MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

"AIR EMISSIONS OPERATING PERMIT REGULATIONS FOR THE PURPOSES OF TITLE V OF THE FEDERAL CLEAN AIR ACT"

APC-S-6

Proposed Amendments
Public Hearing Date: December 6, 2011

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Proposed Amendments
Public Hearing Date: December 6, 2011

I. GENERAL REQUIREMENTS

A. Definitions

1. Advisory Council is the Council created by State law to conduct an independent study of the costs for the development and administration of the Title V program within the Department of Environmental Quality and to conduct an annual review of the costs of administering such programs.

2. Affected Source shall have the same meaning as set forth in the regulations promulgated under Title IV of the Federal Act.

3. Affected State(s) means all states whose air quality may be affected and that are contiguous to Mississippi; or are within 50 miles of the permitted source.

4. Affected unit shall have the same meaning as set forth in the regulations promulgated under Title IV of the Federal Act.

5. Applicable requirement means all of the following as they apply to emissions units in a Title V source (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future-effective compliance dates):

    a. any standard or other requirement set forth in the State Implementation Plan (SIP) approved or promulgated by EPA through rulemaking under Title I of the Federal Act that implements the relevant requirements of the Federal Act, including any revisions to the SIP promulgated in 40 CFR Part 52;

b. any term or condition of any construction permits issued pursuant to Mississippi regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Federal Act;

c. any standard or other requirement under Section 111 of the Federal Act, including Section 111(d);

d. any standard or other requirement under Section 112 of the Federal Act, including any requirement concerning accident prevention under Section 112(r)(7) of the Federal Act;

e. any standard or other requirement of the acid rain program under Title IV of the Federal Act or the regulations promulgated thereunder;

f. any requirements established pursuant to Section 504(b) or Section 114(a)(3) of the Federal Act;

g. any standard or other requirement governing solid waste incineration under Section 129 of the Federal Act;

h. any standard or other requirement for consumer and commercial products under Section 183(e) of the Federal Act;

i. any standard or other requirement for tank vessels under Section 183(f) of the Federal Act;

j. any standard or other requirement of the program to control air pollution from outer continental shelf sources under Section 328 of the Federal Act;

k. any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Federal Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and

l. any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Federal Act applicable only with regard to temporary sources permitted pursuant to Section 504(e) of the Federal Act.

6. Commission means the Mississippi Commission on Environmental Quality.

7. DEQ means the Mississippi Department of Environmental Quality.

8. Designated representative shall have the same meaning as set forth in Section 402(26) of the Federal Act and the regulations promulgated thereunder.

9. Draft permit is the version of a recommended permit for which the DEQ offers public participation under Section IV.I. or Affected State(s) review under Section V.

10. Emissions allowable under a permit means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

11. Emissions unit means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Federal Act. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Federal Act.

12. The EPA or the Administrator means the Administrator of the United States Environmental Protection Agency (EPA) or his designee.

13. Federal Act means the Federal Clean Air Act as amended in 1990, 42 U.S.C. §§7401-7671, and any subsequent amendments.

14. Final permit means the version of a Title V permit issued by the Permit Board once all review procedures required by Section IV. and Section V. have been completed.

15. Fugitive emissions are those emissions which could not reasonably pass through a stack, chimney, vent or other functionally-equivalent opening.

16. General permit is a Title V permit that meets the requirements of Section III.D.

17. Major source is any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that is described in Paragraph a., b., or c. of this definition. For the purposes of defining "major source", a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

    a. A major source under Section 112 of the Federal Act is defined as follows:

        (1) for pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Federal Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the

Administrator may establish by rule (notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources); or

(2) for radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

b. A major stationary source of air pollutants, as defined in Section 302 of the Federal Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Federal Act, unless the source belongs to one of the following categories of stationary sources:

(1) coal cleaning plants (with thermal dryers);

(2) kraft pulp mills;

(3) portland cement plants;

(4) primary zinc smelters;

(5) iron and steel mills;

(6) primary aluminum ore reduction plants;

(7) primary copper smelters;

(8) municipal incinerators capable of charging more than 250 tons of refuse per day;

(9) hydrofluoric, sulfuric, or nitric acid plants;

(10) petroleum refineries;

(11) lime plants;

(12) phosphate rock processing plants;

(13) coke oven batteries;

(14) sulfur recovery plants;

(15) carbon black plants (furnace process);

(16) primary lead smelters;

(17) fuel conversion plants;

(18) sintering plants;

(19) secondary metal production plants;

(20) chemical process plants;

(21) fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(22) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(23) taconite ore processing plants;

(24) glass fiber processing plants;

(25) charcoal production plant;

(26) fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

(27) all other stationary source categories regulated by a standard promulgated under Section 111 or 112 of the Federal Act, but only with respect to those air pollutants that have been regulated for that category;

c. A major stationary source as defined in part D of Title I of the Federal Act, including the following:

(1) for ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as “marginal” or “moderate”, 50 tpy or more in areas classified as “serious”, 25 tpy or more in areas classified as “severe”, and 10 tpy or more in areas classified as “extreme”; except that the references in this paragraph to 100, 50, 25 and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding under Section 182(f)(1) or (2) of the Federal Act, that requirements under Section 182(f) of the Federal Act do not apply;

(2) for ozone transport regions established pursuant to Section 184 of the Federal Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;

(3) for carbon monoxide nonattainment areas:

(a) that are classified as "serious", and

(b) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and

(4) for particulate matter (PM-10) nonattainment areas classified as "serious", sources with the potential to emit 70 tpy or more of PM-10.

18. Permit Board means the Mississippi Environmental Quality Permit Board.

19. Permit modification means a revision to a Title V permit that meets the requirements of Section IV.E. as distinguished from an administrative amendment.

20. Permit program cost means all reasonable direct and indirect costs required to develop and administer the Title V permit program, as authorized by State law and set forth in Miss. Code Ann. § 49-17-14.

21. Permit revision means any permit modification or administrative permit amendment.

22. Potential to emit means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design consistent with 40 CFR 52.21. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is established in a construction permit required by the EPA approved Mississippi SIP for New Source Review (NSR) or a Title V permit. This term does not alter or affect the use of this term for any other purposes under the Federal Act, or the term "capacity factor" as used in Title IV of the Federal Act or the regulations promulgated thereunder.

23. Proposed permit means the version of a recommended permit that the DEQ proposes to be issued and forwards to the Administrator for review in compliance with Section V.

24. Regulated air pollutant includes the following:

a. nitrogen oxides or any volatile organic compounds;

b. any pollutant for which a national ambient air quality standard has been promulgated;

c. any pollutant that is subject to any standard promulgated under Section 111 of the Federal Act;

d. any class I or II substance subject to a standard promulgated under or established by Title VI of the Federal Act; or

e. any pollutant subject to a standard promulgated under Section 112 or other requirements established under Section 112 of the Federal Act, including Sections 112(g), (j), and (r) of the Federal Act, including the following:

(1) any pollutant subject to requirements under Section 112(j) of the Federal Act (if the Administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Federal Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e) of the Federal Act); and

(2) any pollutant for which the requirements of Section 112(g)(2) of the Federal Act have been met, but only with respect to the individual source subject to Section 112(g)(2) requirements.

25. Renewal means the process by which a permit is reissued at the end of its term.

26. Responsible official means as follows:

a. for a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the 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 second quarter 1980 dollars); or

(2) the delegation of authority to such representative is approved in advance by the DEQ;

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

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)); or

d. for affected sources:

(1) the designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Federal Act or the regulations promulgated thereunder are concerned; and

(2) the designated representative for any other purposes under Title V.

27. Section 502(b)(10) changes are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

28. State Law means the Mississippi Air and Water Pollution Control Law, specifically, Section 49-17-1 through 49-17-43 of the Mississippi Code of 1972, and any subsequent amendments.

29. Stationary source means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Federal Act.

30. Sources or facilities required to hold Title V permits means all major sources and all other Title V sources beginning either five (5) years after full implementation of the Title V program in Mississippi or such other time as specified by EPA, whichever is later.

31. Subject to regulation means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of 40 CFR Chapter I, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

a. Greenhouse gases (GHGs), the air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 tpy of CO_2 equivalent emissions.

b. The term tpy CO_2 equivalent emissions (CO_2e) shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of

emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs , by the gas's associated global warming potential published at Table A-1 to Subpart A of 40 CFR Part 98 – Global Warming Potentials, and summing the resultant value for each to compute a tpy CO_2e. For purposes of this paragraph, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

32. Title V means 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.

33. Title V permit means any permit or group of permits covering a Title V source that is issued, renewed, amended, or revised pursuant to these regulations.

34. 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 pursuant to this section.

B. GENERAL TITLE V PERMIT REQUIREMENTS

1. Except as provided or excepted below all Title V sources must comply with all provisions herein with regard to Title V permit responsibilities including but not limited to filing an application for and obtaining a Title V permit.

