website for the duration of the public comment period.
- **Rule 5.7.B(6).** – Allows MDEQ to make public comments received at a public hearing or received during the comment period available for public inspection on the MDEQ website, rather than at a physical location.
- **Rule 5.7.B(8).** – Allows MDEQ to make the final determination available on the MDEQ website, rather than at a physical location.

## 2. Minor NSR and Nonattainment NSR Changes

The public participation requirements for the minor NSR and nonattainment NSR programs are addressed in Rule 2.4. of 11 Miss. Admin. Code Pt. 2, Ch. 2. Rule 2.4. has been revised to reflect the changes to 40 C.F.R. 51.165(b)(1) and 51.165(i). The MDEQ requires public notice for permits requiring federally enforceable limitations, including limitations to avoid the preconstruction requirements of the PSD program (i.e., construction of moderate stationary sources and moderate modifications) and limitations to avoid requirements of the Title V program (i.e., operation of synthetic minor sources). The public notice procedures of Rule 2.4. were streamlined by combining previously separate requirements for construction and operating permits. These combined requirements address the public participation requirements for minor NSR, nonattainment NSR, and synthetic minor permitting actions. Specifically, the following changes were made to combine Rules 2.4.C. and 2.5.D.:

- **Rule 2.4.C(1).** – Requires the public notice and draft permit be published and available for the duration of the public comment period on the MDEQ website, which is considered the consistent noticing method.
- **Rule 2.4.C(2).** – Provides a list of information to be addressed in the public notice, which is more specific than previous requirements and more consistent with the Title V regulations.
- **Rule 2.4.C(3).** – Provides the duration of the public comment period of at least 30 days [no change from previous regulations] and includes a requirement for at least 30-day advance notice of a public hearing, consistent with the PSD and Title V program requirements.

- **Rule 2.4.C(5).** – Clarifies that information submitted by the applicant will be made available upon request by the public.

Rules 2.4.E. through 2.4.K. previously addressed public participation requirements for general permits, multi-media permits, and Plant-wide Applicability Limit (PAL) permits. Since these rules simply pointed back to either Rule 2.4.C. or 2.4.D., the public participation requirements for these specific types of permits are instead addressed in the section relevant to each, i.e., the general permits, multi-media permits, and PAL permits found in Rules 2.11., 2.12., and 2.15.A., respectively.

In addition, to be consistent with the changes allowing e-notice in lieu of notice via a newspaper, Rule 2.15.B(4). is revised to require posting the 10-day notice of a pre-permit construction approval request on the MDEQ’s website rather than the newspaper. Thus, the burden will be shifted to MDEQ to ensure the notice is posted on the website rather than require the regulated facility pay for publication of the notice in the newspaper. This change should also allow the general public to be better informed of such requests, since they are more readily available on the website for the duration of the 10-day comment period.

## **B. Oil and Natural Gas Source Determinations**

On May 12, 2016, the EPA signed the final rule entitled “Source Determination for Certain Emission Units in the Oil and Natural Gas Sector,” which was published in the Federal Register [81 FR 35622] on June 3, 2016. This rule clarifies the meaning of the term “adjacent,” for purposes of evaluating whether onshore activities belonging to SIC major group 13 (Oil and Gas Extraction) are considered contiguous and adjacent with respect to determining the extent of the stationary source. Specifically, the meaning of adjacency for onshore activities is addressed in the definition of “building, structure, facility, or installation” found in 40 CFR 52.21(b)(6) and adopted by reference in 11 Miss. Admin. Code Pt. 2, Ch. 5. For those onshore activities within SIC major group 13, pollutant-emitting activities that are located at the same surface site or at surface sites with shared equipment and within ¼ mile of each other (as measured from the center of the equipment on the surface site) are considered adjacent. If considered adjacent, the surface sites may be considered a single stationary source if they are also under common control. A surface site has the same meaning as the definition in 40 CFR 63.761, the National Emission Standards for Hazardous Air Pollutants (NEHSAP) from Oil and Natural Gas Production Facilities, which is defined as follows:

*“Surface site means any combination of one or more graded pad sites, gravel pad sites, foundations, platforms, or the immediate physical location upon which equipment is physically affixed.”*

Since the term “adjacent” has not been defined previously but left to the permitting authority to decide, MDEQ has followed EPA’s guidance regarding the evaluation of onshore oil and natural gas sources when making source determinations. Therefore, in 11 Miss. Admin. Code Pt. 2, R. 5.2., MDEQ proposes to adopt by reference the revised definition of “building, structure, facility,

or installation” in the PSD regulations to formally adopt EPA’s regulations regarding evaluating onshore oil and natural gas activities for adjacency.

**C. PSD Permit Rescission Revisions**

On October 26, 2016, the U.S. EPA finalized revisions to the PSD rules for permit rescissions found in 40 C.F.R. 52.21(w), which were subsequently published in the Federal Register [81 FR 78043] on November 7, 2016. The revisions remove a date previously limiting the use of rescissions to permits issued under the PSD regulations that were in effect on or before July 30, 1987, and clarify that the reviewing authority may or may not concur with and subsequently grant an applicant’s rescission request for a given PSD permit. This regulatory revision is incorporated by reference in 11 Miss. Admin. Code Pt. 2, R. 5.2.

**D. Appendix W to 40 CFR Part 51**

The Clean Air Act (CAA) requirements for State Implementation Plans (SIPs) found in Sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3), 110(a)(2)(J), and 110(a)(2)(K) pertain to SIP requirements related to the prevention of significant deterioration of air quality and to air quality models used to predict ambient air concentrations (“modeling”). Periodically, MDEQ must revise those portions of Mississippi’s SIP addressing provisions related to PSD and modeling as these programs are revised by EPA, specifically where the updates impose new requirements or are considered more stringent in nature.

With respect to modeling, 40 CFR Part 51, Appendix W – *Guideline on Air Quality Models* (“Appendix W”) is referred to in 11 Miss. Admin. Code Pt. 2, R. 2.5.B. to estimate ambient concentrations of air pollutants. Appendix W is also incorporated by reference through 11 Miss. Admin. Code Pt. 2, R. 5.2., which incorporates 40 CFR 52.21(l) – *Air Quality Models* by reference. EPA has revised Appendix W since both Chapters 2 and 5 were last revised. Therefore, to update the SIP to incorporate the latest changes to Appendix W, MDEQ proposes to take the following two actions:

1. Incorporate the most recent version of Appendix W by updating Chapter 5, and
2. Revise 11 Miss. Admin. Code Pt. 2, R. 2.5.B. to refer to the version of Appendix W approved in Chapter 5.

The latter revision would allow MDEQ to streamline future SIP revisions to address updates to Appendix W by addressing these updates in one state regulation, i.e., Chapter 5, the State’s PSD regulations. Therefore, the proposed updates to Chapters 2 and 5 will have the combined effect of incorporating the latest version of Appendix W.

Appendix W provides EPA’s preferred models and other recommended techniques, as well as guidance for their use in estimating ambient concentrations of air pollutants. It is incorporated into the EPA’s regulations, satisfying a requirement under the CAA for the EPA to specify with reasonable particularity models to be used in the PSD program. The latest revisions to Appendix W were promulgated in 82 FR 5182 on January 17, 2017. The 2017 revisions included

enhancements to the formulation and application of the EPA's preferred near-field dispersion modeling system, AERMOD (American Meteorological Society (AMS)/EPA Regulatory Model), and the incorporation of a tiered demonstration approach to address the secondary chemical formation of ozone and fine particulate matter (PM<sub>2.5</sub>) associated with precursor emissions from single sources. The EPA changed the preferred status of the long-range transport model and removed several air quality models from Appendix A to Appendix W. The EPA also made various editorial changes to update and reorganize information throughout Appendix W to streamline the compliance assessment process.

#### ***E. Project Emissions Accounting Rule***

The "Project Emissions Accounting" rule was published in the Federal Register [85 FR 74890] on November 24, 2020, and became effective on December 24, 2020. This rule addresses revisions to the PSD applicability regulations concerning the determination of whether a modification at an existing stationary source constitutes a major modification, as defined in 40 C.F.R. 52.21. This regulatory revision essentially formalizes guidance issued in the March 13, 2018, EPA memorandum from E. Scott Pruitt to the Regional Administrators titled *Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program* ("2018 PEA Memo") which has been used by MDEQ. Project emissions accounting allows both increases and decreases resulting from a project to be considered in "Step 1" of the PSD applicability process. Step 1 of the process involves evaluating those emissions changes resulting from the project under consideration to determine if there is a significant emissions increase. If these calculations result in a significant emissions increase, then the net emissions increase must be calculated by considering contemporaneous increases and decreases to determine if the project will be considered a major modification, thus requiring a PSD permit prior to beginning construction.

Previously, for projects involving both new and existing emissions units, the hybrid test in 40 C.F.R. 52.21(a)(2)(iv)(f) stated that Step 1 consisted of only the "sum of the increases" for each emissions unit. However, the Step 1 test for projects involving only existing emissions units and projects involving only new emissions units state that Step 1 consists of determining the "sum of the difference" for each existing or new emissions unit, indicating both increases and decreases associated with the project should be considered in Step 1. The revisions to the PSD regulations addressing the Project Emissions Accounting rule allow both increases and decreases related to a single project to be considered in Step 1 of the process, regardless of whether the project involves existing, new, or a mix of existing and new emissions units. [Note that a project involving only new emissions units could not result in emissions decreases since the potential to emit must be used for such units.]

MDEQ has approved the use of the 2018 PEA Memo in various projects at existing major stationary sources. For example, project emissions accounting was used to account for decreases due to the permanent shutdown and subsequent replacement of a dryer at the Tronox LLC, Hamilton Facility [Agency Interest No. 8587; Air Permit No. 1840-00035]. An air construction permit was issued on March 31, 2020, which addressed this replacement. As a result of including decreases from the removed dryer in Step 1 of the PSD analysis, the evaluation of contemporaneous increases and decreases was not required because the Step 1 changes were below the significant emissions rates specified in the PSD regulations.



The 2018 PEA Memo in Mississippi was also employed for projects at the Hankins Lumber Company, Elliott facility [Agency Interest No. 12033; Air Permit No. 0960-00010] and Georgia Pacific Wood Products LLC, Taylorsville facility [Agency Interest No. 913; Air Permit No. 2500-00002]. An air construction permit was issued to the Hankins Elliott facility on July 7, 2021, allowing for construction of a new continuous dry kiln which replaced an older batch dry kiln. An air construction permit was issued to the Georgia Pacific Taylorsville facility on April 22, 2019, allowing for replacement of a veneer dryer and three plywood presses. With both the Hankins and Georgia Pacific projects, the decrease in emissions from the units being replaced were considered in Step 1 of the PSD evaluation such that an evaluation of contemporaneous increases and decreases was not required because the Step 1 emissions were less than the PSD significant emissions rates. As noted in these examples, project emissions accounting has typically been used to account for actual decreases from the shutdown and replacement of equipment, where such equipment may not otherwise meet the “replacement unit” definition in the PSD regulations.

In the Project Emissions Accounting final rule, EPA added an explanation of “sum of the differences” in 40 C.F.R. 52.21(a)(2)(iv)(g) to clarify that this phrase includes both increases and decreases in emissions calculated for a project. EPA also stated in the preamble to this rule that the decreases considered in Step 1 do not have to be enforceable, though to be evaluated as contemporaneous decreases in Step 2 for future projects, the decreases must be enforceable per 40 C.F.R. 52.21(b)(3)(vi)(b). The regulatory revision addressing Project Emissions Accounting is incorporated by reference in 11 Miss. Admin. Code Pt. 2, R. 5.2.

#### ***F. NSR Error Corrections Rule***

The “NSR Error Corrections” rule was published in the Federal Register [86 FR 37918] on July 19, 2021, and became effective on August 18, 2021. This rule amends several NSR regulations by making the following types of changes:

- correcting typographical errors,
- removing court vacated rule language,
- removing or updating outdated or incorrect cross references,
- conforming certain provisions to changes contained the 1990 Clean Air Act Amendments, and
- removing certain outdated grandfathering or transitional exemptions.

Some of the more notable changes include removing regulatory language associated with the Equipment Replacement Rule Provision, which was vacated by the DC Circuit Court in 2006, and removing outdated provisions for biogenic CO<sub>2</sub> emissions addressed in the definition of Greenhouse Gases. The regulatory revision to 40 C.F.R. 52.21 addressing these corrections is incorporated by reference in 11 Miss. Admin. Code Pt. 2, R. 5.2.

#### ***G. Citation of State Regulations***

Throughout both Chapters 2 and 5 of the MDEQ regulations, citations of the State regulations were revised to ensure consistency. The first appearance of a State regulation is cited in its entirety,

followed by the citation approved by the Mississippi Administrative Procedures Act for use in the Mississippi Administrative Code (e.g., “Permit Regulations for the Construction and/or Operation of Air Emissions Equipment,” 11 Miss. Admin. Code Pt. 2, Ch. 2.). In the remainder of the regulations, citations are the abbreviated version (e.g., 11 Miss. Admin. Code Pt. 2, R. 2.4.).

#### **H. Miscellaneous Revisions to 11 Miss. Admin. Code Pt. 2, Ch. 5.**

The following list provides an overview of the changes made in each rule of the PSD regulations in Chapter 5. Grammatical corrections are not addressed in this list but may be viewed in the redline/strikeout version of the PSD regulations found in Attachment 2.

