

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.