2. All sources that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to Section 129(e) of the Federal Act are exempted from the obligation to obtain a Title V permit until either the date five years after full implementation of the Title V program in Mississippi or such time as the

Administrator completes a rulemaking to determine how the program should be structured for nonmajor sources and the appropriateness of any permanent exemptions in addition to those provided for in Section I.B.5., whichever is later.

3. In the case of nonmajor sources subject to a standard or other requirement under either Section 111 or Section 112 of the Federal Act promulgated after July 21, 1992, the exemption of any or all such applicable sources from the requirement to obtain a Title V permit will be determined consistent with the newly promulgated standard and regulations.

4. Any source listed in Section I.B.2.,3. and/or 5. which is exempt from the requirement to obtain a Title V permit may opt to apply for a Title V permit under the Title V program.

5. The following source categories are exempted from the obligation to obtain a Title V permit.

    a. All sources and source categories that would be required to obtain a Title V permit solely because they are subject to 40 CFR Part 60, subpart AAA - Standards of Performance for New Residential Wood Heaters.

    b. All sources and source categories that would be required to obtain a Title V permit solely because they are subject to 40 CFR Part 61, subpart M - National Emission Standard for Hazardous Air Pollutants for Asbestos § 61.145, Standard for Demolition and Renovation.

6. Emissions units and Title V sources.

    a. For major sources, the Title V permit shall include all applicable requirements for all relevant emissions units in the major source.

    b. For any nonmajor source subject to the Title V program under Paragraphs 2-5 of this section, the Permit Board shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the Title V program.

7. Fugitive emissions. Fugitive emissions from a Title V source shall be included in the permit application and the Title V permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

8. For purposes of these regulations, the Commission shall not make any exceptions to and/or grant any exemptions and/or variances from any of the regulations regarding Title V permits except those specified herein.

II. PERMIT APPLICATIONS

A. Duty to apply. For each Title V source, the owner or operator shall submit a timely and complete permit application in accordance with this section.

1. Timely application.

   a. A timely application for a source applying for a Title V permit for the first time is one that is submitted within 12 months after the source becomes subject to the permit program or on or before such earlier date as the Permit Board may establish. In the latter case, at least six (6) months time shall be given for application submittal from the time the Permit Board notifies the source of the early submittal requirement.

   b. Title V sources required to meet the requirements under Section 112(g) of the Federal Act or to have a permit under the preconstruction review and construction permit requirements of Regulation APC-S-2, "Permit Regulations for the Construction and/or Operation of Air Emissions Equipment" shall file a complete application to obtain the Title V permit or permit revision within 12 months after commencing operation or on or before such earlier date as the Permit Board may establish. Where an existing Title V permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation.

   c. For purposes of permit renewal, a timely application is one that is submitted at least 6 months prior to the date of permit expiration.

   d. Applications for initial phase II acid rain permits shall be submitted to the DEQ by January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides.

2. Complete application. To be deemed complete, an application must provide all information required pursuant to Section II.C., except that applications for permit revision need supply such information only if it is related to the proposed change. Information required under Section II.C. must be sufficient to evaluate the subject source and its application and to determine all applicable requirements. A responsible official shall certify the submitted information consistent with Section II.E. Unless the DEQ determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed to be complete. If, while processing an application that has been determined or deemed to be complete, the DEQ determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response. The source's ability to operate without a Title V permit, as set forth in Section IV.B. of these regulations, shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the DEQ.

3. Confidential information. In the event a source submits information to the DEQ under a claim of confidentiality, the Permit Board may also require the source to submit a copy of such information directly to the Administrator.

B. Duty to supplement or correct application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit to public participation.

C. Standard application form and required information. All applications must be submitted on the form supplied by the Permit Board. Insignificant activities which are specified in Section VII.A. need not be included in permit applications. For insignificant activities which are specified in Section VII.B., a list of such insignificant activities must be included in the application. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under the schedule pursuant to Section VI. of these regulations. The forms and attachments shall include the elements specified as follows:

1. identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact;

2. a description of the source's process and products (by Standard Industrial Classification Code) including any associated with any alternate scenario identified by the source;

3. emission-related information as follows:

   a. all emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. Fugitive emissions from individual components within a facility may be determined collectively based on their relationship to the associated process unless individual emission rates are needed to determine the applicability of an applicable requirement such as NSPS, NESHAPS, a MACT standard, etc. or to determine air quality impacts. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under Section VII. The Permit Board shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule pursuant to Section VI. of these regulations.

b. identification and description of all points of emissions described in Section II.C.3.a. of this section in sufficient detail to establish the basis for fees and applicability of requirements of the Federal Act;

c. emission rates in tpy and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method;

d. to the extent it is needed to determine or regulate emissions, the information that follows: fuels, fuel use, raw materials, production rates, and operating schedules;

e. identification and description of air pollution control equipment and compliance monitoring devices or activities;

f. limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the Title V source;

g. other information required by any applicable requirement (including information related to stack height limitations developed pursuant to Section 123 of the Federal Act);

h. calculations on which the information in Section II.C.3.a. through g. is based;

4. air pollution control requirements as follows:

a. citation and description of all applicable requirements, and

b. description of or reference to any applicable test method for determining compliance with each applicable requirement;

5. other specific information that may be necessary to implement and enforce other applicable requirements of the Federal Act or of these regulations or to determine the applicability of such requirements;

6. an explanation of any proposed exemptions from otherwise applicable requirements;

7. additional information as determined to be necessary by the Permit Board to define alternative operating scenarios identified by the source pursuant to Section III.A.9. of these regulations or to define permit terms and conditions implementing 40 CFR 70.4(b)(12) or Section III.A.10. of these regulations.

8. a compliance plan for all Title V sources that contains all of the following:

a. a description of the compliance status of the source with respect to all applicable requirements;

b. a description as follows:

(1) for applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(2) for applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis;

(3) for requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements;

c. a compliance schedule as follows:

(1) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(2) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirements;

(3) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule or remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based;

d. a schedule for submission of certified progress reports, to be submitted no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation;

e. the compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Federal Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations;

9. requirements for compliance certification, including the following:

a. a certification of compliance with all applicable requirements by a responsible official consistent with Section II.E. and Section 114(a)(3) of the Federal Act;

b. a statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

c. a schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Permit Board;

d. a statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Federal Act; and

10. the use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Federal Act.

D. Applicant's duty to apply for alternative scenarios. Any operating scenario allowed for in an applicable Title V permit may be implemented by the facility without the need for any permit revision or any notification to the Permit Board. It is incumbent upon the Title V permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.

E. Any application form, report, or compliance certification submitted pursuant to these regulations shall contain a certification of truth, accuracy, and completeness signed by a responsible official. This certification and any other certification required under these regulations shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

III. PERMIT CONTENT

A. Standard permit requirements. Each permit issued under these regulations shall include the following requirements.

1. Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance.

a. The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

b. The permit shall state that, where an applicable requirement of the Federal Act is more stringent than an applicable requirement of regulations promulgated under

Title IV of the Federal Act, both provisions shall be incorporated into the permit and shall be enforceable by the Administrator and the Commission.

2. Permit duration. The Permit Board shall issue permits for a fixed term of 5 years in the case of affected sources, and for a term not to exceed 5 years in the case of all other sources. Notwithstanding this requirement, the Permit Board shall issue permits for solid waste incineration units combusting municipal waste subject to standards under Section 129(e) of the Federal Act for a period not to exceed 12 years and shall review such permits at least every 5 years.

3. Monitoring and related recordkeeping and reporting requirements.

   a. Each permit shall contain the requirements with respect to monitoring as follows:

      (1) all emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to Sections 114(a)(3) or 504(b) of the Federal Act;

      (2) where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit as reported pursuant to Section III.A.3.c. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions shall be sufficient to meet the requirements of Section III.A.3.b.; and

      (3) as necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

   b. With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

      (1) records of required monitoring information that include the following:

         (a) the date, place as defined in the permit, and time of sampling or measurements;

         (b) the date(s) analyses were performed;

         (c) the company or entity that performed the analyses;

         (d) the analytical techniques or methods used;

(e) the results of such analyses;

(f) the operating conditions existing at the time of sampling or measurement; and

(2) retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records, all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

c. With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(1) submittal of reports of any required monitoring at least every 6 months (all instances of deviations from permit requirements must be clearly identified in such reports and all required reports must be certified by a responsible official consistent with Section II.E. of these regulations); and

(2) prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The Permit Board shall define "prompt" in the permit in relation to the degree and type of deviation likely to occur and the applicable requirements.

4. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Federal Act or the regulations promulgated thereunder.

a. No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

b. No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

c. Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Federal Act.