- **Rule 5.1.** – Clarifies the regulation supersedes and replaces previously adopted versions of Chapter 5 and no longer indicates Chapter 5 consists of only regulations adopted by reference. Removes the reference to the date of last amendment and promulgation of 40 C.F.R. 51.166 and 52.21, since these dates are more appropriately addressed in Rules 5.2 and 5.4.
- **Rule 5.2.** – Removes the reference to “phrases” that are not incorporated, since the phrases are simply the subsection headers and not specific phrases used throughout the regulations.
- **Rule 5.4.** – Removes the adoption by reference of the public participation requirements in 40 C.F.R. 51.166(q).
- **Rule 5.7.** – Incorporates the public participation requirements of 40 C.F.R. 51.166(q) rather than referring to them, including the changes regarding e-notice discussed in the Public Participation Revisions of Section II.A.1, herein.

#### **I. Miscellaneous Revisions to 11 Miss. Admin. Code Pt. 2, Ch. 2.**

The following list provides an overview of the changes made to the State regulations for construction and/or operation of air emissions equipment in Chapter 2, which includes both minor NSR and nonattainment NSR regulations. One change throughout included consistently using the term “permit to construct” rather than “construction permit,” though “construction permit” is not an incorrect term. Grammatical corrections are not addressed in this list but may be viewed in the redline/strikeout version of the regulations found in Attachment 2.

- **Rule 2.1.B. – Definitions Incorporated by Reference.** The definitions of the PSD regulations in 11 Miss. Admin. Code Pt. 2, Ch. 5. are incorporated by reference as last adopted in Chapter 5. Chapter 2 no longer refers to an adoption date (or promulgation date) for Chapter 5. Previously, Rule 2.1.B. included the date the Chapter 5 regulations were last amended; however, this resulted in inconsistency among definitions that had been revised and adopted in Chapter 5 but never addressed in Chapter 2. Also, exclusions to and changes of the definitions incorporated by Chapter 5 are no longer included in Chapter 2, since they were redundant with the federal definitions adopted in Chapter 5. Thus, the following definitions in Rule 2.1.C. have been removed: *Building, structure, facility, or installation* [Rule 2.1.C(2).] and *Regulated NSR pollutant* [Rule 2.1.C(22).].

- **Rule 2.1.C. – Definitions.** As noted above, two definitions have been removed so as not to repeat definitions already incorporated by reference through Chapter 5 (i.e., *Building structure, facility, or installation* and *Regulated NSR pollutant*). Definitions of *CFR* (Code of Federal Regulations) and *Hazardous Air Pollutant* were added as Rules 2.1.C(2). and 2.1.C(9)., respectively, since these are used in Chapter 2 and not defined in the PSD regulations of Chapter 5 or elsewhere in Chapter 2.
- **Rule 2.1.C(5). – “De minimis NSR modification.”** This definition was revised to allow for modifications that involve “netting” under the PSD regulations to qualify as de minimis NSR modifications. The intent of previously excluding modifications involving netting from the *de minimis NSR modification* definition was to ensure that decreases used to determine the significant net emissions increase of a project were indeed federally enforceable, as required in 40 CFR 52.21(b)(3)(vi). However, determining significant net emissions increases, or “netting,” is a required step for major PSD sources with project emissions exceeding the significant emission rates in 40 CFR 52.21(b)(23). Netting does not always require the issuance of a permit to establish enforceable contemporaneous reductions. Where contemporaneous decreases must be made enforceable to avoid a major modification, the project would be considered a moderate modification and would not qualify as a de minimis NSR modification, since moderate modifications are excluded. To better clarify this point, the definition of *moderate modification* was revised to specifically include modifications requiring one or more contemporaneous decreases be made federally enforceable to avoid the major modification provisions of PSD. Also, it should be noted that sources which are not already major stationary sources for PSD purposes are not allowed or required to conduct a netting analysis when determining emissions changes from a project.
- **Rule 2.1.C(9). – “Fixed capital cost.”** The definition of *fixed capital cost* was removed to reflect revisions to the New Source Review regulations in both 40 CFR 51.165 and 40 CFR 52.21. The “New Source Review Errors Correction” rule [86 FR 37918, July 19, 2021] removed provisions related to the Equipment Replacement Provision, which included the definition of “fixed capital cost.” Therefore, the definition is no longer needed.
- **Rule 2.1.C(11). – “Major Title V source.”** Revised slightly to be more consistent with the definition in the MDEQ’s Title V regulations found in 11 Miss. Admin. Code Pt. 2, Ch. 6.
- **Rules 2.1.C(13). – “Moderate modification.”** Revised to better clarify that a moderate modification requires federally enforceable physical or operational limitations, rather than a request for emissions reductions, to avoid major source requirements. This wording is more consistent with the definition of “potential to emit” incorporated by reference from the PSD regulations, which is generally used to determine project emissions changes. Also, the reference to ““netting” out of PSD/NSR” was removed since often no netting is involved in a determination of project emissions. Instead, the definition was clarified to include modifications requiring one or more contemporaneous decreases be made federally enforceable in order to avoid the major modification provisions of PSD. The last sentence of the definition was removed to prevent confusion with modification of Synthetic Minor

Operating Permits, since the MDEQ does not use the term “synthetic minor modifications” to refer to moderate modifications.

- **Rule 2.1.C(14).** – **“Moderate stationary source.”** Revised to better clarify that this modification requires federally enforceable physical or operational limitations, rather than a request for emissions reductions, to avoid major source requirements. This wording is more consistent with the definition of “potential to emit” incorporated by reference from the PSD regulations, which is generally used to determine project emissions changes. Also, the reference to “‘netting’ out of PSD/NSR” was removed since netting is not involved in determining whether a facility is subject to the provision of PSD. Netting is only potentially addressed when a major stationary source undergoes a modification.
- **Rule 2.1.C(15).** – **“Modification.”** Revised to refer to the SIP-approved regulations in 11 Miss. Admin. Code Pt. 2, rather than the federal regulations pertaining to major and minor NSR.
- **Rule 2.1.C(23).** – **“Responsible Official.”** Revised to be consistent with the Title V regulations in 11 Miss. Admin. Code Pt. 2, Ch. 6. The federal NSR and PSD regulations do not define the term “responsible official” or otherwise address the signatory authority required in the State SIP for the NSR and PSD programs.
- **Rule 2.1.C(26).** – **“State Permit to Operate or State Operating Permit.”** Revised to be a general term for a permit issued under State Law to operate air emissions equipment.
- **Rule 2.1.C(28).** – **“Synthetic minor source.”** Revised to use wording consistent with the definition of “potential to emit,” which is the basis for determining whether a source is a synthetic minor or major Title V source.
- **Rule 2.1.D(1).** – **Permit Types.** Revised to indicate that a State Permit to Operate is not required for a source holding a Title V permit as allowed in Rule 2.2.B(1). Also, flexibility was provided to allow the Permit Board to issue a single permit combining the requirements of a permit to construct and State Permit to Operate to allow for a more streamlined approach to permitting these sources. The single, or combined, permit would contain all requirements applicable to the permit to construct and State Permit to Operate, including requirements to renew the permit. Because a facility may currently operate under a permit to construct, MDEQ has determined that the permit to construct is essentially functioning as an operating permit with monitoring, recordkeeping, and reporting often included. To streamline the permitting process and reduce confusion created by the issuance of two permits, particularly for new sources, the Permit Board may choose to combine the requirements of the construction and operating permits into a single permit.

Because Title V permits have a distinct set of regulations and requirements, Title V permits, which are operating permits, would not be eligible for combination with a permit to construct. Also, since sources requiring a PSD permit to construct are also major Title V sources based on their potential emissions, PSD permits would not be eligible for combination with a Title V permit.

Combining the construction and operating permit requirements will not result in any relaxation of current permitting requirements for synthetic minor or significant minor sources. As noted in the changes to the public notice procedures addressed in Section II.A.2 herein, minor NSR construction permits and State operating permits abide by the same public participation requirements. MDEQ actually expects that combining the construction and operating permits will lead to a more complete and transparent permitting process for both the regulated facility and the general public.

- **Rule 2.5.B(1). – Air Quality Models.** Revised to indicate that the version of 40 C.F.R. Part 51, Appendix W (“Guideline on Air Quality Models”) approved in the PSD regulations of 11 Miss. Admin. Code Pt. 2, Ch. 5 will be used to determine appropriate air quality models. By referring to the PSD regulations for the most recent version, only the PSD regulations will be required to be amended should EPA revise Appendix W in the future.
- **Rule 2.5.D(7).** – This requirement was removed. It required the permittee to modify the operating permit to address more than one contemporaneous decrease required by a moderate modification prior to beginning operation of the modified source. However, such contemporaneous decreases can be made enforceable through a Permit to Construct rather than the operating permit, making this requirement unnecessary.
- **Rule 2.8.D. – Procedures for Renewal of State Permit to Operate.** To simplify the public participation requirements of Rule 2.4., this rule was revised to refer back to the public participation procedures in Rule 2.4.C.
- **Rule 2.11. – General Permits.** To simplify the public participation requirements of Rule 2.4., this rule was revised to refer back to the public participation procedures in Rule 2.4.C. The rule was reworded though the meaning was not changed. Both the general permit and each request for coverage must continue to follow the public participation process in Rule 2.4.C.
- **Rule 2.12. – Multi-Media Permits.** To simplify the public participation requirements of Rule 2.4., this rule was revised to refer back to the public participation procedures in Rule 2.4.C.
- **Rule 2.13.C. – Maintenance of Emissions Records.** To be consistent with historical interpretation of this rule, this rule has been revised to indicate that sources should maintain records of their emissions to demonstrate that they are excluded from a requirement for a permit to construct and/or State Permit to Operate.
- **Rule 2.13.D(5).** This rule was reworded to ensure it is clear that each pollutant listed must be below the given threshold to qualify for the exclusion.
- **Rule 2.13.E. – Emissions-Based Exclusion from Permit to Construct.** Revised to add a new moderate stationary source as a source that would not qualify for this exclusion, since such source, by definition, requires one or more federally enforceable limitations to avoid PSD.

- **Rule 2.13.F. – De minimis NSR Modification Exclusion from Permit to Construct.** Revised to read more clearly and remove the indication that projects involving netting require a permit to construct, consistent with other changes to Chapter 2.
- **Rule 2.13.G. – Exclusion from Permit to Operate.** Reworded to more clearly state the requirement for exclusion from a permit to operate.
- **Rule 2.15.A. – Plantwide Applicability Limitation (PAL).** Revised to provide a reference to the public participation requirements of Rule 2.4. in the SIP, rather than the federal requirements of 40 C.F.R. 51.160 and 51.161.
- **Rule 2.15.B. – Optional Pre-Permit Construction.** Various revisions were made to this rule, including the following:
  - Clarify that pre-permit construction approval allows the applicant to “begin actual construction,” which is consistent with the requirements and definition in the PSD regulations for preconstruction permits;
  - Remove the term “proof of eligibility” under paragraph (2)(c) and replace with wording clarifying the intent of this phrase;
  - Remove the requirement that the applicant provide notice to a newspaper in general circulation and, instead, require they submit the notice to the MDEQ for posting on the MDEQ website for the duration of the 10-day comment period; and
  - Include modification of a State Operating Permit as an alternative mechanism for addressing the requirement to obtain a permit to construct, as now allowed in Rule 2.15.C.
- **R. 2.15.C. – Optional Operating Permit Modification.** Revised to allow a permit to construct to be issued as a modification to a State Operating Permit, in addition to a Title V permit. There may be instances when a facility operates under a Synthetic Minor Operating Permit and undertakes a project that would require a permit to construct to limit potential emissions from the project to avoid PSD. As with a facility operating under a Title V permit, this revision allows the MDEQ to modify a State Operating Permit in lieu of issuing a permit to construct, thereby, reducing the administrative burden of issuing a permit to construct followed by a modification to the State Operating Permit.

### **III. SOURCES AFFECTED BY THE REVISION:**

This SIP revision potentially affects all sources and practices subject to air pollution control regulations in Mississippi.

### **IV. POLLUTANTS INVOLVED:**

The pollutants affected by this SIP Revision are all pollutants subject to regulation.

**V. CHANGES IN ALLOWABLE EMISSIONS:**

This SIP Revision does not include any provisions for changes to allowable emissions or alter any emission limitations.

**VI. LOCATION/ATTAINMENT STATUS:**

The SIP Revision does not change any requirements for sources locating in or impacting non-attainment areas.

**VII. PART D SIP/ATTAINMENT DEMONSTRATION IMPACT:**

This is not applicable.

**VIII. AIR QUALITY IMPACTS:**

This SIP Revision will have no adverse impact on air quality since the stringency of the regulations is not changing.

**IX. MODELING:**

No modeling is necessary for this SIP Revision.

**X. COMPLIANCE METHODS TO BE EMPLOYED:**

Compliance with the amended regulations will be achieved through issuance of air emission permits.

**XI. PUBLIC HEARING:**

Public participation requirements for the SIP Revision were met by notifying the public of a comment period that began on December 27, 2023, and ended on January 29, 2024, on which date a public hearing was held to receive any additional comments. The public notice was published consistent with procedures approved by EPA and in accordance with State law.

