

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

**PERMIT REGULATIONS FOR THE CONSTRUCTION AND/OR OPERATION OF
AIR EMISSIONS EQUIPMENT**

11 Mississippi Administrative Code, Part 2, Chapter 2

Amended: February 22, 2024

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 February 22, 2024)

TABLE OF CONTENTS

Rule 2.1 General Requirements..... Page 3

- A. Replacement of Previous Regulation.....Page 3
- B. Definitions Incorporated by ReferencePage 3
- C. DefinitionsPage 3
- D. Permitting Requirements.....Page 8

Rule 2.2 General Standards Applicable To All Permits Page 10

- A. Compliance with other state regulationsPage 10
- B. General ProvisionsPage 10
- C. Permit Modification or Revocation.....Page 13
- D. Modification of Permit without Modification of Facilities.....Page 14

Rule 2.3 Application for Permit to Construct and State Permit to Operate New Stationary Source Page 14

- A. Registered Professional Engineer signature/sealPage 14
- B. Information RequiredPage 14

Rule 2.4 Public Participation and Public Availability of Information Page 14

- A. Prevention of Significant Deterioration Permit to Construct.....Page 14
- B. Title V Permit to OperatePage 15

C. Permit to Construct a New Moderate Stationary Source, a Moderate Modification, or a New Major Stationary Source Impacting a Nonattainment Area	Page 15
D. Additional Public Notice on any Application for a Permit to Construct or State Operating Permit	Page 16
Rule 2.5 Application Review	Page 16
A. Standards for Approving an Application for a Permit to Construct	Page 16
B. Air Quality Models.....	Page 18
C. Cancellation of Permit to Construct a New Stationary Source and Notification ..	Page 18
D. Certification of Construction, Beginning Operation, and Application for Permit to Operate	Page 18
E. Additional Requirements for a Permit to Construct or a State Operating Permit for a New Major Stationary Source or Major Modification Significantly Impacting an Area in which a NAAQS is being exceeded or will be exceeded ..	Page 19
Rule 2.6 Compliance Testing	Page 22
Rule 2.7 Emissions Evaluation Report	Page 23
Rule 2.8 Procedures for Renewal of State Permit To Operate	Page 24
Rule 2.9 Reporting & Recordkeeping	Page 25
Rule 2.10 Emission Reduction Schedule	Page 25
Rule 2.11 General Permits	Page 26
Rule 2.12 Multi-Media Permits	Page 27
Rule 2.13 Exclusions.....	Page 27
A. New Source Permit to Construct.....	Page 27
B. Compliance with Other Applicable Requirements.....	Page 28
C. Maintenance of Emission Increase Records.....	Page 28
D. Categorical Exclusions from Both Permit to Construct and Operate	Page 28

E. Emission-Based Exclusion from Permit to Construct	Page 29
F. De minimis NSR Modification Exclusion from Permit to Construct.....	Page 31
G. Exclusion from Permit to Operate	Page 31
H. General Permit May Supersede Exclusions	Page 31
Rule 2.14 CAFOs.	Page 31
Rule 2.15 Options	Page 32
A. Plantwide Applicability Limitation (PAL)	Page 32
B. Optional Pre-Permit Construction.....	Page 32
C. Optional Title V Permit Modification.....	Page 34
Rule 2.16 Permit Transfer	Page 34
Rule 2.17 Severability	Page 35
Rule 2.1 General Requirements.	
A. Replacement of Previous Regulation.	
This regulation supersedes and replaces previously adopted “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.	
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., are incorporated by reference and shall have the same definition in this Regulation, 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) “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)(2).
- (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)(a) 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 medical waste incineration or hazardous waste incineration;
 - (d) a modification meeting the definition of “constructing or reconstructing a major source of hazardous air pollutants” in the “Air Toxics Regulations,” 11 Miss. Admin. Code Pt. 2, Ch. 8. and 40 CFR Part 63, Subpart B, 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) “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 stationary source meeting the definition of a major source 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.
- (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 and/or render one or more contemporaneous decreases federally enforceable to avoid major source requirements of 11 Miss. Admin. Code Pt. 2, Ch. 5. or Rule 2.5.E. of these regulations.

- (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 to avoid major source requirements of 11 Miss. Admin. Code Pt. 2, Ch. 5. or Rule 2.5.E. of these regulations.

- (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 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.;
 - (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.; 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) “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 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 more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in 1980 dollars); or
 - (2) the delegation of authority to such representatives is approved in advance by the permitting authority.
- (b) for a partnership or sole proprietorship: a general partner or the proprietor, respectively; or
 - (c) for a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. 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 not a synthetic minor source; is not a major Title V source or otherwise required to obtain a Title V permit; and 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 “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) 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, exclusive of Title V permits.
- (27) “Stationary source.” For purposes of this regulation, any building, structure, facility, or installation which emits or may emit a regulated air pollutant.
- (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., 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. Such limitations 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.
- (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.
- (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 11 Miss Admin. Code Pt. 2, Ch. 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 “Regulations for the Prevention of Air Pollution Emergency Episodes,” 11 Miss. Admin. Code Pt. 2, Ch. 3.; the “Ambient Air Quality Standards,” 11 Miss. Admin. Code Pt. 2, Ch. 4., except as provided for in Rule 2.5.E. herein; 11 Miss. Admin. Code Pt. 2, Ch. 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 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 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 ensure 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 permit to construct, the DEQ will follow the public participation procedures specified in 11 Miss. Admin Code Pt. 2, Ch. 5. in lieu of the requirements set forth herein.