5. A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

6. Provisions stating the following:

   a. The permittee must comply with all conditions of the Title V permit. Any permit noncompliance constitutes a violation of the Federal Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

   b. The need to halt or reduce activity is not a defense. 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 this permit.

   c. The permit and/or any part thereof may be modified, revoked, reopened, and reissued, or terminated for cause. 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.

   d. The permit does not convey any property rights of any sort, or any exclusive privilege.

   e. 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 permittee or, for information claimed to be confidential, the permittee shall furnish such records to DEQ along with a claim of confidentiality. The permittee may furnish such records directly to the Administrator along with a claim of confidentiality.

7. A provision to ensure that a Title V source pays fees to the permitting authority consistent with the fee schedule pursuant to Section VI. of these regulations.

8. Emissions trading. A provision stating that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

9. Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application, as approved by the Permit Board, as follows:

   a. shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

   b. may extend the permit shield described in Section III.F. to all terms and conditions under each such operating scenario; and

c. must ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of these regulations.

10. If the permit applicant requests them, terms and conditions for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of each emissions trade, as follows:

    a. shall include all terms required under Section III.A. and C. to determine compliance;

    b. may extend the permit shield described in Section III.F. to all terms and conditions that allow such increases and decreases in emissions; and

    c. must meet all applicable requirements and requirements of these regulations.

B. Federally-enforceable requirements.

1. All terms and conditions in a Title V permit, including any provisions designed to limit a source's potential to emit, are enforceable by the Administrator and citizens under the Federal Act as well as the Commission.

2. Notwithstanding Section III.B.1., the Permit Board shall specifically designate as not being federally enforceable under the Federal Act, any terms and conditions included in the permit that are not required under the Federal Act or under any of its applicable requirements. Terms and conditions so designated are not subject to the requirements of Section III., IV., or V. of these regulations, other than those contained in Section III.B.

C. Compliance requirements. All Title V permits shall contain elements with respect to compliance as follows:

1. Consistent with Section III.A.3. of this section, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a Title V permit to be submitted to the DEQ shall contain a certification by a responsible official that meets the requirements of Section II.E. of these regulations.

2. Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the DEQ, or an authorized representative, to perform the following:

    a. enter upon the permittee's premises where a Title V source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

b. have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

c. inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

d. as authorized by the Federal Act, sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

3. A schedule of compliance consistent with Section II.C.8. of these regulations.

4. Progress reports consistent with an applicable schedule of compliance and Section II.C.8. of these regulations to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the Permit Board. Such progress reports shall contain the following:

   a. dates for achieving the activities, milestone(s), or compliance required in the schedule of compliance, and dates when such activities, milestone(s) or compliance were achieved; and

   b. an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

5. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

   a. the frequency (not less than annually or such more frequent period as specified in the applicable requirement or by the Permit Board) of submissions of compliance certifications;

   b. in accordance with Section III.A.3. of these regulations, a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;

   c. a requirement that the compliance certification include the following:

      (1) the identification of each term or condition of the permit that is the basis of the certification;

      (2) the compliance status;

      (3) whether compliance was continuous or intermittent;

(4) the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with Section III.A.3.; and

(5) such other facts as the DEQ may require to determine the compliance status of the source;

d. a requirement that all compliance certifications be submitted to the Administrator as well as to the Permit Board; and

e. such additional requirements as may be specified pursuant to Sections 114(a)(3) and 504(b) of the Federal Act.

6. such other provisions as the Permit Board may require.

D. General permits.

1. The Permit Board may, after notice and opportunity for public participation provided under Section IV.I. of these regulations, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to other Title V permits and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the DEQ shall extend coverage of the terms and conditions of the general permit for a period of time not to exceed five years from the date coverage is extended. Notwithstanding the shield provisions of Section III.F., the source shall be subject to enforcement action for operating without a Title V permit if the source is later determined not to qualify for the terms and conditions of the general permit. General permits shall not be authorized for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the Federal Act.

2. After notice and opportunity for a hearing, the Permit Board may revoke and/or modify a general permit. After notice and opportunity for a hearing, the Permit Board may also revoke or deny coverage under a general permit and require a facility to obtain a Title V permit.

3. Title V sources that would qualify for a general permit must apply to the DEQ for coverage under the terms of the general permit or must apply for a Title V permit consistent with Section II. of these regulations. The Permit Board may, in the general permit, provide for applications which deviate from the requirements of Section II. of these regulations, provided that such applications meet the requirements of Title V of the Federal Act, and include all information necessary to determine qualification for, and to assure compliance with, the general permit. Without repeating the public participation procedures required under Section IV.I. of these regulations, the DEQ may grant a source's request for coverage under a general permit, but such a grant shall not constitute a final Permit Board action for purposes of appeal only.

E. Temporary sources. The Permit Board may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

1. conditions that will assure compliance with all applicable requirements at all authorized locations;

2. requirements that the owner or operator notify the DEQ at least 10 days in advance of each change in location; and

3. conditions that assure compliance with all other provisions of this section.

F. Permit shield.

1. Except as provided in these regulations, the Permit Board shall expressly include in a Title V permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, upon satisfaction of either condition as follows:

   a. such applicable requirements are included and are specifically identified in the permit; or

   b. the Permit Board, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes such determination or a concise summary thereof.

2. Nothing in Section III.F. or in any Title V permit shall alter or affect the following:

   a. the provisions of Section 303 of the Federal Act (emergency orders), including the authority of the Administrator under that section;

   b. the liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

   c. the applicable requirements of the acid rain program, consistent with Section 408(a) of the Federal Act; or

   d. the ability of EPA to obtain information from a source pursuant to Section 114 of the Federal Act.

G. Emergency provision.

1. Definition. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which

situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

2. Effect of any emergency. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of Section III.G.3. are met.

3. The affirmative defense of emergency shall be demonstrated through properly signed contemporaneous operating logs, or other relevant evidence that include information as follows:

   a. an emergency occurred and that the permittee can identify the cause(s) of the emergency;

   b. the permitted facility was at the time being properly operated;

   c. during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and

   d. the permittee submitted notice of the emergency to the DEQ within 2 working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of Section III.A.3.c.(2). This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

5. This provision is in addition to any emergency or upset provision contained in any applicable requirement.

H. Risk Management Plans. If the source is required to develop and register a risk management plan pursuant to Section 112(r) of the Act, the permit need only specify that it will comply with the requirement to register such a plan. The content of the risk management plan need not itself be incorporated as a permit term.

IV. PERMIT ISSUANCE(S), RENEWAL(S), REOPENING(S), AND REVISION(S)

A. Action on application.

1. A permit, permit modification, or renewal may be issued only upon satisfaction of the conditions that follow:

    a. the DEQ has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under Section III.D. of these regulations;

    b. except for modifications qualifying for minor permit modification procedures under this section, the DEQ has complied with the requirements for public participation under this section;

    c. the DEQ has complied with the requirements for notifying and responding to Affected State(s) under Section V.B. of these regulations;

    d. the conditions of the permit provide for compliance with all applicable requirements and the requirements of these regulations; and

    e. the Administrator has received a copy of the proposed permit and any notices required under Section V.A. and B. of these regulations, and has not objected to issuance of the permit under Section V.C. of these regulations within the time period specified therein.

2. Except as provided under the initial transition plan or under regulations promulgated under Title IV or Title V of the Federal Act for the permitting of affected sources under the acid rain program, the Permit Board shall take final action on each permit application (including a request for permit modification or renewal) within 180 days or as otherwise provided for under State Law, after receiving a complete application.

3. The DEQ shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The DEQ shall send this statement to any person upon a written request and to EPA.

4. The submittal of a complete application shall not affect the requirement that any source have a Construction Permit.

B. Requirement for a permit. Except as provided in the following sentence, and paragraphs of this section, no Title V source may operate after the time that it is required to submit a timely and complete application, except in compliance with a Title V permit. If a Title V source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have a Title V permit is not a violation of these regulations until the Permit Board takes final action on the permit application, except as noted in this section. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to Section II.A.2., and as required by Section II.A.2. of these regulations, the applicant fails to submit by the deadline specified in writing by the DEQ any additional information identified as being needed to process the application.

C. Permit renewal and expiration.

1. Permits being renewed are subject to the same procedural requirements, including those for public participation, Affected State(s) review and EPA review, that apply to initial permit issuance; and

2. Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with Section IV.B. and Section II.A.1.c. of these regulations.

D. Administrative permit amendments.

1. An "administrative permit amendment" is a permit revision that revises a permit as follows:

   a. corrects typographical errors;

   b. identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

   c. requires more frequent monitoring or reporting by the permittee; and,

   d. allows for a change in ownership or operational control of a source in accordance with Section IV.D.4.

2. Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Federal Act.