The notice of public comment period was published on December 27, 2023, January 3, 2024, and January 10, 2024, in the state-wide newspaper – *The Clarion Ledger*, as well as on the website at <https://www.mdeq.ms.gov/air/>. The notice of public hearing and the draft SIP were made available for public review on this website as well, and at the MDEQ office located at 515 E. Amite St., Jackson, Mississippi, 39201. The public notice was also sent via email to persons on the air pollution control regulation mailing list.

**Attachment 3 of the TSD contains a copy of the notice of public hearing and proofs of publication.**

## **XII. RESPONSE TO COMMENTS ON PROPOSED PLAN REVISION:**

To Be Determined

## **XIII. REGULATION CHANGES:**

Attachment 2 of the TSD contains amendments to 11 Miss. Admin. Code, Pt. 2, Ch. 2 and Pt. 2, Ch. 5, in interlineated or redline/strikeout format. The amendments to 11 Miss. Code, Pt. 2, Ch. 2 were adopted on [Commission Approval DATE] and will become state effective on [30 days after approval]. The amendments to 11 Miss. Code, Pt. 2, Ch. 5 were adopted on [Commission Approval DATE] and will become state effective on [30 days after approval].

## **XIV. FINAL ADOPTION OF PLAN REVISION AND REGULATIONS**

Attachment 4 of the TSD contains evidence of adoption of state regulations and SIP Revision.



**ATTACHMENT 1**

**COMMENTS RECEIVED ON PROPOSED SIP REVISION**

**TO BE DETERMINED**

**ATTACHMENT 2**

**REGULATIONS IN EPA FORMAT (REDLINE/STRIKEOUT)**

**AS PROPOSED**

**Title 11: Mississippi Department of Environmental Quality**

**Part 2: Air Regulations**

**Part 2, Chapter 2: Mississippi Commission on Environmental Quality, Permit Regulations for the Construction and/or Operation of Air Emissions Equipment (Adopted May 8, 1970. Amended: May 11, 1972; January 31, 1978; January 23, 1979; March 12, 1981; August 26, 1981; November 12, 1981; May 9, 1984; March 23, 1988; April 25, 1988; August 23, 1989; April 25, 1991; December 9, 1993; June 24, 1999; October 28, 1999; July 28, 2005; and Last Amended [Date of Amendment Adoption])**

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**Rule 2.1 General Requirements.**

A. Replacement of Previous Regulation.

This regulation ~~supereedessupersedes~~ and replaces previously adopted ~~Title 11, Part 2, Chapter 2,~~ “Permit Regulations for the Construction and/or Operation of Air Emissions Equipment,” 11 Miss. Admin. Code Pt. 2, Ch. 2.

B. Definitions Incorporated by Reference.

~~Title 11, Part 2, Chapter 5, The definitions set forth in the most recent version of “Regulations for the Prevention of Significant Deterioration of Air Quality,” 11 Miss. Admin. Code Pt. 2, Ch. 5., amended by the Commission on the date of this regulation amendment, provides in Rule 5.2 thereof for the adoption of 40 CFR 52.21 as amended and promulgated by July 1, 2004 as official Regulations of the State of Mississippi except for the exclusions and changes set forth in Rules 5.2 and 5.3. of Title 11, Part 2, Chapter 5. Therefore, the definitions set forth in 40 CFR 52.21(b), including the definitions of “emissions unit”, “major stationary source”, “major modification”, and “net emissions increase” as used in this Title 11, Part 2, Chapter 2, are incorporated by reference and shall have the same definition in this Regulation, except for the exclusions and changes set forth in Rules 5.2 and 5.3 of Title 11, Part 2, Chapter 5 and except for changes noted herein.~~

C. Definitions.

- (1) “Applicable Rules and Regulations.”: Any Commission regulation concerning and/or affecting air emissions and air quality established pursuant to State Law.
- ~~(2) “Building, structure, facility, or installation”. All the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same “Major Group” (i.e., which have the same first two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).~~
- (2) “CFR.” The Code of Federal Regulations.
- (3) “Commission.”: The Mississippi Commission on Environmental Quality.
- (4) “Concentrated animal feeding operation” (CAFO). Any facility included within the definition of that term found at 40 CFR 122.23(b)~~(23)~~.
- (5) “De minimis NSR modification.”: Any modification in which the emissions increase of each regulated NSR pollutant is less than three-fourths of the threshold for a major modification using the same procedures for calculating the emissions increase as the procedures of 40 CFR 52.21(a)(2)(iv)~~(ae)~~ through (f) for calculating a significant emissions increase; and which is not one of the following types of modifications:
- (a) a major modification;
  - (b) a moderate modification;
  - ~~(c) a modification involving “netting” out of PSD;~~
  - ~~(cd)~~ a modification involving medical waste incineration or hazardous waste incineration;
  - ~~(de)~~ a modification meeting the definition of “constructing or reconstructing a major source of hazardous air pollutants” in the Title 11, Part 2, Chapter 8, “Air Toxics Regulations,”; 11 Miss. Admin. Code Pt. 2, Ch. 8. and 40 CFR, Part 63, Subpart B<sub>2</sub> and thereby requiring a case-by-case Maximum Achievable Control Technology (MACT) determination.
- (6) “DEQ.”: The Mississippi Department of Environmental Quality.
- (7) “EPA.”: The U.S. Environmental Protection Agency.

- (8) “Federal Act.”: The Federal Clean Air Act as amended in 1990, and any subsequent amendments.
- ~~(9) “Fixed capital cost”. The capital needed to provide all the depreciable components.~~
- ~~(9) “Hazardous air pollutant.” A hazardous air pollutant (HAP), as listed in Section 112(b) of the Federal Act.~~
- (10) “Light commercial area.”: An area zoned for commercial use, or, in the absence of any local zoning ordinances, an area predominantly used for wholesale and retail trade in goods and services.
- (11) “Major Title V source.”: Any ~~major~~ stationary source meeting the definition of a major source as determined in the “Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act,” 11 Miss. Admin. Code Pt. 2, Ch. 6~~Miss. Admin Code, Title 11, Part 2, Chapter 6.~~
- (12) “Minor stationary source.”: Any stationary source that is neither a major stationary source nor a moderate stationary source.
- (13) “Moderate modification.”: Any modification in which the source is making federally enforceable physical and/or operational limitations on the capacity of the source in order to reduce the potential to emit emissions reductions and/or render one or more contemporaneous decreases federally enforceable to avoid major source requirements of Title 11, Part 2, Chapter 5, “Regulations for the Prevention of Significant Deterioration of Air Quality”, 11 Miss. Admin. Code Pt. 2, Ch. 5. or Rule 2.5.E. of these regulations ~~(i.e., “netting” out of PSD/NSR). These modifications are often called “synthetic minor modifications”.~~
- (14) “Moderate stationary source.”: Any new stationary source which makes federally enforceable physical and/or operational limitations on the capacity of the source in order to reduce the potential to emit emissions reductions to avoid major source requirements of Commission Regulation 11 Miss. Admin. Code Pt. 2, Ch. 5, ~~Title 11, Part 2, Chapter 5, “Regulations for the Prevention of Significant Deterioration of Air Quality”~~ or Rule 2.5.E. of these regulations ~~(i.e., “netting” out of PSD/NSR).~~
- (15) “Modification.”: Any physical change in or change in the method of operation of a facility which increases the actual emissions or the potential uncontrolled emissions of any air pollutant subject to regulation under the Federal Act emitted into the atmosphere by that facility or which results in the emission of any air pollutant subject to regulation under the Federal Act into the atmosphere not previously emitted. A physical change or change in the method of operation shall not include:
- (a) routine maintenance, repair, and replacement;

- (b) use of an alternative fuel or raw material by reason of an order under Sections 2 (a) and (b) of the Federal Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;
  - (c) use of an alternative fuel by reason of an order or rule under Section 125 of the Federal Act;
  - (d) use of an alternative fuel or raw material by a stationary source which:
    - (1) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to ~~40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51 Subpart I or 40 CFR 51.166~~11 Miss. Admin. Code Pt. 2, Ch. 2. and/or Ch. 5.; or
    - (2) the source is approved to use under any permit issued under 11 Miss. Admin. Code Pt. 2, Ch. 2. and/or Ch. 5.~~40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51 Subpart I or 40 CFR 51.166;~~
  - (e) an increase in the hours of operation or in the production rate unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 11 Miss. Admin. Code Pt. 2, Ch. 2. or Ch. 5.~~40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51 Subpart I or 40 CFR 51.166;~~ or
  - (f) any change in ownership of the stationary source.
- (16) “Modified Permit.”: Any permit already effective which is altered substantively as a result of the Permit Board's determination of the need for such alteration. Alterations to correct typographical errors or to clarify requirements shall not be considered substantive changes and, therefore, are not modifications for the purposes of this definition.
  - (17) “NSR.”: New source review.
  - (18) “Permit Board.”: The Mississippi Environmental Quality Permit Board.
  - (19) “PSD.”: Prevention of Significant Deterioration.
  - (20) “Recreational area.”: Recreational area means:
    - (a) a national, state, county, or city park; or



(b) an outdoor recreational area, such as a golf course or swimming pool, owned by a city, county, state, or other public agency.

(21) “Regulated air pollutant.” Any regulated NSR pollutant, any air pollutant subject to a standard promulgated under Section 112 or other requirements established under Section 112 of the Federal Act, and any other air pollutant for which there is a duly adopted state ambient air quality standard.

~~(22) “Regulated NSR pollutant.” An air pollutant defined as a regulated NSR pollutant in 40 CFR 52.21(b)(50).~~

(22) “Residential area.” Residential area means:

(a) a group of 20 or more single-family dwelling units on contiguous property and having an average density of two or more units per acre, or

(b) a group of 40 or more single-family dwelling units on contiguous property and having an average density of one or more units per acre, or

(c) a subdivision containing at least 20 constructed houses, in which the subdivision plat is recorded in the chancery clerk's office of the appropriate county.

(23) “Responsible Official.” Responsible Official means ~~as follows~~one of the following:

(a) for a corporation: a president, secretary, treasurer, or vice-president of the company or corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the company or corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(1) the facilities employ~~employing~~ more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in 1980 dollars); or

~~(1)(2) the delegation of authority to such representatives is approved in advance by the permitting authority. if authority to sign documents has been assigned or delegated in accordance with corporate procedures;~~

(b) for a partnership or sole proprietorship: a general partner or the proprietor, respectively; or

- (c) for a municipality, ~~S~~state, ~~f~~Federal, or other public agency: either a principal executive officer or ranking elected official. ~~(f)~~For the purposes of these regulations, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). A principal executive officer of a military facility includes the facility commander, chief executive officer, or any other similar person who performs similar policy- or decision-making functions for the institution.
- (24) “Significant minor source.”: A stationary source that is ~~(a)~~not a synthetic minor source; ~~(b)~~is not a major Title V source ~~and is not~~ otherwise required to obtain a Title V ~~Permit to Operate~~permit; and ~~(e)~~is one of the following categories of sources:
- (a) hot-mix asphalt plants~~;~~
  - (b) cotton gins~~;~~
  - (c) medical waste incinerators, not subject to the requirements of Rule 1.12 of ~~Miss. Admin. Code, Title 11, Part 2, Chapter 1,~~ “Air Emission Regulations for the Prevention, Abatement, and Control of Air Pollutants.” 11 Miss. Admin. Code Pt. 2, Ch. 1.~~;~~
  - (d) rendering plants~~;~~ or
  - (e) ~~a~~Any other new stationary source deemed by the Permit Board to be a significant minor source due to (i) the source’s potential to require significant air pollution control operations in order to avoid a violation of the Mississippi Air and Water Pollution Control Law or any regulation promulgated thereunder, (ii) the source’s potential to require significant compliance demonstration or testing requirements, (iii) the source’s potential to cause a substantial threat to public health, welfare, or the environment, or (iv) the sources’ potential to cause or substantially contribute to a violation of any applicable ambient air quality standard.
- (25) “State Law.”: The Mississippi Air and Water Pollution Control Law, specifically, Miss. Code Ann. §§ 49-17-1 through 49-17-45, and any subsequent amendments.
- (26) “State Permit to Operate or State Operating Permit.”: A permit issued under State Law to operate air emissions equipment ~~at a significant minor source~~, exclusive of Title V ~~p~~Permits.
- (27) “Stationary source.”: For purposes of this regulation, any building, structure, facility, or installation which emits or may emit ~~a~~ regulated air pollutant~~(s)~~.

- (28) “Synthetic minor source.”: Any stationary source which would otherwise constitute a major source as defined by 11 Miss. Admin. Code Pt. 2, Ch. 6, Title 11, Part 2, Chapter 6, “Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act”, except that the owner or operator of the stationary source elects for federally enforceable physical or operational limitations on the capacity of the source to reduce the potential to emit below the applicability thresholds for a Title V major source. emissions. Such limitations ~~which~~ may include, but are not limited to, permit conditions restricting hours of operation; or type or amount of material stored, combusted or processed, or permit conditions establishing more stringent air pollution control efficiency requirements, ~~to lower allowable emissions for air pollutants in the State Permit to Operate below applicability thresholds for a Title V major source.~~
- (29) “Title V.”: The air operating permit program mandated in Title V of the 1990 amendments to the Federal Clean Air Act, codified in 42 U.S.C. §7661.
- (30) “Title V permit.”: Any permit or group of permits covering a Title V source that is issued, renewed, amended, or revised pursuant to 11 Miss. Admin. Code Pt. 2, Ch. 6, Title 11, Part 2, Chapter 6.
- (31) “Title V sources.”: Title V sources include the following:
- (a) any major source;
  - (b) any source, including an area source, subject to a standard, limitation or other requirement under Section 111 of the Federal Act;
  - (c) any source, including an area source, subject to a standard or other requirement under Section 112 of the Federal Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under Section 112(r) of the Federal Act;
  - (d) any affected source; and
  - (e) any source in a source category designated by the Administrator of EPA.