- B. For any application for a Title V permit, the DEQ will follow the public participation procedures specified in 11 Miss. Admin. Code Pt. 2, Ch. 6. 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., 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.

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

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 11 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 1×10^{-6} . When the excess cancer risk is determined to be greater than 1×10^{-6} but less than 1×10^{-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 1×10^{-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, databases, and other requirements specified in the version of the “Guideline on Air Quality Models,” 40 CFR Part 51, Appendix W, approved in 11 Miss. Admin. Code Pt. 2, Ch. 5.
- (2) Where an air quality impact model specified in the “Guideline on Air Quality Models,” 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 18 months from the date of issuance or if construction is suspended for 18 months or more.
- (2) The permittee must notify DEQ in writing when construction begins within 15 days of beginning actual construction.
- (3) The permittee must notify DEQ in writing when construction does not begin within 18 months of issuance or if construction is suspended for 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 permit to construct cannot begin operation until certification of construction by the permittee.
- (4) After certification of construction by the permittee, the permit to construct 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 permit 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) The application for issuance or modification of the State Permit to Operate or the application for issuance or modification of the Title V permit, whichever is applicable, is due 12 months after beginning operation or such earlier date or time as specified in the permit to construct. 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) 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 permit, whichever is applicable, the applicant may continue to operate under the terms and conditions of the permit to construct and in compliance with the submitted application until the Permit Board issues, modifies, or denies the Permit to Operate.

E. Additional Requirements for a 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 CFR 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 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 11 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:

SO₂ 1.0 µg/m³, annual average; 5 µg/m³, 24-hour average; 25 µg/m³, 3-hour average

PM₁₀ 1.0 µg/m³, annual average; 5 µg/m³, 24-hour average

NO₂ 1.0 µg/m³, annual average

CO 0.5 mg/m³, 8-hour average; 2.0 mg/m³, 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 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 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. 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. A 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 11 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 11 Miss. Admin. Code Pt. 2, Ch. 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 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 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, 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 allowing construction of moderate stationary sources or moderate modifications and general permits allowing operation of synthetic minor sources or major Title V sources 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, the DEQ will follow the public participation procedures required by Rule 2.4.C. of these regulations.

- 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 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 of 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 Records. Stationary sources excluded from the requirement for a permit to construct and/or State Permit to Operate must maintain records of any emissions associated with any excluded activities and report that to DEQ upon request. Indirect measurements of emissions 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 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 have potential uncontrolled emissions less than 10 tons per year (TPY) of PM₁₀, SO₂, NO_x, CO and VOC, as determined for each pollutant; less than 1.0 TPY of each hazardous air pollutant (HAP); 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 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 permit or State Permit to Operate to address a de minimis NSR modification. A modification other than a de minimis NSR modification is subject to the requirements for a permit to construct.
- G. Exclusion from Permit to Operate. Major Title V sources, other sources required to obtain a Title V 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 does not imply exclusion from any other requirements of these regulations, including the requirement to obtain a permit to construct before beginning actual construction and the certification of construction requirements specified in R. 2.5.D.
- H. General Permit May Supersede Exclusions. The Permit Board may issue a general permit which shall supersede 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 permit, or a State Permit to Operate a synthetic minor 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 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 to 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 Optional Operating Permit Modification in accordance with C. below.
 - (2) The applicant shall submit a pre-permit construction approval application which must contain, but not be limited to the following:
 - (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) 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, Title V permit modification, or State Operating Permit modification, as applicable, based on the fact that construction has already begun.
- (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 limitations and certify that the applicant will comply with the limitations, including any applicable monitoring and reporting requirements required by the permit.
- (4) The applicant shall provide notice to the DEQ of the application for pre-permit construction approval. 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.

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.

- (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 approval.
- (6) Upon receipt of the pre-permit construction approval letter issued by the Permit Board, the applicant may begin construction at their 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, 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.

- (7) Issuance of the pre-permit construction approval letter shall have no bearing on the issuance or denial of the final permit to construct, Title V permit modification, or State Operating Permit modification, as applicable. If the final permit 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.
 - (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.
 - (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 11 Miss. Admin. Code Pt. 2, Ch. 8. and 40 CFR Part 63, Subpart B, and thereby requiring a case-by-case Maximum Achievable Control Technology (MACT) determination
- C. **Optional Operating Permit Modification.** For a modification of a source holding a valid Title V permit or State Operating Permit, a permit to construct may be issued as a modification of the Title V permit or State Operating Permit as an alternative to a new permit to construct. All requirements for a permit to construct are still applicable and the operating permit modification must occur prior to beginning actual construction unless pre-permit construction approval is granted in accordance with B. above. If the applicant has been granted pre-permit construction approval, the 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.*