3. Administrative permit amendment procedures. Any administrative permit amendment except for change in ownership or operational control may be made by the DEQ consistent with the following:

   a. The DEQ shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or Affected State(s) provided that it designates any such permit revisions as having been made pursuant to this paragraph.

   b. The DEQ shall submit a copy of the revised permit to the Administrator.

   c. The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

4. Permit Transfer. An administrative permit amendment may be made by the Permit Board authorizing changes in ownership or operational control consistent with the following:

   a. the Permit Board shall take action within 60 days after receipt of a completed request for a permit transfer, unless a public hearing is scheduled. The Permit Board may incorporate such changes without providing notice to the public or Affected State(s) provided that it designates any such permit revision as having been made pursuant to this paragraph.

   b. A permit transfer shall be approved upon satisfaction of the following:

      (1) the applicant for transfer approval can demonstrate to the Permit Board it has the financial resources, operational expertise and environmental compliance history over the last five years to insure compliance with the terms and conditions of the permit to be transferred except where this conflicts with State Law, and

      (2) the Permit Board determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ.

   c. The DEQ shall submit a copy of the revised permit to the Administrator.

E. Permit Modification. A permit modification is any revision to a Title V permit that cannot be accomplished under the program's provisions for administrative permit amendments under Section IV.D. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Federal Act.

   1. Minor permit modification procedures.

      a. Minor permit modification procedures may be used only for those permit modifications that satisfy the following:

         (1) do not violate any applicable requirement;

         (2) do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

         (3) do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

         (4) do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source

has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include the following:

(a) a federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I; and

(b) an alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the Federal Act;

(5) are not modifications under any provision of Title I of the Federal Act; and

(6) are not required by Commission regulations to be processed as a significant modification.

b. Notwithstanding other paragraphs of this section, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.

c. Application. An application requesting the use of minor permit modification procedures shall meet the requirements of Section II.C. of these regulations and shall include the following:

(1) a description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(2) the source's suggested draft permit;

(3) certification by a responsible official, that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

(4) completed forms for the DEQ to use to notify the Administrator and Affected State(s) as required under Section V.

d. EPA and Affected State(s) notification. Within 5 working days of receipt of a complete permit modification application, the DEQ shall notify the Administrator and Affected State(s) of the requested permit modification. The DEQ shall promptly send any notice required to the Administrator.

e. Timetable for issuance. The Permit Board may not issue a final permit modification until after EPA's 45-day review period or until EPA has notified the DEQ that EPA will not object to issuance of the permit modification, whichever is first, although the Permit Board can approve the permit modification prior to that

time. Within 90 days of the DEQ's receipt of an application under minor permit modification procedures or 15 days after the end of the Administrator's 45-day review period under Section V.C., whichever is later, the Permit Board shall take one of the actions as follows:

(1) issue the permit modification as proposed;

(2) deny the permit modification application;

(3) determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or

(4) revise the draft permit modification and transmit to the Administrator the new proposed permit modification as required by these regulations.

f. Source's ability to make change. The source may make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the Permit Board takes any of the actions specified in Section IV.E.1.e.(1)-(4), the source must comply with both the applicable requirements governing the change and the proposed terms and conditions of the permit. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with the proposed terms and conditions of its permit during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

g. Permit shield. The permit shield does not extend to minor permit modifications.

2. Group processing of minor permit modifications. Consistent with this paragraph, the Permit Board may modify the procedure to process groups of a source's applications for certain modifications eligible for minor permit modification processing.

a. Criteria. Group processing of modifications may be used only for those permit modifications which satisfy the following:

(1) meet the criteria for minor permit modification procedures and

(2) collectively, are below the threshold level. This threshold shall be 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source or 5 tons per year, whichever is least.

b. Application. An application requesting the use of group processing procedures shall meet the requirements of Section II.C. and shall include the following:

(1) a description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(2) the source's suggested draft permit;

(3) certification by a responsible official consistent with Section II.E., that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used;

(4) a list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under this section;

(5) certification that the source has notified EPA of the proposed modification. Such notification need only contain a brief description of the requested modification;

(6) completed forms for the DEQ to use to notify the Administrator and Affected State(s) as required.

c. EPA and Affected State(s) notification. On a quarterly basis or within 5 business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level, whichever is earlier, the DEQ promptly shall notify the Administrator and Affected State(s) of the requested permit modifications. The DEQ shall send any notice required under these regulations to the Administrator.

d. Timetable for issuance. The provisions of this section shall apply to modifications eligible for group processing, except that the Permit Board shall take one of the actions specified in Section IV.E.1.e.(1)-(4) within 180 days of receipt of the application or 15 days after the end of the Administrator's 45-day review period whichever is later.

e. Source's ability to make change. The provisions of Section IV.E.1.f. shall apply to modifications eligible for group processing.

f. Permit shield. The provisions of Section IV.E.1.g. of this section shall also apply to modifications eligible for group processing.

3. Significant modification procedures.

a. Criteria. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. The DEQ shall determine whether a

modification is significant. At a minimum, every significant modification in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall be considered significant.

b. Significant permit modifications shall meet all requirements of these regulations, including those for applications, public participation, review by Affected State(s), and review by EPA, as they apply to permit issuance and permit renewal.

F. Operational Flexibility. A permitted facility is authorized to make the changes described below within their facility without requiring a permit revision, if the changes are not modifications under any provision of Title I of the Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions): Provided that the facility provides the Administrator and the Department with written notification as required below in advance of the proposed changes, which shall be a minimum of seven (7) days, unless other applicable regulations specify a different time frame for emergencies. The source, Department, and EPA shall attach each such notice to their copy of the relevant permit.

1. The permitted sources are allowed to make Section 502(b)(10) changes without requiring a permit revision, if the changes are not modifications under any provision of Title I of the Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions).

a. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.

b. The permit shield described in Section III.F. shall not apply to any change made pursuant to Section IV.F.1.

2. The Department may provide for permitted sources to trade increases and decreases in emissions in the permitted facility, where the Mississippi State Implementation Plan (SIP) provides for such emissions trades without requiring a permit revision and based on the 7-day notice prescribed herein. This provision is available in those cases where the permit does not already provide for such emissions trading.

a. The written notification required above shall include such information as may be required by the provision in the SIP authorizing the emissions trade, including at a minimum, when the proposed change will occur, a description of each such change, any change in emissions, the permit requirements with which the source will comply using the emissions trading provisions of the SIP, and the pollutants emitted subject to the emissions trade. The notice shall also refer to the provisions with which the source will comply in the SIP and that provide for the emissions trade.

b. Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the SIP authorizing the emissions trade.

c. The permit shield described in Section III.F. shall not apply to any change made pursuant to Section IV.F.2.

3. The Department shall, if a permit applicant requests it, issue permits that contain terms and conditions, including all terms required under Section III.A. and C. to determine compliance, allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The Department shall not be required to include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements.

a. The written notification required above shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit.

b. The permit shield described in Section III.F. shall apply to any changes made pursuant to Section IV.F.3.

G. Reopening for cause.

1. Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

a. Additional applicable requirements under the Federal Act become applicable to a major Title V source with a remaining permit term of 3 or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended.

b. Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

c. The Permit Board or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

d. The Administrator or the Permit Board determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

2. Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

3. Reopenings shall not be initiated before a notice of such intent is provided to the Title V source by the DEQ at least 30 days in advance of the date that the permit is to be reopened, except that the Permit Board may provide a shorter time period in the case of an emergency.

H. Reopenings for cause by EPA.

1. The DEQ shall within 90 days after receipt of notification from the Administrator that cause exists to terminate, modify, or revoke and reissue a permit, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate.

2. The Permit Board shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke and issue the permit in accordance with the Administrator's objection.

I. Public participation. Except for administrative permit amendments and modifications qualifying for minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall provide adequate procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit. These procedures shall include the following:

1. Notice shall be given by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice; to persons on a mailing list developed by the DEQ, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public;

2. The notice shall identify the affected facility; the name and address of the permittee; the name and address of the Permit Board; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, and all other materials available to the Permit Board that are relevant to the permit decision; a brief description of the comment procedures

required by these regulations; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);

3. The DEQ shall provide notice and opportunity for participation by Affected State(s) as is provided for by Section V.

4. Timing. 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.

5. The DEQ shall keep a record of all commenters and also of the issues raised during the public participation process. Such records shall be available to the public.

V. PERMIT REVIEW BY EPA AND AFFECTED STATE(S)

A. Transmission of information to the Administrator.

1. The DEQ shall provide to the Administrator a copy of each permit application (including any application for permit modification), each proposed permit and each final Title V permit. The applicant may be required by the Permit Board to provide a copy of the permit application (including the compliance plan) directly to the Administrator. Upon agreement with the Administrator, the DEQ may submit to the Administrator a permit application summary form and any relevant portion of the permit application and compliance plan, in place of the complete permit application and compliance plan. To the extent practicable, the preceding information shall be provided in computer-readable format compatible with EPA's national database management system.

2. The DEQ shall keep such records for 5 years and submit to the Administrator such information as the Administrator may reasonably require.