#### D. Permitting Requirements.

- (1) Permit Types. The Permit Board will issue two types of air pollution control permits, a permit to construct air emissions equipment and a State Permit to Operate such equipment. A State Permit to Operate is required for synthetic minor sources, major Title V sources, and significant minor sources, except as noted in Rule 2.2.B(1). With exception of a Title V source required to obtain a Title V permit under 11 Miss. Admin. Code Pt. 2, Ch. 6, the Permit Board may elect to issue a single permit addressing the requirements for both a permit to construct and State

Permit to Operate air emissions equipment if the permit addresses all applicable requirements for both types of permits found herein.

- (2) Unless otherwise provided by Rule 2.13 and 2.15 or other provisions of these Regulations, any new stationary source or modification of a stationary source must have a permit to construct or multi-media permit incorporating such permit before beginning actual construction.
- (3) All applications must be submitted on the form supplied by the Permit Board and must be signed by a Responsible Official.
- (4) The Permit Board may require the applicant to submit any additional information which the Permit Board deems relevant to its decision on the permit application including, but not limited, to, ambient air quality modeling. The Permit Board may require that all other media permits for a facility be issued simultaneously with any required air permit or may issue the air permit prior to or subsequent to other permits required by the facility.
- (5) A permit issued by the Permit Board will generally be for a specific site identified in the application. No permit application, except one for a portable facility which will be located only temporarily at a site or sites, will be processed unless the applicant controls the real property upon which the facility is located. The applicant may demonstrate control or the legal right to operate through ownership, lease, eminent domain, easement, license and/or contract. For portable facilities which will be located only temporarily at a site or sites, the Permit Board may issue a statewide permit or a permit for operation in multiple areas.
- (6) It is the responsibility of the applicant/permittee to obtain all other approvals, permits, clearances, easements, agreements, etc., which may be required including, but not limited to, all required local government zoning approvals or permits. DEQ may delay processing any permit application until the applicant provides to DEQ information or documentation sufficient to demonstrate any approval listed in this paragraph.
- (7) The provisions of a permit are severable. If any provision of a permit, or the application of any provision of a permit to any circumstances, is challenged or held invalid, the validity of the remaining permit provisions and/or portions thereof or their application to other persons or sets of circumstances, shall not be affected thereby.
- (8) In the event of a conflict between any of the requirements of these regulations and/or applicable requirements of any other regulation or law, the more stringent requirements shall be applied.
- (9) A stationary source which emits or causes to be emitted matter other than through a stack or a defined outlet of an air cleaning device may be classified inadequate in

regard to control equipment. Facilities which comply with emission standards which specifically address and include fugitive emissions shall be presumed adequate provided all other Applicable Rules and Regulations are complied with.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-2-1, *et seq.* and 49-17-1, *et seq.*

**Rule 2.2 General Standards Applicable To All Permits.**

- A. Except as provided for in ~~the “Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act”, 11 Miss Admin. Code Pt. 2, Ch. 6., Title 11, Part 2, Chapter 6,~~ no permit shall be issued unless the applicant has complied with applicable requirements of 11 Miss. Admin. Code Pt. 2, Ch. 1.; 11 Miss. Admin. Code Pt. 2, Ch. 2.; the Commission “Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants”, Miss. Admin. Code, Title 11, Part 2, Chapter 1; the Commission “Permit Regulations for the Construction and/or Operation of Air Emissions Equipment”, Miss. Admin. Code, Title 11, Part 2, Chapter 2 ~~the Commission “Regulations for the Prevention of Air Pollution Emergency Episodes,”; 11 Miss. Admin. Code Pt. 2, Ch. 3., Title 11, Part 2, Chapter 3;~~ the Commission “Ambient Air Quality Standards,”; 11 Miss. Admin. Code Pt. 2, Ch. 4., Title 11, Part 2, Chapter 4 except as provided for in Rule 2.5.E. herein; ~~the Commission “Regulations for the Prevention of Significant Deterioration of Air Quality”, 11 Miss. Admin. Code Pt. 2, Ch. 5.; Title 11, Part 2, Chapter 5;~~ any amendments to these Applicable Rules and Regulations; and additional relevant Applicable Rules and Regulations promulgated by the Commission and/or Permit Board.
- B. General Provisions.
- (1) Any stationary source which holds a valid Title V permit shall be deemed to be in compliance with the requirements regarding a State Permit to Operate contained herein, Miss. Admin. Code, Title 11, Part 2, Chapter 2 and State Law.
  - (2) The Permit Board may require a permittee to submit an application for a Title V permit at any time the permittee becomes subject to Title V. The Permit Board may require a permittee to submit a Title V application even though the permittee has previously submitted an application for renewal of its State Operating Permit.
  - (3) When requested by the Permit Board, an applicant shall submit information to demonstrate it has the financial resources to comply with the terms and conditions of the permit.
  - (4) When requested by the Permit Board, an applicant shall submit information on the applicant's compliance history to provide reasonable assurance that it will comply with the terms and conditions of the permit.

- (5) The knowing submittal of a permit application with false information may serve as the basis for the Permit Board to void the permit issued pursuant thereto or subject the applicant to penalties for operating without a valid permit pursuant to State Law.
- (6) Acceptance by the Permit Board of a permit application does not constitute a waiver of the DEQ's right to assess appropriate penalties against the applicant pursuant to State Law for constructing or operating without a valid permit.
- (7) The issuance of a permit does not release the permittee from liability for constructing or operating air emissions equipment in violation of any applicable statute, rule, or regulation of state or federal environmental authorities.
- (8) Applicants for all permits to construct or operate, or to renew a State Permit to Operate, shall specify in their application the air emission rate for each air pollutant subject to regulation under the Federal Act that can be reasonably expected to be emitted into the air as a result of operations from the source.
- (9) Each application must be signed by the Responsible Official. The signature of the applicant shall constitute an agreement that the applicant assumes the responsibility for any alterations, additions or changes in operation that may be necessary to achieve and maintain compliance with all Applicable Rules and Regulations.
- (10) The Permit Board may, in any permit, establish limitations and requirements on the emission of air pollutants and on other parameters of a stationary source to assure that the requirements of Applicable Rules and Regulations are met subject to Miss. Code Ann. § 49-17-34(2) and (3). Where the Permit Board does not establish limitations and requirements in a permit, the permit shall provide that the rates of emissions and other operating conditions and parameters specified in the application shall be the applicable limitations and requirements.
- (11) The Permit Board may, in any permit, establish requirements for compliance testing by emissions sampling and analysis, for emissions and operation monitoring, and for reporting of the results from such testing and monitoring. The Permit Board shall consider factors in establishing such requirements as follows:
  - (a) Applicable Rules and Regulations which address testing, monitoring, and reporting;
  - (b) prior results of testing and monitoring at the stationary source;
  - (c) the applicant's compliance history;
  - (d) the size of the stationary source;
  - (e) the cost of the testing, monitoring, reporting; and

- (f) the potential environmental impact of the stationary source.
- (12) The Permit Board may, in any permit, subdivide the permit requirements to facilitate their expression so as to adequately define, describe, and encompass emissions-producing units, processes, and other portions of a stationary source subject to the requirements.
  - (13) The Permit Board may, in any permit to construct, require the permittee to perform special environmental monitoring for the purpose of detecting, quantifying, and determining the impact of pollutants existing prior to the date the permittee begins to emit when, during the review of the application and the public participation process, questions arise, with regard to separate environmental impacts of pollution raised by the applicant or the Department and which cannot be determined by available scientific data and scientific methods. The Permit Board may, in any State Permit to Operate, require the permittee to perform special environmental monitoring for the purpose of detecting, quantifying, and determining the impact of pollutants emitted by the permittee when such monitoring is necessary because traditional air quality monitoring techniques will not measure the quality of the environment nor the impact of the pollutants emitted into the environment. Such special monitoring may include, but is not limited to, parameters such as ambient concentration, deposition, bio-accumulation in flora and fauna, etc.
  - (14) No permit for the construction or relocation of equipment which will cause the issuance of air contaminants shall be issued when said equipment cannot comply with buffer zone requirements as follows:
    - (a) All sources of air emissions must be at least 150 feet from the nearest residential or recreational area.
    - (b) All sources of air emissions at asphalt plants utilizing conventional technology for the control of air contaminants must be at least 1500 feet from the nearest residential, recreational or light commercial area.
    - (c) All sources of air emissions at asphalt plants utilizing best available technology for the control of air contaminants must be at least 600 feet from the nearest residential, recreational or light commercial area.
    - (d) Rendering plants or other similar operations which may cause objectionable odors must be at least 1500 feet from the nearest residential, recreational or light commercial area and be located in compliance with Miss. Code Ann. § 41-51-19.
    - (e) Notwithstanding (a) above, incinerators must be at least 150 feet from any dwelling or from any light commercial building not owned by the applicant.



- (f) Where buffer zone requirements cannot be met, the Permit Board will consider requests for exceptions to, or variances from, these requirements upon the applicant's submittal of sufficient proof that affected property owners within the subject buffer zone have had timely and sufficient notice of the proposed stationary source. Any comments received as a result of such notice shall be considered prior to action upon any request for exceptions to, or variances from, the buffer zone requirements.
  - (g) The Permit Board may establish buffer zone requirements for facilities not included in 15(a)-(f) considering factors including but not limited to, the type of emissions, the quantity of emissions, the physical characteristics of the stationary source (such as the location) and such other factors that the Permit Board deems appropriate to protect human health, welfare, or the environment.
- (15) Each permit issued shall include the following:
- (a) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit unless halting or reducing activity would create an imminent and substantial endangerment threatening the public health and safety of the lives and property of the people of this state.
  - (b) The permit and/or any part thereof may be modified, revoked, reopened, and reissued, or terminated for cause. Sufficient cause for a permit to be reopened shall exist when an air emissions stationary source becomes subject to Title V. 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.
  - (c) The permit does not convey any property rights of any sort, or any exclusive privilege.
  - (d) The permittee shall furnish to the DEQ within a reasonable time any information the DEQ 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 DEQ copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee shall furnish such records to the DEQ along with a claim of confidentiality. The permittee may furnish such records directly to the Administrator of EPA along with a claim of confidentiality.

C. Permit Modification or Revocation



After notice and opportunity for hearing, the Permit Board may modify, or revoke in whole or in part any permit issued pursuant to these regulations for good cause shown including, but not limited to, the following:

- (1) persistent violation of any of the terms or conditions of the permit;
- (2) obtaining the permit by misrepresentation or failure to disclose fully all relevant facts; or
- (3) a change in federal, state or local laws or regulations that require either a temporary or permanent reduction or elimination of previously authorized air emissions.

D. Modification of Permits ~~W~~without Modification of Facilities

The terms and conditions of a previously issued permit to construct or State Permit to Operate may, upon request of the permittee, be modified if the Permit Board finds that those terms and conditions are no longer necessary to ~~e~~insure compliance with all Applicable Rules and Regulations or that the modifications sought by the permittee result in operating conditions that are protective of human health and the environment.

Source: Miss. Code Ann. §§ 49-2-9(1)(b), 49-17-17, 49-17-28, 49-17-29, 49-2-1, *et seq.* and 49-17-1, *et seq.*

***Rule 2.3 Application for Permit to Construct and State Permit to Operate New Stationary Source.***

- A. All engineering plans and specifications required by DEQ must bear the signature, registration number, and seal of a professional engineer registered in the State of Mississippi.
- B. Information Required.
  - (1) The Permit Board may require each application for a permit to construct a new stationary source be accompanied by two (2) complete sets of site drawings, construction drawings, design calculations and specifications.
  - (2) Upon request by the Permit Board, the applicant shall furnish any additional information necessary to evaluate the design adequacy of the new stationary source.
  - (3) The Permit Board may require the applicant to predict the impact of emissions on air quality using air quality models as referenced in Rule 2.5.B. herein.