B. Review by Affected State(s).

1. The DEQ shall give notice of each draft permit to any Affected State(s) on or before the time that the DEQ provides this notice to the public.

2. As part of the submittal of the proposed permit to the Administrator (or as soon as possible after the submittal for minor permit modification procedure), the DEQ shall notify the Administrator and any Affected State(s) in writing of any refusal by the Permit Board to accept all recommendations for the proposed permit that the Affected State(s) submitted during the public or Affected State(s) review period. The notice shall include the Permit Board's reasons for not accepting any such recommendation. The Permit Board is not required to accept recommendations that are not based on applicable requirements or the requirements of these regulations.

C. EPA objection.

1. No permit for which an application must be transmitted to the Administrator shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information.

2. The DEQ shall within 90 days after the date of an objection revise and submit a proposed permit in response to the objection.

D. Public petitions to the Administrator.

If the Administrator objects to the permit as a result of a petition filed within 60 days after the expiration of the Administrator's 45-day review period to make such objection when no objection was made during that 45-day review period, the Permit Board shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the Permit Board has issued a permit prior to receipt of an EPA objection under this paragraph and the Administrator modifies, terminates, or revokes such permit, the Permit Board may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

E. Prohibition on default issuance. A Title V permit (including a permit renewal or modification) will not issue until Affected State(s) and EPA have had an opportunity to review the proposed permit as required.

VI. PERMIT FEES

A. Fee Amounts. The owner or operator of any stationary source that is required to hold a Title V permit shall pay to the Department of Environmental Quality an annual permit fee. The Commission shall establish the amount of each fee to cover the permit program costs. The fee shall be deposited into the Air Operating Permit Program Fee Trust Fund.

1. For purposes of fee assessment and collection, the maximum emission rate of each pollutant used in the calculation of fees shall be four thousand (4,000) tons per year per facility.

2. For purposes of fee assessment and collection, the permit holder shall elect for actual or allowable emissions to be used in determining the annual quantity of emissions unless the Commission determines by order that the method chosen by the applicant for calculating actual emissions fails to reasonably represent actual emissions.

a. In electing to use actual emissions as the basis of the fee, the permit holder shall provide a report of actual emissions which complies with the following:

(1) At a minimum, the report of actual emissions shall consist of an inventory of the actual emissions summarized on a form supplied by the Department of

Environmental Quality for that purpose and of supporting information as appropriate and necessary for proper use of one or more of the emissions determination methods described in (6) below.

(2) The permit holder shall deliver the report of actual emissions to the Department of Environmental Quality by close of business on July 1 of each year. If the report of actual emissions is not received by the Department by close of business on July 1, allowable emissions shall be used by the Department to calculate the fee for the pertinent annual period.

(3) The emissions reported shall be the actual emissions determined for and only for the previous calendar year.

(4) The total annual actual emissions shall be expressed in tons/year for each pollutant specified on the form. If the total annual emissions value of any pollutant is left blank or is reported only by reference to another document, the allowable emissions for that pollutant shall be used in calculation of the fee.

(5) The emissions reporting form shall be signed in the original by the facility's responsible official.

(6) Actual emissions shall be calculated using emission monitoring data or direct emissions measurements for the pollutant(s); mass balance calculations such as the amount of the pollutant(s) entering and leaving process equipment and where mass balance calculations can be supported by direct measurement of process parameters, such direct measurement data shall be supplied; published emission factors such as those relating release quantities to throughput or equipment type (e.g., air emission factors); or other approaches such as engineering calculations (e.g., estimating volatilization using published mathematical formulas) or best engineering judgments where such judgments are derived from process and/or emission data which supports the estimates of maximum actual emissions.

(7) If the Commission determines that there is not sufficient information available to the permit holder regarding the facility's emissions to allow the permit holder accurately to calculate actual emissions by July 1, the calculation of the permit holder's fee initially shall be based on the permitted allowable emissions. If, after July 1, sufficient information becomes available and an adequate determination of actual emissions is made by the permit holder and approved by the Department, the Department shall modify the permit holder's annual fee as follows:

i. For approvable actual emissions reported after July 1 but before October 1, the permit holder's total annual fee shall be the sum of one-fourth of

the fee based on allowable emissions and three-fourths of the fee based on actual emissions.

ii. For approvable actual emissions reported after October 1 but before January 1, the permit holder's total annual fee shall be the sum of one-half of the fee based on allowable emissions and one-half of the fee based on actual emissions.

iii. For approvable actual emissions reported after January 1 but before April 1, the permit holder's total annual fee shall be the sum of three-fourths of the fee based on allowable emissions and one-fourth of the fee based on actual emissions.

iv. For approvable actual emissions reported after April 1, the permit holder's total annual fee shall be based solely on allowable emissions.

This paragraph shall not apply to situations where adequate information was available to the permit holder in order for a calculation to be submitted by July 1 and no adequate calculation was submitted. That circumstance shall be governed by VI.A.2.a.(2) above. This paragraph shall not alter a permit holder's responsibility to make payments of appropriate sums in a timely fashion as otherwise required by this section and by law and shall not exempt any permit holder from paying a penalty for late fee payment.

b. For facilities using allowable emissions as the basis for the fee, the fee shall be calculated based upon the allowable emissions contained in the permit on the date of the invoice. Allowable emissions contained in the permit include emissions of air pollutants not limited by the permit and therefore not listed in the permit (but allowed by the permit) as well as those air pollutant emissions limited by the permit. No fee actually paid to the Department shall be refunded due to a change of the basis of the fee calculation from allowable emissions to actual emissions. If a fee calculated based on allowable emissions is later recalculated to a fee based in whole or in part on actual emissions, and the facility already has paid part or all of the annual period fee, then the annual period fee may be reduced down to the amount as calculated, but no less than the amount of the fee already paid to the Department for that annual period.

3. A minimum annual fee of Two Hundred Fifty Dollars ($250.00) shall be assessed to and collected from the owner or operator of each facility that is required to hold a Title V permit. The maximum annual fee shall be Two Hundred Fifty Thousand Dollars ($250,000.00) per facility.

4. Prior to the date of full implementation of the Title V program in Mississippi, the fee assessed shall be Four Dollars ($4.00) per ton of emissions of each air pollutant for which fees can be assessed under the Title V program, not to exceed Fifty Thousand Dollars ($50,000.00) per facility with the exceptions as follows:

a. no fee shall be assessed for carbon monoxide emissions, and

b. no fee shall be assessed for emissions of Class I or Class II substances as established by Title VI of the Federal Act.

5. Following the date of full implementation of the Title V program in Mississippi, the regulated pollutants for fee calculations and the fee schedule for Title V permit fees for any subsequent calendar year shall be set by order of the Commission in an amount sufficient to cover the permit program cost. The Commission's order shall follow:

a. receipt of the report and recommendations of the Advisory Council; and

b. a public hearing to be held not earlier than thirty (30) days following receipt by the Commission of the report and recommendations of the Advisory Council. The commission may proceed with entry of the order on fees if the Advisory Council fails to submit its report in a timely manner.

6. Following the date of full implementation of Title V in this state, all new sources required to hold a Title V permit shall pay an annual permit fee to the DEQ in accordance with the following:

a. any new source commencing operation between and including January 1 and September 1 of any year shall pay a Title V permit fee on or before September 1 of the year it commences operation;

b. any new source commencing operation between and including September 2 and December 31 of any year shall pay a Title V permit fee on or before September 1 of the year after it commences operation; and

c. any new source shall submit to DEQ a declaration of its emissions on or before the first July 1 after it commences operation.

B. Excess Fees. If the annual fees collected exceed the cost of administering the Title V program for that fiscal year, then the excess shall be applied to the cost of administering the program for the succeeding fiscal year. In the succeeding fiscal year, the total to be collected from fees shall be reduced by the excess retained in the fund and the assessment rates shall be adjusted proportionately.

C. Disputed Fees. Any owner or operator required to pay the Title V permit fee set forth under this chapter who disagrees with the calculation or applicability of the owner's or operator's fee may petition the Commission in writing for a hearing in accordance with State Law. Any disputed portion of the fee for which a hearing has been requested will not incur any penalty or interest from and after the receipt by the Commission of the hearing petition.

D. Due Dates. The air operating permit fee shall be due September 1 of each year. A permit holder may elect a quarterly payment method of four (4) equal payments with the payments due September 1, December 1, March 1 and June 1. The permit holder shall notify the Department of Environmental Quality that the quarterly payment method will be used by September 1.

1. If any part of the air operating permit fee imposed is not paid within thirty (30) days after the due date, a penalty of ten percent (10%) of the amount due shall at once accrue and be added thereto. If the fee is not paid in full, including any interest and penalty within sixty (60) days of the due date, the Permit Board may revoke the permit upon proper notice and hearing as required by law.

2. If at any time within the year the Commission determines that the information submitted by the permittee on actual emissions is insufficient or incorrect, the permittee will be notified of the deficiencies and the adjusted fee schedule. Past due fees from the adjusted fee schedule will be paid on the next scheduled quarterly payment time.

VII. INSIGNIFICANT ACTIVITIES AND EMISSIONS

A. The following activities/emissions sources are not required to be included in a Title V permit application:

1. new or modified pilot plants, subject to temporary source regulations located in Section III.E.

2. maintenance and upkeep:

a. maintenance, structural changes, or repairs which do not change the capacity of such process, fuel-burning, refuse-burning, or control equipment, and do not involve any change in quality, nature, or quantity of potential emissions of any regulated air pollutants; and

b. housekeeping activities or building maintenance procedures;

3. air conditioning or ventilation: comfort air conditioning or comfort ventilating systems which do not transport, remove, or exhaust regulated air pollutants to the atmosphere;

4. laboratory equipment:

a. laboratory equipment used exclusively for chemical or physical analysis for quality control or environmental monitoring purposes; or

b. non-production laboratory equipment used at non-profit health or non-profit educational institutions for chemical or physical analyses, bench scale experimentation or training, or instruction;

5. hot water heaters which are used for domestic purposes only and are not used to heat process water;

6. fuel use related to food preparation by a restaurant, cafeteria, residential cooker or barbecue grill where the products are intended for human consumption;

7. clerical activities such as operating copy machines and document printers, except operation of such units on a commercial basis;

8. hand held equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiber board, masonry, carbon, glass, or wood;

9. equipment for washing or drying fabricated glass or metal products, if no VOCs are used in the process and no oil or solid fuel is burned;

10. water cooling towers (except at nuclear power plants); water treatment systems for process cooling water or boiler feed water; and water tanks, reservoirs, or other water containers not used in direct contact with gaseous or liquid process streams containing carbon compounds, sulfur compounds, halogens or halogen compounds, cyanide compounds, inorganic acids, or acid gases;

11. domestic sewage treatment facilities (excluding combustion or incineration equipment, land farms, storage silos for dry material, or grease trap waste handling or treatment facilities);

12. stacks or vents to prevent escape of sewer gases through plumbing traps;

13. vacuum cleaning systems for housekeeping, except at a source with hazardous air pollutants;

14. alkaline/phosphate washers and associated cleaners and burners;

15. mobile sources;

16. livestock and poultry feedlots and associated fuel burning equipment other than incinerators;

17. outdoor kerosene heaters;

18. equipment used for hydraulic or hydrostatic testing;

19. safety devices, excluding those with continuous emissions; and

20. brazing, soldering, or welding equipment that is used intermittently or in a non-continuous mode.

B. The following activities/emissions sources must be listed in the application but emissions from these activities do not have to be quantified.

1. all gas fired, #2 oil fired, infrared, electric ovens with no emissions other than products of fuel combustion;

2. combustion units with rated input capacity less than 10 million Btu/hr that are fueled by:

   a. liquefied petroleum gas or natural gas supplied by a public utility; or

   b. commercial fuel oil #2 or lighter;

3. equipment used for inspection of metal products;

4. equipment used exclusively for forging, pressing, drawing, spinning, or extruding metals;

5. equipment used exclusively to mill or grind coatings and molding compounds where all materials charged are in paste form;

6. mixers, blenders, roll mills, or calendars for rubber or plastics for which no materials in powder form are added and in which no organic solvents, diluents, or thinners are used;

7. all storage tanks used exclusively to store fuel oils, kerosene, diesel, jet fuel, crude oil, natural gas, or liquified petroleum gas (the application must list the size of the tank, date constructed and/or modified, type tank, and material stored);

8. space heaters utilizing natural or LPG gas and used exclusively for space heating;

9. back-up or emergency use generators, boilers or other fuel burning equipment which is of equal or smaller capacity than normal main operating equipment, cannot be used in conjunction with normal main operating equipment, and does not emit, have or cause the potential to emit of any regulated air pollutant to increase;

10. blast cleaning equipment using a suspension of abrasives in water;

11. die casting machines;

12. foundry sand mold forming equipment to which no heat is applied and from which no organics are emitted;

13. bark and wood-waste storage and handling;
14. log wetting areas;
15. log flumes;
16. sodium hydrosulfide storage tank;
17. smelt dissolving tank view ports;
18. spout cooling water storage;
19. effluent drains;
20. white water chest;
21. repulper vents;
22. clay storage tank;
23. alum storage tank;
24. starch storage tank;
25. steam vents and leaks;
26. deaerator vents;
27. mill air and instrument air system;
28. demineralizer water storage tank;
29. acid storage tank;
30. process water tank;
31. air purification system vents;
32. effluent neutralizing tank/system;
33. dregs washer;
34. lime silo;
35. lime mud mix tank;

36. lime mud slurry tank;

37. H_2O_2 storage tank;

38. green liquor tank; and

39. tall oil storage tank.

C. Notwithstanding Sections VII.A. and B. above, the applicant shall include all emissions sources and quantify emissions if needed to determine major source status, to determine compliance with an applicable requirement and/or the applicability of any applicable requirement such as a NSPS, NESHAP, MACT standard, etc. as such term is defined in Section I., or collect any permit fee owed under the approved fee schedule.

D. Notwithstanding Sections VII.A. and B. above, the applicant shall include all emission sources with a potential to emit:

1. greater than 1 pound per hour of any regulated pollutant that is not a hazardous air pollutant, or is not a GHG;

2. greater than 0.1 pound per hour of any hazardous air pollutant.

E. The permittee does not have to report the addition of any insignificant activity listed in Section VII.A. unless the addition is a Title I modification or requires a permit to construct If a Title I permit or a permit to construct is required, then the modification procedures outlined in Section IV.E. shall be followed.

F. The addition of any insignificant activity listed in Section VII.B. shall be handled as an administrative amendment as defined in Section IV.D. unless the addition is a Title I modification or requires a permit to construct. If a Title I permit or a permit to construct is required, then the modification procedures outlined in Section IV.E. shall be followed.

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

"AIR EMISSIONS OPERATING PERMIT REGULATIONS FOR THE PURPOSES
OF
TITLE V OF THE
FEDERAL CLEAN AIR ACT"

APC-S-6

~~Amended October 28, 2010~~
Proposed Amendments
Public Hearing Date: December 6, 2011

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

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FOR THE PURPOSES OF TITLE V OF THE
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APC-S-6

Adopted October 27, 1993
Amended December 14, 1995
Amended April 23, 1998
Amended December 29, 2000
Amended October 28, 2010
Proposed Amendments
Public Hearing Date: December 6, 2011

VIII. GENERAL REQUIREMENTS

A. Definitions

1. Advisory Council is the Council created by State law to conduct an independent study of the costs for the development and administration of the Title V program within the Department of Environmental Quality and to conduct an annual review of the costs of administering such programs.

2. Affected Source shall have the same meaning as set forth in the regulations promulgated under Title IV of the Federal Act.

3. Affected State(s) means all states whose air quality may be affected and that are contiguous to Mississippi; or are within 50 miles of the permitted source.

4. Affected unit shall have the same meaning as set forth in the regulations promulgated under Title IV of the Federal Act.

5. Applicable requirement means all of the following as they apply to emissions units in a Title V source (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future-effective compliance dates):

   a. any standard or other requirement set forth in the State Implementation Plan (SIP) approved or promulgated by EPA through rulemaking under Title I of the Federal Act that implements the relevant requirements of the Federal Act, including any revisions to the SIP promulgated in 40 CFR Part 52;

b. any term or condition of any construction permits issued pursuant to Mississippi regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Federal Act;

c. any standard or other requirement under Section 111 of the Federal Act, including Section 111(d);

d. any standard or other requirement under Section 112 of the Federal Act, including any requirement concerning accident prevention under Section 112(r)(7) of the Federal Act;

e. any standard or other requirement of the acid rain program under Title IV of the Federal Act or the regulations promulgated thereunder;

f. any requirements established pursuant to Section 504(b) or Section 114(a)(3) of the Federal Act;

g. any standard or other requirement governing solid waste incineration under Section 129 of the Federal Act;

h. any standard or other requirement for consumer and commercial products under Section 183(e) of the Federal Act;

i. any standard or other requirement for tank vessels under Section 183(f) of the Federal Act;

j. any standard or other requirement of the program to control air pollution from outer continental shelf sources under Section 328 of the Federal Act;

k. any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Federal Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and

l. any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Federal Act applicable only with regard to temporary sources permitted pursuant to Section 504(e) of the Federal Act.

6. Commission means the Mississippi Commission on Environmental Quality.

7. DEQ means the Mississippi Department of Environmental Quality.

8. Designated representative shall have the same meaning as set forth in Section 402(26) of the Federal Act and the regulations promulgated thereunder.

9. Draft permit is the version of a recommended permit for which the DEQ offers public participation under Section IV.I. or Affected State(s) review under Section V.