Source: Miss. Code Ann. §§ 49-2-9(1)(b), 49-17-17, 49-17-28, 49-17-29, 49-2-1, *et seq.* and 49-17-1, *et seq.*

**Rule 2.4 Public Participation and Public Availability of Information.**

- A. For any application for a Prevention of Significant Deterioration ~~p~~Permit to ~~c~~Construct, the DEQ will follow the public information participation procedures specified in ~~Commission Regulation, 11~~ Miss. Admin Code ~~Pt. 2, Ch. 5,~~ Title 11, Part 2, Chapter 5, "Regulations for the Prevention of Significant Deterioration of Air Quality", and any other Applicable Rules and Regulations set forth herein in lieu of the requirements set forth herein.
- B. For any application for a Title V ~~Permit to Operate~~permit, the DEQ will follow the public information participation procedures specified in ~~Commission Regulation, 11~~ Miss. Admin. Code ~~Pt. 2, Ch. 6,~~ Title 11, Part 2, Chapter 6, "Air Emissions Operating Permit Regulations For The Purposes Of Title V Of The Federal Clean Air Act". in lieu of the requirements set forth herein.
- C. For any application for a permit to construct or State Permit to Operate that requests federally enforceable physical and/or operational limitations on the capacity of the source to limit the source's potential to emit or that is subject to review and permitting under R. 2.5.E., a new moderate stationary source, a moderate modification, or a new major stationary source impacting a nonattainment area as defined in Rule 2.5.E., the DEQ will provide opportunity for public comment on information submitted by the owner and operator. These procedures shall include the following:
- (1) The DEQ shall publish the public notice and draft permit on the DEQ's website. The public notice and draft permit will remain available on the website for the duration of the public comment period. The DEQ may supplement the website noticing method by other noticing methods on individual permits.
- (2) The public notice shall identify the following information:
- (a) the affected facility;
  - (b) the name and address of the permittee;
  - (c) the name and address of the Permit Board;
  - (d) the activity or activities involved in the permit action;
  - (e) the emissions change involved in any permit modification;
  - (f) the name and contact information of a person from whom interested persons may obtain additional information, including the draft permit, the application, and all other materials relevant to the permit decision except for information entitled to confidential treatment;
  - (g) a brief description of the comment procedures and deadline for receipt of comments; and

- (h) the time and place of any hearing that may be held or a statement of procedures to request a hearing.
- (3) The DEQ shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing.
- (4) A copy of the notice will be sent to the Administrator of EPA through Region IV, and to all other State and local air pollution control agencies having jurisdiction in the region in which the source is currently located or is proposed to be located.
- (5) The DEQ shall make available for public inspection the DEQ's analysis of the effect of construction or modification on ambient air quality, including the DEQ's proposed issuance or denial, and, upon request, the information submitted by the permit applicant.
- (6) The DEQ may hold a public hearing on any application for a permit to construct or State Permit to Operate if it determines that there is sufficient interest in the application.
- (7) A permit issued pursuant to these procedures is considered federally enforceable.

~~The public information will include the DEQ's analysis of the effect of construction or modification on ambient air quality, including the DEQ's recommendation for permit issuance or denial and shall include, as a minimum, the following:~~

- ~~(1) availability for public inspection in at least one location in the area affected of the information submitted by the owner or operator and of DEQ's analysis of the effect on air quality;~~
- ~~(2) a 30 day period for submittal of public comment; and~~
- ~~(3) a notice, by prominent advertisement in the area affected, of the location of the source information and analysis.~~

~~A copy of the notice will be sent to the Administrator of EPA through Region IV, and to all other State and local air pollution control agencies having jurisdiction in the region in which such new or modified installation will be located. A permit to construct issued pursuant to this paragraph is federally enforceable.~~

~~D. For any application for a new State Permit to Operate a synthetic minor source, and any application for renewal of a State Permit to Operate a synthetic minor source, the DEQ will provide opportunity for public comment on information submitted by the owner or operator. The public information will include the application submitted, the DEQ's recommendation for permit issuance or denial (including the draft permit) and shall include, as a minimum, the following:~~

~~(1) — availability for public inspection in at least one location in the area affected of the information submitted by the owner or operator and of DEQ's recommendation and the draft permit;~~

~~— a 30-day period for submittal of public comment; and~~

~~(2) — a notice, by prominent advertisement in the area affected, of the location of the source information.~~

~~A copy of the notice will be sent to the Administrator of EPA through Region IV, and to all other State and local air pollution control agencies having jurisdiction in the region in which the source is or will be located. A State Permit to Operate issued to a synthetic minor source is federally enforceable.~~

~~E. — For any request for coverage under a general permit to construct a moderate source or moderate modification, the public information procedures described in C. above will be followed except that the public information will also include the request for coverage. A general permit to construct which covers a moderate source or moderate modification is federally enforceable.~~

~~F. — For any request for coverage under a general permit to operate a synthetic minor source, the public information procedures described in D. above will be followed except that the public information will also include the request for coverage. A general permit to operate which covers a synthetic minor source is federally enforceable.~~

~~G. — For a multi-media permit incorporating a permit to construct a new moderate stationary source, a moderate modification, or a new major stationary source impacting a nonattainment area as defined in Rule 2.5.E, the DEQ will follow public information procedures described in C. above. The incorporated permit to construct in such a permit is federally enforceable.~~

~~H. — For a multi-media permit incorporating a State Permit to Operate a synthetic minor source, the DEQ shall follow public information procedures described in D. above. The incorporated State Permit to Operate in such a permit is federally enforceable.~~

~~I. — For a multi-media general permit incorporating a general permit to construct a moderate source or moderate modification, the DEQ shall follow public information procedures described in C. and E. above. The incorporated general permit to construct in such a permit is federally enforceable.~~

~~J. — For a multi-media general permit incorporating a general permit to operate a synthetic minor source, the DEQ shall follow public information procedures described in D. and F. above. The incorporated general permit to operate in such a permit is federally enforceable.~~

~~K. — For any application for a PAL permit at an existing major stationary source in accordance with Rule 2.15.B. of these regulations, the DEQ shall follow public information procedures~~

~~described in 40 CFR 52.21(aa)(5) except that the term “Administrator” as it appears shall mean the Permit Board.~~

~~LD.~~ In addition to A. through ~~FC.~~ above, the Permit Board may provide notice to the public and provide opportunity for public comment on any application for a ~~construction~~ permit to construct or State ~~Operating~~ Permit to Operate.

~~M.~~ ~~In addition to public hearings on PSD permits, as provided for in Commission Regulation Miss. Admin. Code, Title 11, Part 2, Chapter 5, Regulations for the Prevention of Significant Deterioration of Air Quality, the Permit Board may hold a public hearing on any application for a construction permit or State Operating Permit if it determines that there is sufficient interest in the application.~~

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-2-1, et seq. and 49-17-1, et seq..

### **Rule 2.5 Application Review.**

A. Standards for Approving an Application for a Permit to Construct.

- (1) The stationary source shall be designed and constructed so as to operate without causing a violation of any Applicable Rules and Regulations.
- (2) The stationary source shall be designed and constructed so as to operate without interfering with the attainment and maintenance of State and National Ambient Air Quality Standards.
- (3) The stationary source shall be designed and constructed so as to operate such that the emission of air toxics does not result in an ambient concentration sufficient to adversely affect human health and well-being or unreasonably and adversely affect plant or animal life beyond the stationary source boundaries.
  - (a) The Permit Board may require the applicant to provide data necessary to evaluate the impacts of air toxics, including the predicted emission rates and ambient concentrations, when it deems necessary, considering factors that follow:
    - (1) the types of air toxics involved;
    - (2) the quantity of emissions involved;
    - (3) the physical characteristics of the stationary source (such as the location, size, etc.);
    - (4) the anticipated human health effects;

- (5) the weight of scientific data supporting the health effects associated with the air toxics;
  - (6) the level of air pollution control equipment employed; and
  - (7) such other factors as the Permit Board deems appropriate.
- (b) When an air toxics evaluation is required by the Permit Board, the evaluation shall consider:
- (1) an analysis of the chronic human health risks associated with the air toxics including the lifetime excess cancer risks to the most exposed individual from air toxics which are known, probable, or possible human carcinogens calculated or determined using appropriate pathways of exposure;
  - (2) an analysis of the acute human health effects associated with the air toxics utilizing the most current health-effects data published by EPA and/or recognized public health institutions or, in its absence, other extrapolative acute health-effects data; and
  - (3) where applicable, an analysis of the impacts and effects of the air toxics on plant and/or animal life beyond the boundaries of the applicant's property.
- (c) The carcinogenic risk analysis shall be considered to have satisfied applicable requirements of this regulation and [Title 11, Part 2, Chapter 111 Miss. Admin. Code Pt. 2, Ch. 1](#) when the lifetime excess cancer risk to the most exposed individual outside the property boundary is determined to be less than  $1 \times 10^{-6}$ . When the excess cancer risk is determined to be greater than  $1 \times 10^{-6}$  but less than  $1 \times 10^{-4}$ , the Permit Board may either:
- (1) require the applicant to demonstrate that, notwithstanding the calculated risks, public health is not threatened by the proposed emissions of air toxics; or
  - (2) establish permit conditions to limit or prohibit the emissions of air toxics.

When this excess cancer risk is calculated or determined to be greater than  $1 \times 10^{-4}$ , the applicant must demonstrate that, notwithstanding the calculated risks, public health is not threatened by the proposed emissions of air toxics.

- (4) The construction of the stationary source shall be performed in such a manner so as to reduce fugitive dust emission from construction activities to a minimum.

B. Air Quality Models.

- (1) All estimates of ambient concentrations of air pollutants shall be based on the applicable air quality models, data-bases, and other requirements specified in the version of the “Guideline on Air Quality Models, ~~(Revised)~~” 40 CFR Part 51, Appendix W, approved in 11 Miss. Admin. Code Pt. 2, Ch. 5, which are incorporated herein and adopted by reference.
- (2) Where an air quality impact model specified in the “Guideline on Air Quality Models, ~~(Revised)~~” 40 CFR, Part 51, Appendix W, is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis. Written approval of the DEQ and the Administrator of EPA must be obtained for any modification or substitution. In addition, use of a modified or substituted model shall be subject to public notice and opportunity for public comment.

C. Cancellation of Permit to Construct a New Stationary Source and Notification.

- (1) The permit to construct will expire if construction does not begin within ~~eighteen (18)~~ months from the date of issuance or if construction is suspended for ~~eighteen (18)~~ months or more.
- (2) The permittee must notify DEQ in writing when construction begins within ~~fifteen (15)~~ days of beginning actual construction.
- (3) The permittee must notify DEQ in writing when construction does not begin within ~~eighteen (18)~~ months of issuance or if construction is suspended for ~~eighteen (18)~~ months or more.
- (4) The Permit Board may extend the permit to construct for such additional time it deems appropriate if, at the time of the extension request, the applicant can demonstrate it meets all requirements necessary to issue a new permit to construct.

D. Certification of Construction, Beginning Operation, and Application for Permit to Operate.

- (1) Upon the completion of construction or installation of an approved stationary source or modification, the applicant shall notify the Permit Board that construction or installation was performed in accordance with the approved plans and specifications on file with the Permit Board.
- (2) The Permit Board shall be promptly notified in writing of any change in construction from the previously approved plans and specifications or permit. If the Permit Board determines the changes are substantial, it may require the submission of a new application to construct with “as built” plans and specifications. Notwithstanding any provision herein to the contrary, the acceptance of an “as



built” application shall not constitute a waiver of the right to seek compliance penalties pursuant to State Law.

- (3) A new stationary source issued a pPermit to cConstruct cannot begin operation until certification of construction by the permittee.
- (4) ~~Except as prohibited by (7) below, a~~After certification of construction by the permittee, the pPermit to cConstruct shall be deemed to satisfy the requirement for a permit to operate until the date the application for issuance or modification of the Title V Ppermit or the application for issuance or modification of the State Permit to Operate, whichever is applicable, is due. This provision is not applicable to a source excluded from the requirement for a permit to operate as provided by Rule 2.13.G.
- (5) ~~Except as otherwise required in (7) below, t~~The application for issuance or modification of the State Permit to Operate or the application for issuance or modification of the Title V Ppermit, whichever is applicable, is due; ~~twelve (12)~~ months after beginning operation or such earlier date or time as specified in the pPermit to cConstruct. The Permit Board may specify an earlier date or time for submittal of the application. Beginning operation will be assumed to occur upon certification of construction, unless the permittee specifies differently in writing.
- ~~(6) Except as otherwise required in (7) below, u~~Upon submittal of a timely and complete application for issuance or modification of a State Permit to Operate; or application for issuance or modification of a Title V Ppermit, whichever is applicable, the applicant may continue to operate under the terms and conditions of the pPermit to cConstruct and in compliance with the submitted application until the Permit Board issues, modifies, or denies the Permit to Operate.
- ~~(7)~~
- ~~(8)(6) For moderate modifications that require contemporaneous enforceable emissions reductions from more than one emission point in order to "net" out of PSD/NSR, the applicable Title V Permit to Operate or State Permit to Operate must be modified prior to beginning operation of the modified facilities.~~

E. Additional Requirements for a ~~Construction Permit~~permit to construct or a State Operating Permit for a New Major Stationary Source or Major Modification Significantly Impacting an Area in which a National Ambient Air Quality Standard is being exceeded or will be exceeded.

- (1) The Offset Policy is the Emission Offset Interpretive Ruling adopted by EPA in (or to be printed in) 40 ~~C.F.R.~~ Part 51, Appendix S, and any subsequent amendments thereto as of April 25, 1988. A copy of such ruling is attached hereto and is incorporated herein and adopted by reference as Regulations of the Commission except as follows:



- (a) Notwithstanding Appendix S, the requirements for Offsets and Lowest Achievable Emission Rate will apply to all major stationary sources and major modifications which have a significant impact on nonattainment of the applicable ambient air quality standard.
- (b) The source types specified in Section IV.B. of Appendix S of 40 CFR Part 51 will not be ~~excepted-excluded~~ from any conditions of the Offset Policy or any of the requirements contained herein.
- (c) All terms in Rule 2.5.E. shall have the same definitions as those contained in the Offset Policy including the term “major stationary source” which is defined differently for purposes of this paragraph than throughout the remainder of ~~Commission Regulations Miss. Adm. Code, Title 11, Part 2, Chapter 211~~ Miss. Admin. Code Pt. 2, Ch. 2.

(2) Definitions

- (a) “Nonattainment area.” A geographical area of the state in which a violation of a National Ambient Air Quality Standard is occurring and which has been designated by the Commission or EPA as nonattainment with respect to that standard.
- (b) “Nonattainment Area Implementation Plan.” A revision to the Commission's Implementation Plan for the Control of Air Pollution, such revision having been adopted by the Commission and approved by the U.S. Environmental Protection Agency pursuant to the Federal Act, for the purpose of attainment and maintenance of the applicable National Ambient Air Quality Standard in a nonattainment area.
- (c) “Reasonable Further Progress Schedule.” An incremental reduction in total emissions of the applicable air pollutant allowed in order to provide for the attainment of the applicable National Ambient Air Quality Standard by the applicable statutory deadlines.
- (d) “Significance Levels.” Concentrations of pollutants against which air quality contributions of a stationary source are compared to determine whether the stationary source significantly impacts air quality in an area. The levels are as follows:

SO<sub>2</sub> 1.0 µg/m<sup>3</sup>, annual average; 5 µg/m<sup>3</sup>, 24-hour average; 25 µg/m<sup>3</sup>, 3-hour average

PM<sub>10</sub> 1.0 µg/m<sup>3</sup>, annual average; 5 µg/m<sup>3</sup>, 24-hour average

NO<sub>2</sub> 1.0 µg/m<sup>3</sup>, annual average

CO 0.5 mg/m<sup>3</sup>, 8-hour average; 2.0 mg/m<sup>3</sup>, 1-hour average

- (e) “Significant impact.” Air quality impact which exceeds the significance level.
- (3) A new stationary source which is a major stationary source or major modification for the pollutant which contributes to violations of the National Ambient Air Quality Standard for which the area is nonattainment and which locates in or significantly impacts a nonattainment area must also meet the following requirements before a ~~construction permit~~permit to construct or a State Operating Permit is issued:
- (a) The stationary source must meet the lowest achievable emission rate for the applicable air pollutant.
  - (b) When the applicable Nonattainment Area Implementation Plan contains a Reasonable Further Progress Schedule, the Permit Board must determine that, by the time the stationary source is to commence operation, total combined allowable emissions of the applicable air pollutant from existing sources in the area, the proposed new stationary source, and all other new facilities in the area shall be no greater than the total allowable emissions for the nonattainment area which represents reasonable further progress for attaining the standard as defined in the applicable Nonattainment Area Implementation Plan Reasonable Further Progress Schedule.
  - (c) The owner or operator of the proposed new stationary source must demonstrate that all major stationary sources which are owned or operated by such person (or by any entity controlled by, or under common control with such person) in the state are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations contained in any Applicable Rules and Regulations.
  - (d) Exceptions will be made to the inclusion of fugitive emissions in the determination of whether a new stationary source is a major stationary source or major modification to the extent that those exceptions are made in the Offset Policy.
  - (e) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in an enforceable limitation on the capacity of the source or modification otherwise to emit a pollutant, the requirements of these Regulations shall apply to the source or modification as though construction had not yet commenced.
  - (f) When the Reasonable Further Progress Schedule in an applicable Nonattainment Area Implementation Plan is determined to have become

inapplicable due to consumption of all available growth allowance under such Schedule, the stationary source must meet the conditions of Rule 2.5.E(4) below.

- (4) A new major stationary source which proposes to locate in or near an area where an air quality standard is being or will be exceeded but for which no nonattainment area implementation plan has been adopted shall be subject to the following:
  - (a) The stationary source shall be subject to the Offset Policy if:
    - (1) ~~The~~ stationary source is a major stationary source or major modification for the pollutant for which the standard is or will be exceeded; and
    - (2) ~~The~~ stationary source is within or has significant impact in the area where the standard is or will be exceeded.
  - (b) In addition to the requirements of the Offset Policy, the stationary source shall not be granted a ~~construction permit~~ **permit to construct** or a State Operating Permit unless the owner or operator demonstrates that:
    - (1) emissions reductions to offset the new stationary source emissions will compensate for the adverse ambient impact caused by the new stationary source; and
    - (2) the emissions reductions have been achieved.
- (5) The granting of a Permit shall not relieve the source of the responsibility to comply with other applicable requirements of this Regulation or with any other applicable Regulation or Law.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-2-1, et seq. and 49-17-1, et seq. (Rev. 2003).

#### ***Rule 2.6 Compliance Testing.***

- A. Where compliance testing is required in any permit, it shall be performed as provided herein. The Permit Board may require in any permit the installation of sampling ports with safe access and the installation, maintenance and use of monitoring equipment.
- B. Requirements.
  - (1) The emissions sampling and analysis will be performed in accordance with EPA Test Methods and with any continuous emission monitoring requirements, if applicable, unless otherwise approved by the Permit Board and the EPA. The Permit Board may establish an appropriate method for deviation from a test method.

- (2) In the event there is no applicable EPA Test Method or method required by Applicable Rules and Regulations, the Permit Board may specify an appropriate test method, taking into consideration any test methodology proposed by the applicant.
- (3) The results of the emissions sampling and analysis shall be expressed both in units consistent with the emission standards as set forth in any Applicable Rules and Regulations and in units of mass per time.
- (4) Compliance testing will be performed at the expense of the applicant.
- (5) The Permit Board may monitor compliance tests and perform compliance tests. Proper notification of compliance tests shall be provided to the Permit Board in accordance with Applicable Rules and Regulations or as specified in the applicable permit.
- (6) The emissions sampling and analysis report shall include but not be limited to the following:
  - (a) a detailed description of testing procedures;
  - (b) sample calculations;
  - (c) results; and
  - (d) a comparison of results to all Applicable Rules and Regulations and to emission limitations in the permit.
- (7) Unless otherwise specified in Applicable Rules and Regulations or by a condition of a permit issued by the Permit Board, compliance testing must be performed when the stationary source is operating at capacity and is otherwise operating normally. In the event that a demonstration of compliance by testing is performed at less than capacity, the Permit Board may modify the permit to limit capacity of the stationary source to the rate at which compliance was demonstrated if the Permit Board determines the rate was not representative of the normal operation of the stationary source or compliance with Applicable Rules and Regulations was not demonstrated. In the event that the stationary source is not operating or being operated normally during a demonstration of compliance by testing, the results of such testing will not be accepted by the Permit Board as representative of normal operation and will be considered inadequate.

C. Compliance testing will be required of all facilities for which there is an applicable New Source Performance Standard or National Emission Standard for Hazardous Air Pollutants in accordance with the methods and time frames allowed by the applicable standard codified at 40 CFR Parts 60, 61, and 63 and the Federal Act.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 2.7 Emissions Evaluation Report.** Where emissions evaluation reporting is required in any permit, acceptable mathematical methods to demonstrate control adequacy shall include but not be limited to the following:

A. ~~Aa~~ an emission inventory including:

- (1) location and description of control equipment at each point source;
- (2) determination of all possible pollutants at each point source (characteristics, conditions, particle size distribution, etc.);
- (3) listing of all stack parameters at each point of emission; and
- (4) detailed description of input material (e.g., percent sulfur content, percent moisture, average BTU heating value, input rate, etc.); and

B. ~~Aa~~ detailed engineering report including:

- (1) sufficient calculations to demonstrate uncontrolled emissions;
- (2) sufficient calculations to support or show design efficiency of control equipment;
- (3) sufficient calculations to demonstrate controlled emissions; and
- (4) comparison of calculated controlled emissions with the applicable emission standards as set forth in ~~Commission Regulation Miss. Admin. Code, Title 11, Part 2, Chapter 111~~ Miss. Admin. Code Pt. 2, Ch. 1.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 2.8 Procedures For Renewal Of State Permit To Operate.**

A. A State Permit to Operate shall expire five (5) years from the effective date of said permit or within any shorter period of time deemed appropriate by the Permit Board and stated in the State Permit to Operate when issued.

B. Not less than one hundred and eighty (180) days prior to the expiration date of the State Permit to Operate, the applicant shall make application for renewal of a State Permit to Operate if the applicant desires to continue operation of that stationary source. If the applicant submits a timely and complete application pursuant to this paragraph and the Permit Board, through no fault of the applicant, fails to act on the application on or before

the expiration date of the existing permit, the applicant shall continue to operate the stationary source under the terms and conditions of the expired permit which shall remain in effect until final action on the application is taken by the Permit Board.

- C. The application for renewal of a State Permit to Operate shall be substantiated with current emissions data, test results or reports, or other data as deemed necessary.
- D. Renewal of the State Permit to Operate shall comply with the public participation procedures of Rule 2.4.C., as applicable.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 2.9 Reporting & Recordkeeping.** The Permit Board may require in any permit the maintenance of records relating to the operation of air contamination sources, and any authorized representatives of the Commission may examine and copy any such records pertaining to the operation of such air contaminant source. Copies of such records shall be submitted to the Permit Board as required by Applicable Rules ~~&~~and Regulations or the permit or upon request.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 2.10 Emission Reduction Schedule.**

- A. In accordance with ~~Commission Regulation 11~~ Miss. Admin. Code Pt. 2, Ch. 3, ~~Title 11, Part 2, Chapter 3~~, it is the responsibility of each and every stationary source with actual emissions in excess of 0.25 tons per day of total air contaminants, and other significant sources, to have a Commission-approved emissions reduction schedule which shall set forth preplanned abatement strategies in the event of an emergency episode.
- B. Required Information.
  - (1) The emissions reduction schedule must have three ~~(3)~~ stages of reduction procedures: (1) alert level reduction; (2) warning level reduction; and (3) emergency level reduction.
  - (2) Each level of reduction procedures must show the type and source of air contaminants, the amount of reduction of contaminants, the time required to reduce contaminants, and the manner in which reduction will be achieved.
- C. The emissions reduction schedule shall be subject to review and approval by the Commission.
- D. An unacceptable emissions reduction schedule shall be returned to the applicant along with the Commission's reasons for denial.

- E. The applicant shall have not more than ~~thirty (30)~~ days to amend a disapproved emissions reduction schedule to conform with the emission reduction standards as set forth by the Commission.
- F. Any person aggrieved by the requirements to amend an emissions reduction schedule shall be entitled to a hearing.
- G. Should an applicant fail to submit an emissions reduction schedule within the allowable time period or fail to submit an amended preplanned strategy, the Commission will establish or revise said plan to cause it to meet the standards as set forth by the Commission.
- H. Such established or revised preplanned strategies will thereafter be the preplanned strategies which the applicant will put into effect upon the issuance of an appropriate order by the Commission.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 2.11 General Permits.** The Permit Board may issue general permits to construct and operate, as described below, ~~to~~ classes of articles, machines, equipment, or other contrivances. Issuance of a general permit shall comply with the public participation procedures of Rule 2.4.C., as applicable. Issuance of a general permit allowing operation of a Title V source must comply with the requirements of 11 Miss. Admin. Code Pt. 2, R. 6.3.D. A general permit shall be issued for a period of time not to exceed five years. The Permit Board shall establish the schedule for submittal of the notice of intent (NOI) and the information that shall be required in the NOI. The Permit Board may choose, for certain types of operations, to confer automatic coverage under a general permit without requiring the submittal of an application or other request. General permits ~~to construct~~ allowing construction of moderate stationary sources, ~~general permits to construct or moderate modifications, and general permits to allowing operation of a synthetic minor sources,~~ or ~~general major~~ Title V sources ~~Permits~~ must require submittal of a NOI. For any request for coverage of a moderate stationary source, moderate modification, and/or synthetic minor source under a general permit ~~to construct a moderate source or moderate modification or for a general permit to operate a synthetic minor source,~~ the DEQ will follow the public information participation procedures required by Rule 2.4.~~C.E or Rule 2.4.F~~ of these regulations ~~shall be followed.~~

- A. The applicant shall apply for coverage under an issued general permit in accordance with the schedule and requirements established in that general permit.
- B. If the proposed determination is to grant coverage under an issued general permit, the Permit Board's designee shall issue a certificate of coverage to the applicant
- C. Any stationary source covered or eligible to be covered under a general permit may be required to obtain an individual permit at the discretion of the Permit Board. Any interested person may petition the Permit Board to take action under this paragraph.

- D. The Permit Board may revoke and/or modify a general permit or coverage under a general permit.
- E. Any stationary source covered by a general permit may request to be excluded from such coverage by applying for an individual permit. Coverage under the general permit is automatically terminated upon issuance of an individual permit.
- F. Any stationary source excluded from coverage under a general permit solely because it is already covered under an individual permit may request that the individual permit be revoked and that it be covered by the general permit. Upon revocation of the individual permit by the Permit Board, coverage under the general permit may be granted to the stationary source if approved by the Permit Board.
- G. A general permit shall remain in force until it is either reissued, modified, or revoked by the Permit Board. All coverages under the general permit continue until the general permit is reissued or as defined in the reissued general permit. A stationary source may apply for coverage under any general permit that is currently in force.
- H. The granting of coverage under a general permit does not imply or express exclusion from the requirements of any emission-limiting regulation.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-2-1, et seq. and 49-17-1, et seq.