10. Emissions allowable under a permit means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

11. Emissions unit means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Federal Act. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Federal Act.

12. The EPA or the Administrator means the Administrator of the United States Environmental Protection Agency (EPA) or his designee.

13. Federal Act means the Federal Clean Air Act as amended in 1990, 42 U.S.C. §§7401-7671, and any subsequent amendments.

14. Final permit means the version of a Title V permit issued by the Permit Board once all review procedures required by Section IV. and Section V. have been completed.

15. Fugitive emissions are those emissions which could not reasonably pass through a stack, chimney, vent or other functionally-equivalent opening.

16. General permit is a Title V permit that meets the requirements of Section III.D.

17. Major source is any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that is described in Paragraph a., b., or c. of this definition. For the purposes of defining "major source", a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

    a. A major source under Section 112 of the Federal Act is defined as follows:

        (1) for pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Federal Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the

Administrator may establish by rule (notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources); or

(2) for radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

b. A major stationary source of air pollutants, as defined in Section 302 of the Federal Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Federal Act, unless the source belongs to one of the following categories of stationary sources:

(1) coal cleaning plants (with thermal dryers);

(2) kraft pulp mills;

(3) portland cement plants;

(4) primary zinc smelters;

(5) iron and steel mills;

(6) primary aluminum ore reduction plants;

(7) primary copper smelters;

(8) municipal incinerators capable of charging more than 250 tons of refuse per day;

(9) hydrofluoric, sulfuric, or nitric acid plants;

(10) petroleum refineries;

(11) lime plants;

(12) phosphate rock processing plants;

(13) coke oven batteries;

(14) sulfur recovery plants;

(15) carbon black plants (furnace process);

(16) primary lead smelters;

(17) fuel conversion plants;

(18) sintering plants;

(19) secondary metal production plants;

(20) chemical process plants;

(21) fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(22) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(23) taconite ore processing plants;

(24) glass fiber processing plants;

(25) charcoal production plant;

(26) fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

(27) all other stationary source categories regulated by a standard promulgated under Section 111 or 112 of the Federal Act, but only with respect to those air pollutants that have been regulated for that category;

c. A major stationary source as defined in part D of Title I of the Federal Act, including the following:

(1) for ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as “marginal” or “moderate”, 50 tpy or more in areas classified as “serious”, 25 tpy or more in areas classified as “severe”, and 10 tpy or more in areas classified as “extreme”; except that the references in this paragraph to 100, 50, 25 and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding under Section 182(f)(1) or (2) of the Federal Act, that requirements under Section 182(f) of the Federal Act do not apply;

(2) for ozone transport regions established pursuant to Section 184 of the Federal Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;

(3) for carbon monoxide nonattainment areas:

(a) that are classified as "serious", and

(b) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and

(4) for particulate matter (PM-10) nonattainment areas classified as "serious", sources with the potential to emit 70 tpy or more of PM-10.

18. Permit Board means the Mississippi Environmental Quality Permit Board.

19. Permit modification means a revision to a Title V permit that meets the requirements of Section IV.E. as distinguished from an administrative amendment.

20. Permit program cost means all reasonable direct and indirect costs required to develop and administer the Title V permit program, as authorized by State law and set forth in Miss. Code Ann. § 49-17-14.

21. Permit revision means any permit modification or administrative permit amendment.

22. Potential to emit means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design consistent with 40 CFR 52.21. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is established in a construction permit required by the EPA approved Mississippi SIP for New Source Review (NSR) or a Title V permit. This term does not alter or affect the use of this term for any other purposes under the Federal Act, or the term "capacity factor" as used in Title IV of the Federal Act or the regulations promulgated thereunder.

23. Proposed permit means the version of a recommended permit that the DEQ proposes to be issued and forwards to the Administrator for review in compliance with Section V.

24. Regulated air pollutant includes the following:

a. nitrogen oxides or any volatile organic compounds;

b. any pollutant for which a national ambient air quality standard has been promulgated;

c. any pollutant that is subject to any standard promulgated under Section 111 of the Federal Act;

d. any class I or II substance subject to a standard promulgated under or established by Title VI of the Federal Act; or

e. any pollutant subject to a standard promulgated under Section 112 or other requirements established under Section 112 of the Federal Act, including Sections 112(g), (j), and (r) of the Federal Act, including the following:

(1) any pollutant subject to requirements under Section 112(j) of the Federal Act (if the Administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Federal Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e) of the Federal Act); and

(2) any pollutant for which the requirements of Section 112(g)(2) of the Federal Act have been met, but only with respect to the individual source subject to Section 112(g)(2) requirements.

25. Renewal means the process by which a permit is reissued at the end of its term.

26. Responsible official means as follows:

a. for a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the 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 second quarter 1980 dollars); or

(2) the delegation of authority to such representative is approved in advance by the DEQ;

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

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)); or

d. for affected sources:

(1) the designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Federal Act or the regulations promulgated thereunder are concerned; and

(2) the designated representative for any other purposes under Title V.

27. Section 502(b)(10) changes are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

28. State Law means the Mississippi Air and Water Pollution Control Law, specifically, Section 49-17-1 through 49-17-43 of the Mississippi Code of 1972, and any subsequent amendments.

29. Stationary source means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Federal Act.

30. Sources or facilities required to hold Title V permits means all major sources and all other Title V sources beginning either five (5) years after full implementation of the Title V program in Mississippi or such other time as specified by EPA, whichever is later.

31. Subject to regulation means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of 40 CFR Chapter I, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

a. Greenhouse gases (GHGs), the air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 tpy of CO_2 equivalent emissions.

b. The term tpy CO_2 equivalent emissions (CO_2e) shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of

emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs , by the gas's associated global warming potential published at Table A-1 to Subpart A of 40 CFR Part 98 – Global Warming Potentials, and summing the resultant value for each to compute a tpy CO_2e. For purposes of this paragraph, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

32. Title V means 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.

33. Title V permit means any permit or group of permits covering a Title V source that is issued, renewed, amended, or revised pursuant to these regulations.

34. 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 pursuant to this section.

B. GENERAL TITLE V PERMIT REQUIREMENTS

1. Except as provided or excepted below all Title V sources must comply with all provisions herein with regard to Title V permit responsibilities including but not limited to filing an application for and obtaining a Title V permit.

2. All sources that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to Section 129(e) of the Federal Act are exempted from the obligation to obtain a Title V permit until either the date five years after full implementation of the Title V program in Mississippi or such time as the

Administrator completes a rulemaking to determine how the program should be structured for nonmajor sources and the appropriateness of any permanent exemptions in addition to those provided for in Section I.B.5., whichever is later.

3. In the case of nonmajor sources subject to a standard or other requirement under either Section 111 or Section 112 of the Federal Act promulgated after July 21, 1992, the exemption of any or all such applicable sources from the requirement to obtain a Title V permit will be determined consistent with the newly promulgated standard and regulations.

4. Any source listed in Section I.B.2.,3. and/or 5. which is exempt from the requirement to obtain a Title V permit may opt to apply for a Title V permit under the Title V program.

5. The following source categories are exempted from the obligation to obtain a Title V permit.

    a. All sources and source categories that would be required to obtain a Title V permit solely because they are subject to 40 CFR Part 60, subpart AAA - Standards of Performance for New Residential Wood Heaters.

    b. All sources and source categories that would be required to obtain a Title V permit solely because they are subject to 40 CFR Part 61, subpart M - National Emission Standard for Hazardous Air Pollutants for Asbestos § 61.145, Standard for Demolition and Renovation.

6. Emissions units and Title V sources.

    a. For major sources, the Title V permit shall include all applicable requirements for all relevant emissions units in the major source.

    b. For any nonmajor source subject to the Title V program under Paragraphs 2-5 of this section, the Permit Board shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the Title V program.

7. Fugitive emissions. Fugitive emissions from a Title V source shall be included in the permit application and the Title V permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

8. For purposes of these regulations, the Commission shall not make any exceptions to and/or grant any exemptions and/or variances from any of the regulations regarding Title V permits except those specified herein.

IX. PERMIT APPLICATIONS

A. Duty to apply. For each Title V source, the owner or operator shall submit a timely and complete permit application in accordance with this section.

1. Timely application.

   a. A timely application for a source applying for a Title V permit for the first time is one that is submitted within 12 months after the source becomes subject to the permit program or on or before such earlier date as the Permit Board may establish. In the latter case, at least six (6) months time shall be given for application submittal from the time the Permit Board notifies the source of the early submittal requirement.

   b. Title V sources required to meet the requirements under Section 112(g) of the Federal Act or to have a permit under the preconstruction review and construction permit requirements of Regulation APC-S-2, "Permit Regulations for the Construction and/or Operation of Air Emissions Equipment" shall file a complete application to obtain the Title V permit or permit revision within 12 months after commencing operation or on or before such earlier date as the Permit Board may establish. Where an existing Title V permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation.

   c. For purposes of permit renewal, a timely application is one that is submitted at least 6 months prior to the date of permit expiration.

   d. Applications for initial phase II acid rain permits shall be submitted to the DEQ by January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides.