***Rule 2.12 Multi-Media Permits.***

- A. The Permit Board may issue a multi-media permit incorporating a permit to construct air emissions equipment and/or a State Permit to Operate such equipment. Issuance of a multi-media permit shall comply with the public participation procedures of Rule 2.4.C., as applicable.
- B. For purpose of these regulations, a multi-media permit incorporating a permit to construct shall be the same as a permit to construct. The procedures for applying for such a multi-media permit and the standards applicable to such a permit follow those for a permit to construct. These procedures and standards are found in Rules 2.1 ~~, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, and through~~ 2.10.
- C. For purpose of these regulations, a multi-media permit incorporating a State Permit to Operate shall be the same as a State Permit to Operate. The procedures for applying for such a multi-media permit and the standards applicable to such a permit follow those for a State Permit to Operate. These procedures and standards are found in Rule 2.1 through 2.4 and 2.6.
- D. For purpose or these regulations, a multi-media general permit incorporating a permit to construct and/or a State Permit to Operate combined with certificate of coverage shall be the same as a permit to construct and/or a State Permit to Operate. The procedures for



applying for coverage follow those for a general permit to construct and operate. These procedures are found in Rules 2.5 and 2.11 of these regulations.

- E. Any stationary source ~~or~~ facility obtaining a multi-media permit under these provisions is subject to the permitting requirements found in Rule 2.1.C of these regulations.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-2-1, *et seq.* and 49-17-1, *et seq.*

**Rule 2.13 Exclusions.**

- A. New Source Permit to Construct. Any new “Greenfield” stationary source must obtain a permit to construct except as excluded in D. or E.
- B. Compliance with Other Applicable Requirements. Exclusions from permit requirements does not exclude anyone from complying with all other applicable requirements and regulations.
- C. Maintenance of Emissions ~~Increase~~ Records. Stationary sources excluded from the requirement for a permit to construct and/or State Permit to Operate must maintain records of any emissions ~~increases~~ associated with any excluded activities and report that to DEQ upon request. Indirect measurements of emissions ~~increases~~ are allowable for these recordkeeping requirements.
- D. Categorical Exclusions from Both Permit to Construct and Operate. The following are excluded from the requirement for a permit to construct ~~or~~ and a permit to operate:
  - (1) Residential heating, cooking, or cleaning devices.
  - (2) Residential yard and garden equipment.
  - (3) Mobile sources.
  - (4) Air conditioning, space heating, or ventilating systems not uniquely designed or operated in a manner to remove air contaminants generated by or released from equipment.
  - (5) Stationary sources, other than incinerators or CAFOs, which ~~neither emit nor~~ have potential uncontrolled emissions ~~of~~ less than 10 tons per year (TPY) or more of either PM<sub>10</sub>, SO<sub>2</sub>, NO<sub>x</sub>, CO or VOC, as determined for each pollutant; less than nor 1.0 TPY of a each hazardous air pollutant (HAP); nor and less than 2.5 TPY of all HAPs combined.
  - (6) Feed milling facilities which mill, formulate, or otherwise prepare animal feed products for direct local retail sale solely in prepackaged form and are not associated with a grain elevator. Milling facilities engaged in preparing feed

products for wholesale distribution and/or bulk sale are not included in this exclusion.

- (7) Sawmills/woodworking plants which do not have drying kilns onsite and process less than 25,000 board feet/day.
- (8) Any equipment used exclusively for preparation of food for direct retail sale at a restaurant, cafeteria, bakery, or food service.
- (9) Auto body shops with only one (1) paint spray booth and with substantial portions of business devoted to repainting entire vehicles or collision repairs.
- (10) Surface sand and/or gravel mining operations which do not utilize rock crushers, pneumatic conveyors, or dust collectors.
- (11) Recreational heaters.
- (12) Gasoline service stations with no more than 17 refueling positions.
- (13) Retail propane filling operations.
- (14) Outdoor kerosene heaters.
- (15) Refrigeration systems.

E. Emission-Based Exclusion from Permit to Construct. The following emissions units are excluded from the requirement for a permit to construct provided the unit is not a new major stationary source, major source of hazardous air pollutants, new moderate stationary source, major modification, or moderate modification nor a part of a new major stationary source, major source of hazardous air pollutants, new moderate stationary source, major modification, or moderate modification.

- (1) Coal or residual oil-fired combustion devices or groups of devices with a total rated input capacity of less than 2,000,000 BTU/hr, clean wood waste boilers or groups of boilers with a total rated input capacity of less than 10,000,000 BTU/hr, distillate oil or combination distillate and gas-fired units or groups of units with a total rated input capacity less than 10,000,000 BTU/hr and natural gas fired and/or LPG fired devices or groups of devices with all individual rated input capacities of less than 10,000,000 BTU/hr and a total rated input capacity less than 25,000,000 BTU/hr.
- (2) Equipment used exclusively for oil and gas field production, gathering, storing, and transmission, including, but not limited to: gas/oil separators, emulsion treaters, free water knockouts, compressors or group of compressors with a total rated capacity less than 500 brake horsepower, segregation basins, API oil/water separators, tank facilities, and crude oil loading equipment used solely for crude oil

collected from production wells onsite. Continuous flaring of sour gas and/or combustion devices firing sour gas are not excluded from permitting.

- (3) Emergency safety relief systems, including pilot lights.
- (4) Sand blasting operations which use no more than 83 tons of sand in any given 365-day period.
- (5) Wood, plastic, and/or metal machining operations which are totally enclosed within a building, and which have no direct exhausts to the ambient air other than common building ventilation points.
- (6) Petroleum products storage facilities with no individual storage tank greater than 19,800 gallons and total storage capacity less than 55,000 gallons.
- (7) A compressor or groups of compressors firing either natural gas, gasoline, LPG and/or diesel fuel with a total rated capacity less than or equal to 500 brake horsepower.
- (8) Surface coating operations which utilize less than 50 pounds per day of all solvents and coatings.
- (9) Fire training exercises and equipment.
- (10) Groundwater recovery/treatment facilities used for the remediation of motor fuel contamination addressed under the Underground Storage Tank Program when the facilities are located on the site of the contamination.
- (11) Temporary storage/aeration of soils contaminated with motor fuel which are produced as a result of a remedial response to a release from an underground storage tank when the storage/operation is on the site of the tank.
- (12) CERCLA/Superfund remediation or removal projects on the site of the contamination.
- (13) Remediation of sites contaminated with hazardous constituents required under State authority on the site of the contamination.
- (14) Portable TSCA treatment facilities permitted by EPA.
- (15) Wastewater collection and treatment facilities, other than CAFOs or those listed in 40 CFR 61, Subpart FF - National Emission Standard for Benzene Waste Operations and in 40 CFR 60, Subpart QQQ, - Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems, which have the potential to emit no more than 5 ~~tons/year~~ TPY of Volatile Organic Compounds (VOC).

- (16) Surface coal mining operations for which a permit has been issued by the Permit Board pursuant to Miss. Code Ann. §53-9-1, et seq. or by the Federal Office of Surface Mining pursuant to the Federal Surface Mining Control and Reclamation Act, 30 U.S.C. §1201, et seq. However, any rock crushers, pneumatic conveyors, and dust collectors at such operations may require permitting if they meet the definition of “stationary source.”
- (17) Auto body shops.
- (18) Dedicated fuel stations with total storage capacity less than 55,000 gallons and no individual tank greater than 19,800 gallons.
- (19) Subject to Rule 2.14, any existing or new animal feeding operation that is not a concentrated animal feeding operation (CAFO) and that does not incinerate animal carcasses or waste. For the purpose of this paragraph, “animal feeding operation” means any facility where animals have been, are, or will be stabled or confined, or allowed to roam or graze within a fenced or otherwise restricted area. This definition includes, but is not limited to, aquatic animal production facilities, kennels, swine growing operations, veal farms, chicken growing operations, cattle growing operations, and dairies.
- (20) Initial field testing of oil and gas wells, after proper notification to the Commission provided such tests will not produce 100 tons per year or more of any pollutant.

F. De minimis NSR Modification Exclusion from Permit to Construct. A de minimis NSR modification is excluded from the requirements for a permit to construct. This does not eliminate any requirement for modification of the related Title V permits or State pPermits to Ooperate for-to address a de minimis NSR modifications. Any other-A modifications other than a de minimis NSR modification including modifications involving netting are-is subject to the requirements for a permits to construct.

G. Exclusion from Permit to Operate. Major Title V sources, other sources required to obtain a Title V Permit to-Operate permit, synthetic minor sources, and significant minor sources are subject to the requirements for a permit to operate. Any other source is excluded from the requirement to obtain a permit to operate. Exclusion from the requirement to obtain a permit to operate requirement does not imply exclusion from any other requirements of these regulations, including the requirement to obtain a permit to construct requirements before beginning actual construction and the certification of construction requirements before beginning operations specified in R. 2.5.D.

H. General Permit May Superseede Exclusions. The Permit Board may issue a general permit which shall superesede the exclusions listed in D., E., F., and G. above.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 2.14 CAFOs.** Concentrated animal feeding operations (CAFOs) are not excluded from the requirements for a permit or any other provisions of these regulations. CAFOs issued a National Pollutant Discharge Elimination System permit or a state water pollution control permit prior to January 18, 2000, are required to submit an application for a permit to construct and/or operate or a multimedia permit in compliance with the provisions of these regulations at least 180 days prior to the expiration of the facility's NPDES permit or state water pollution control permit that was issued prior to the effective date of these regulations. Multimedia permits may be issued by the Permit Board as new permits or as a modification of an existing National Pollutant Discharge Elimination System or state water pollution control permit but all provisions and procedures of these regulations are applicable. The Permit Board on its own initiative or at the request of DEQ, may require any existing or new animal feeding operation or concentrated animal feeding operation to obtain a multimedia permit, including provisions regarding air emissions and/or odor control.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 2.15 Options.**

- A. Plantwide Applicability Limitation (PAL). In accordance with 40 CFR 52.21(aa), any major stationary source may establish a plantwide applicability limitation based on baseline actual emissions (actuals PAL) for use in future NSR actions. The actuals PAL can be established in a PSD Permit to Construct, a Title V ~~P~~permit, or a ~~State~~ Permit to Operate a ~~s~~Synthetic ~~m~~Minor ~~s~~Source. The applicable permit to construct or permit to operate shall be referred to as a PAL permit and, in addition to the normal applicable procedures and requirements for the permit action, shall meet all the requirements for a PAL permit. ~~The~~ ~~and~~ issuance shall follow all procedures for a PAL permit as specified in 40 CFR 52.21(aa), except that the term “Administrator” as it appears in 40 CFR 52.21(aa) shall mean the Permit Board ~~and the phrase “§§ 51.160 and 51.161 of this chapter” as it appears in 40 CFR 52.21(aa)(5) shall mean 11 Miss. Admin. Code. Pt. 2, R. 2.4.~~
- B. Optional Pre-Permit Construction. Pre-permit construction approval is available for new moderate stationary sources, new minor stationary sources, minor modifications, and moderate modifications except those sources and modifications excluded from this provision in ~~paragraph (9)~~, below. The applicant may request ~~approval from~~ the Permit Board ~~for approval to commence~~ ~~begin actual~~ construction or modification of qualifying sources before receiving the required permit to construct. To obtain the Permit Board’s pre-~~permit~~ construction approval, the applicant shall satisfy the following requirements:
- (1) The applicant shall apply for a permit to construct or ~~O~~optional ~~Title V~~Operating ~~p~~Permit ~~M~~modification in accordance with ~~CD. b~~Below.
  - (2) The applicant shall submit a pre-permit construction approval application which must contain, but not be limited to the following:

- (a) ~~(a)~~ a letter requesting approval to begin actual construction before obtaining the required permit to construct,
- (b) ~~\_\_\_~~ a copy of the notice referenced in paragraph (4) below,
- (c) ~~\_\_\_~~ proof of eligibility demonstration that the applicant is not precluded from this provision per paragraph (9) below,
- (d) ~~\_\_\_~~ process description(s),
- (e) ~~\_\_\_~~ equipment list(s),
- (f) proposed emission limits,
- (g) proof that buffer zone requirements in Rule 2.2.B(14). are met,
- (h) certification that construction is at the applicant's own risk, and
- (i) certification that the applicant shall not contest the final decision to issue or deny the permit to construct, or Title V permit modification, or State Operating Permit modification, as applicable, decision based on the fact that construction has already begun.

~~(2)~~(3) An applicant seeking enforceable limitations on a source's potential to emit, such as to qualify as a moderate stationary source or a moderate modification, must describe in detail in the pre-permit construction application the proposed ~~restrictions~~ limitations and certify that the applicant will comply with the ~~restrictions~~ limitations, including any applicable monitoring and reporting requirements required by the permit.

~~(3)~~(4) The applicant shall provide notice to the ~~public-DEQ~~ of the application for pre-permit construction approval ~~by notice published in a newspaper of general circulation in the county(ies) in which the stationary source is or will be located.~~ The notice shall be in the format provided by DEQ and shall include the following:

- (a) a general description of the proposed source or modification,
- (b) a statement that pre-permit construction approval is being requested from the Permit Board,
- (c) the location and address where additional information about the proposed source or modification and application may be obtained,
- (d) a statement that comments may be made to DEQ, and
- (e) DEQ's address where comments may be submitted.;

~~and~~ ~~The DEQ~~ shall provide at least ten (10) days for the public to comment to the Permit Board by posting the notice on the DEQ's website for the duration of the comment period. ~~Notarized proof of publication of the notice shall be included in the application for pre-permit construction approval.~~

~~(4)~~(5) After determination that all requirements have been met and after sufficient time for receipt of all public comments submitted during the ten-day public notice, the Permit Board may grant pre-permit construction ~~permit~~ approval.

~~(5)~~(6) Upon receipt of the pre-permit construction approval letter issued by the Permit Board, the applicant may begin construction at ~~their~~his own risk. Upon issuance of the pre-permit construction approval letter, any and all potential to emit limitations addressed in the pre-permit construction application shall become enforceable. The applicant cannot operate the new source or emissions units included in the proposed modification until issued the final permit to construct, ~~or~~ Title V permit modification, or State Operating Permit modification, as applicable, and until certification of construction in accordance with Rule 2.5.D., where applicable. This provision applies even if the source is excluded from the requirement to obtain a permit to operate.

~~(6)~~(7) Issuance of the pre-permit construction approval letter shall have no bearing on the issuance or denial of the final permit to construct, ~~or~~ Title V permit modification, or State Operating Permit modification, as applicable. If the final permit ~~to construct is denied and/or the Title V permit modification~~ is denied, the applicant must cease construction and follow the procedures allowed by law and regulation for any appeal. The fact that construction has already begun and that approval was granted for pre-permit construction shall not be a basis for appeal of the Permit Board's decision.

~~(7)~~(8) The Permit Board may deny the pre-permit construction approval application or revoke an existing pre-permit construction approval for any reason it deems valid including objection(s) from the public. Denial/revocation of the pre-permit construction approval application shall have no bearing on the issuance or denial of a final permit ~~to construct or Title V permit modification.~~

~~(8)~~(9) Pre-permit construction approval is not available for new major stationary sources, major modifications, medical waste incinerators or hazardous waste incinerators or any modification involving medical waste incineration or hazardous waste incineration, and new stationary sources or modifications meeting the definition of "constructing or reconstructing" a major source of hazardous air pollutants in ~~Commission "Air Toxics Regulations," 11 Miss., Admin. Code Pt. 2, Ch. 8., Title 11, Part 2, Chapter 8,~~ and 40 CFR Part 63, Subpart B, and thereby requiring a case-by-case Maximum Achievable Control Technology (MACT) determination



- C. Optional ~~Title V~~ Operating Permit Modification. For a modification of a source holding a valid Title V permit or State Operating Permit, a ~~p~~Permit to ~~c~~Construct may be issued as a modification of the Title V permit or State Operating Permit as an alternative to a new ~~p~~Permit to ~~c~~Construct. All requirements for a permit to construct are still applicable and the ~~Title V~~ Operating permit modification must occur prior to beginning actual construction unless pre-permit construction approval is granted in accordance with BC. above. If the applicant has been granted pre-permit construction approval, the ~~Title V~~ Operating permit must be modified before beginning operation.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 2.16 Permit Transfer.**

- A. “Transfer” shall mean any sale, conveyance, or assignment of the rights held by the applicant in any permit issued pursuant to these Regulations which meets the conditions of both ~~(1)~~ and ~~(2)~~ below:
- (1) There is a change of more than 50 percent of the equity ownership of the permit holder over a sustained period which results in a new majority owner. A new majority owner for purposes of this provision shall be an individual, partnership, company, or group of affiliated companies.
  - (2) The change in the ultimate ownership of the permit holder involves the parent, grandparent, or great-grandparent company.
- B. A permit issued pursuant to these Regulations shall not be transferred except upon approval of the Permit Board.
- C. When requested by the Permit Board, an applicant for transfer approval shall submit information to demonstrate that it has the financial resources, operational expertise and environmental compliance history over the last five years to ensure compliance with the terms and conditions of the permit to be transferred except where this conflicts with State Law.
- D. The application for approval of the transfer may be combined with an early application for permit renewal.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 2.17 Severability.** If any provision, section, subsection, sentence, clause or phrase of any of these regulations, or the application of same to any person or set of circumstances is for any reason challenged or held to be invalid or void, the validity of the remaining regulations and/or portions thereof or their application to other persons or sets of circumstances shall not be affected thereby.



Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-2-1, *et seq.*  
and 49-17-1, *et seq.*

**Title 11: Mississippi Department of Environmental Quality**

**Part 2: Air Regulations**

**Part 2, Chapter 5: Mississippi Commission on Environmental Quality, Regulations for the Prevention of Significant Deterioration of Air Quality (Adopted June 28, 1990. Amended April 25, 1991; December 9, 1993; August 22, 1996; July 28, 2005; August 23, 2007; October 28, 2010; April 28, 2011; December 14, 2011; ~~and Last amended~~ April 28, 2016; and Last amended [DATE of Amendment Adoption])**

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**Rule 5.1** The purpose of this regulation is to implement a program for the prevention of significant deterioration of air quality as required by 40 C.F.R. § 51.166. This regulation ~~supersedes~~ and replaces the previous adoption ~~by reference of 40 CFR 52.21 and 40 CFR 51.166 of Title 11, Part 2, Chapter 5, “Regulations for the Prevention of Significant Deterioration of Air Quality.”~~ 40 CFR 52.21 and 51.166 as used in this regulation refer to the federal regulations as amended and promulgated by February 17, 2016, except as provided in Rule 5.2 below. “C.F.R.” refers to the “Code of Federal Regulations”.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 5.2** Other than the subsections ~~and phrases~~ listed below and except for the changes set forth in Rule 5.3 of this regulation, the provisions of 40 C.F.R. § 52.21, as amended and promulgated by ~~February 17, 2016~~ December 27, 2023, are incorporated herein and adopted by reference by the Mississippi Commission on Environmental Quality as official regulations of the State of Mississippi and shall hereafter be enforceable as such. The following subsections ~~and phrases~~ of 40 C.F.R. § 52.21 are excluded from this regulation:

- A. (a)(1) [Plan disapproval],
- B. (q) [Public Participation],

- C. (s) [Environmental Impact Statements],
- D. (u) [Delegation of authority], and
- E. (cc) [Routine maintenance, repair, and replacement]

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 5.3** The term “Administrator” as it appears in 40 C.F.R. § 52.21 shall mean the Mississippi Environmental Quality Permit Board, except that:

- A. In subparagraph (b)(3)(iii) [relating to “net emissions increase”], it shall mean either the Mississippi Environmental Quality Permit Board or the Administrator of the United States Environmental Protection Agency (USEPA).
- B. In the following subsections, it shall continue to mean the Administrator of the USEPA:
  - (1) (b)(17) [definition of “federally enforceable”];
  - (2) paragraph b(37)(i);
  - (3) paragraph b(43);
  - (4) paragraph b(48)(ii)(c);
  - (5) paragraph b(50)(i);
  - (6) paragraph b(51);
  - (7) (g)(1)-(g)(6) [Redesignation];
  - (8) (1)(2) [Air quality models];
  - (9) (p)(2) [concerning Federal Land Manager]; and
  - (10) (t) [Disputed permits or redesignations].

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 5.4** Subsections 40 CFR 51.166(f) “Exclusions from Increment Consumption” (excluding the phrase “The plan may provide that”) and 40 CFR 51.166(q) “Public Participation” (excluding the phrase “The plan shall provide that.”), as amended and promulgated by December 27, 2023, are is incorporated herein and adopted by reference, except for the changes set forth below:

- A. The phrases “the plan provides that” and “it shall also provide that” are excluded from paragraph 40 CFR 51.166(f)(2), and
- B. The term “Administrator” as it appears in 40 C.F.R. § 51.166(f) shall mean the Mississippi Environmental Quality Permit Board, except that the term “Administrator” as it appears in subparagraphs (f)(1)(v) and (f)(4), and (q)(2)(iv) shall continue to mean the Administrator of the USEPA.
- ~~C. The phrase “specified time period” in subparagraph (q)(1) shall mean thirty (30) days,~~
- ~~D. The phrase “reviewing authority” shall mean the Mississippi Department of Environmental Quality, and~~
- ~~E. The words “one year” in subparagraph (q)(2) shall be replaced by the words “one hundred and fifty (150) days.”~~

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 5.5** The Executive Director of the Mississippi Department of Environmental Quality shall transmit to the Administrator of the USEPA a copy of each permit application filed under this regulation and shall notify the Administrator of the USEPA of each significant action the Executive Director takes on the application.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 5.6** This regulation applies to any stationary source or modification to which 40 CFR 52.21 applied as of the date of adoption of this regulation, but for which the Mississippi Environmental Quality Permit Board had not issued a permit pursuant to 40 C.F.R. § 52.21 by that date.

Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-2-1, et seq. and 49-17-1, et seq.

**Rule 5.7 Public Participation**

- A. The Mississippi Department of Environmental Quality (“the Department”) shall notify all applicants within 30 days as to the completeness of the application or any deficiency in the application or information submitted. In the event of such a deficiency, the date of receipt of the application shall be the date on which the Department received all required information.
- B. Within 150 days after receipt of a complete application, the Department shall:
  - (1) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.
  - (2) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials the applicant submitted, a copy of the

preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination. This requirement may be met by making these materials available at a physical location or on the Department's website.

- (3) Notify the public of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, the opportunity to comment at a public hearing, and the opportunity to submit written public comments. The Department will publish the public notice on its website, and the notice will remain available on the website for the duration of the public comment period. The Department shall allow for at least 30 days for public comment. The Department must include the following on the public website for the duration of the public comment period: the public notice, the draft permit, information on how to access the administrative record for the draft permit, and information on how to request or attend a public hearing on the draft permit, if a hearing has already been scheduled. If the Department deems it appropriate, the Department may supplement the website noticing method by other noticing methods on individual permits.
- (4) Send a copy of the public notice to the applicant, the Administrator of the USEPA, and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: Any other State or local air pollution control agencies; the chief executives of the city and county where the source would be located; any comprehensive regional land use planning agency; and any State, Federal Land Manager, or Indian Governing body whose lands may be affected by emissions from the source or modification.
- (5) Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations.
- (6) Consider all written comments submitted within a time specified in the public notice and all comments received at any public hearing in making a final decision on the approvability of the application. The Department will make all comments available for public inspection at the same physical location or on the same website where the Department made available preconstruction information relating to the proposed source or modification.
- (7) Make a final determination whether construction should be approved, approved with conditions, or disapproved.
- (8) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location or on the same website where the Department made available preconstruction information and public comments relating to the proposed source or modification.

| Source: Miss. Code Ann. §§ 49-2-9 (1)(b), 49-17-17, 49-2-1, et seq. and 49-17-1, et seq.

**ATTACHMENT 3**

**PUBLIC NOTICE AND PROOF OF PUBLICATION**

**TO BE PROVIDED UPON RECEIPT**

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

NOTICE OF PUBLIC HEARING

PUBLIC NOTICE START DATE: DECEMBER 27, 2023

DEADLINE FOR COMMENTS: JANUARY 29, 2024

**I. Notice of Public Hearing:** The Mississippi Department of Environmental Quality (MDEQ) will hold a virtual public hearing to receive comments regarding the proposed amendments to the State air pollution control regulations. The virtual public hearing will be held on Monday, January 29, 2024, at 12:00 PM (Noon) Central Time. Participation in the public hearing will be available online via the Zoom meeting application. To participate in the online hearing, interested persons will need to visit [www.mdeq.ms.gov/air/](http://www.mdeq.ms.gov/air/) and click the registration link under “State Rulemakings” at least two (2) hours prior to the start of the hearing. Additional instructions for registration and participation will be posted on the aforementioned website.

**II. Substance of the Proposed Actions:** MDEQ is proposing to update the following Mississippi Commission on Environmental Quality regulations: (1) “Permit Regulations for the Construction and/or Operation of Air Emissions Equipment,” 11 Miss. Admin. Code Pt. 2, Ch. 2 (“Chapter 2”) and (2) “Regulations for the Prevention of Significant Deterioration of Air Quality,” 11 Miss. Admin. Code Pt. 2, Ch. 5 (“Chapter 5”). The proposed amendments to Chapters 2 and 5 seek to incorporate changes to federal regulations, including (but not limited to) the “Source Determination for Certain Emission Units in the Oil and Natural Gas Sector” [81 FR 35622, June 3, 2016], “Revisions to Public Notice Provisions in Clean Air Act Permitting Programs” Final Rule [81 FR 71613, October 18, 2016], and the “Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting” [85 FR 74890, November 24, 2020]. The technical support document for the rule amendments describes the proposed changes to Chapters 2 and 5 in more detail.

**III. Manner by which the Public May Comment:** Oral statements recorded during the hearing as well as written statements regarding this proposed action will be considered by the MDEQ. Written statements must be physically delivered by 5:00 PM on Monday, January 29, 2024, to the attention of Jaricus Whitlock at MDEQ, Office of Pollution Control, Air Division, P.O. Box 2261, Jackson, MS 39225 or emailed to [jwhitlock@mdeq.ms.gov](mailto:jwhitlock@mdeq.ms.gov) by 11:59 PM on Monday, January 29, 2024. The only matter under consideration are the amendments to Chapters 2 and 5 of the State’s air pollution control regulations, and comments should be restricted to this matter.

**IV. Additional Information:** A copy of the redline version and clean version of Chapters 2 and 5 as well as related supporting documentation will be available online for public review through Monday, January 29, 2024, at <https://www.mdeq.ms.gov/air/>. This information may also be reviewed at the MDEQ office located at 515 E. Amite St., Jackson, MS by contacting the Public Records Officer at 601-961-5171 or by completing the online form available at <https://www.mdeq.ms.gov/about-mdeq/public-records-request/>. Questions regarding the proposed amendments may be directed to Jaricus Whitlock at 601-961-5303 or [jwhitlock@mdeq.ms.gov](mailto:jwhitlock@mdeq.ms.gov).



**ATTACHMENT 4**  
**FINAL ADOPTION EVIDENCE**

Adoption documentation to be inserted here.