2. Complete application. To be deemed complete, an application must provide all information required pursuant to Section II.C., except that applications for permit revision need supply such information only if it is related to the proposed change. Information required under Section II.C. must be sufficient to evaluate the subject source and its application and to determine all applicable requirements. A responsible official shall certify the submitted information consistent with Section II.E. Unless the DEQ determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed to be complete. If, while processing an application that has been determined or deemed to be complete, the DEQ determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response. The source's ability to operate without a Title V permit, as set forth in Section IV.B. of these regulations, shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the DEQ.

3. Confidential information. In the event a source submits information to the DEQ under a claim of confidentiality, the Permit Board may also require the source to submit a copy of such information directly to the Administrator.

B. Duty to supplement or correct application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit to public participation.

C. Standard application form and required information. All applications must be submitted on the form supplied by the Permit Board. Insignificant activities which are specified in Section VII.A. need not be included in permit applications. For insignificant activities which are specified in Section VII.B., a list of such insignificant activities must be included in the application. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under the schedule pursuant to Section VI. of these regulations. The forms and attachments shall include the elements specified as follows:

1. identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact;

2. a description of the source's process and products (by Standard Industrial Classification Code) including any associated with any alternate scenario identified by the source;

3. emission-related information as follows:

   a. all emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. Fugitive emissions from individual components within a facility may be determined collectively based on their relationship to the associated process unless individual emission rates are needed to determine the applicability of an applicable requirement such as NSPS, NESHAPS, a MACT standard, etc. or to determine air quality impacts. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under Section VII. The Permit Board shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule pursuant to Section VI. of these regulations.

b. identification and description of all points of emissions described in Section II.C.3.a. of this section in sufficient detail to establish the basis for fees and applicability of requirements of the Federal Act;

c. emission rates in tpy and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method;

d. to the extent it is needed to determine or regulate emissions, the information that follows: fuels, fuel use, raw materials, production rates, and operating schedules;

e. identification and description of air pollution control equipment and compliance monitoring devices or activities;

f. limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the Title V source;

g. other information required by any applicable requirement (including information related to stack height limitations developed pursuant to Section 123 of the Federal Act);

h. calculations on which the information in Section II.C.3.a. through g. is based;

4. air pollution control requirements as follows:

a. citation and description of all applicable requirements, and

b. description of or reference to any applicable test method for determining compliance with each applicable requirement;

5. other specific information that may be necessary to implement and enforce other applicable requirements of the Federal Act or of these regulations or to determine the applicability of such requirements;

6. an explanation of any proposed exemptions from otherwise applicable requirements;

7. additional information as determined to be necessary by the Permit Board to define alternative operating scenarios identified by the source pursuant to Section III.A.9. of these regulations or to define permit terms and conditions implementing 40 CFR 70.4(b)(12) or Section III.A.10. of these regulations.

8. a compliance plan for all Title V sources that contains all of the following:

a. a description of the compliance status of the source with respect to all applicable requirements;

b. a description as follows:

(1) for applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(2) for applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis;

(3) for requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements;

c. a compliance schedule as follows:

(1) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(2) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirements;

(3) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule or remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based;

d. a schedule for submission of certified progress reports, to be submitted no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation;

e. the compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Federal Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations;

9. requirements for compliance certification, including the following:

a. a certification of compliance with all applicable requirements by a responsible official consistent with Section II.E. and Section 114(a)(3) of the Federal Act;

b. a statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

c. a schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Permit Board;

d. a statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Federal Act; and

10. the use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Federal Act.

D. Applicant's duty to apply for alternative scenarios. Any operating scenario allowed for in an applicable Title V permit may be implemented by the facility without the need for any permit revision or any notification to the Permit Board. It is incumbent upon the Title V permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.

E. Any application form, report, or compliance certification submitted pursuant to these regulations shall contain a certification of truth, accuracy, and completeness signed by a responsible official. This certification and any other certification required under these regulations shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

X. PERMIT CONTENT

A. Standard permit requirements. Each permit issued under these regulations shall include the following requirements.

1. Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance.

a. The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

b. The permit shall state that, where an applicable requirement of the Federal Act is more stringent than an applicable requirement of regulations promulgated under

Title IV of the Federal Act, both provisions shall be incorporated into the permit and shall be enforceable by the Administrator and the Commission.

2. Permit duration. The Permit Board shall issue permits for a fixed term of 5 years in the case of affected sources, and for a term not to exceed 5 years in the case of all other sources. Notwithstanding this requirement, the Permit Board shall issue permits for solid waste incineration units combusting municipal waste subject to standards under Section 129(e) of the Federal Act for a period not to exceed 12 years and shall review such permits at least every 5 years.

3. Monitoring and related recordkeeping and reporting requirements.

   a. Each permit shall contain the requirements with respect to monitoring as follows:

      (1) all emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to Sections 114(a)(3) or 504(b) of the Federal Act;

      (2) where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit as reported pursuant to Section III.A.3.c. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions shall be sufficient to meet the requirements of Section III.A.3.b.; and

      (3) as necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

   b. With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

      (1) records of required monitoring information that include the following:

         (a) the date, place as defined in the permit, and time of sampling or measurements;

         (b) the date(s) analyses were performed;

         (c) the company or entity that performed the analyses;

         (d) the analytical techniques or methods used;

(e) the results of such analyses;

(f) the operating conditions existing at the time of sampling or measurement; and

(2) retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records, all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

c. With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(1) submittal of reports of any required monitoring at least every 6 months (all instances of deviations from permit requirements must be clearly identified in such reports and all required reports must be certified by a responsible official consistent with Section II.E. of these regulations); and

(2) prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The Permit Board shall define "prompt" in the permit in relation to the degree and type of deviation likely to occur and the applicable requirements.

4. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Federal Act or the regulations promulgated thereunder.

a. No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

b. No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

c. Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Federal Act.

5. A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

6. Provisions stating the following:

   a. The permittee must comply with all conditions of the Title V permit. Any permit noncompliance constitutes a violation of the Federal Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

   b. The need to halt or reduce activity is not a defense. 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 this permit.

   c. The permit and/or any part thereof may be modified, revoked, reopened, and reissued, or terminated for cause. 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.

   d. The permit does not convey any property rights of any sort, or any exclusive privilege.

   e. 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 permittee or, for information claimed to be confidential, the permittee shall furnish such records to DEQ along with a claim of confidentiality. The permittee may furnish such records directly to the Administrator along with a claim of confidentiality.

7. A provision to ensure that a Title V source pays fees to the permitting authority consistent with the fee schedule pursuant to Section VI. of these regulations.

8. Emissions trading. A provision stating that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

9. Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application, as approved by the Permit Board, as follows:

   a. shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

   b. may extend the permit shield described in Section III.F. to all terms and conditions under each such operating scenario; and

c. must ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of these regulations.

10. If the permit applicant requests them, terms and conditions for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of each emissions trade, as follows:

    a. shall include all terms required under Section III.A. and C. to determine compliance;

    b. may extend the permit shield described in Section III.F. to all terms and conditions that allow such increases and decreases in emissions; and

    c. must meet all applicable requirements and requirements of these regulations.

B. Federally-enforceable requirements.

1. All terms and conditions in a Title V permit, including any provisions designed to limit a source's potential to emit, are enforceable by the Administrator and citizens under the Federal Act as well as the Commission.

2. Notwithstanding Section III.B.1., the Permit Board shall specifically designate as not being federally enforceable under the Federal Act, any terms and conditions included in the permit that are not required under the Federal Act or under any of its applicable requirements. Terms and conditions so designated are not subject to the requirements of Section III., IV., or V. of these regulations, other than those contained in Section III.B.

C. Compliance requirements. All Title V permits shall contain elements with respect to compliance as follows:

1. Consistent with Section III.A.3. of this section, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a Title V permit to be submitted to the DEQ shall contain a certification by a responsible official that meets the requirements of Section II.E. of these regulations.

2. Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the DEQ, or an authorized representative, to perform the following:

    a. enter upon the permittee's premises where a Title V source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

b. have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

c. inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

d. as authorized by the Federal Act, sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

3. A schedule of compliance consistent with Section II.C.8. of these regulations.

4. Progress reports consistent with an applicable schedule of compliance and Section II.C.8. of these regulations to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the Permit Board. Such progress reports shall contain the following:

a. dates for achieving the activities, milestone(s), or compliance required in the schedule of compliance, and dates when such activities, milestone(s) or compliance were achieved; and

b. an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

5. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

a. the frequency (not less than annually or such more frequent period as specified in the applicable requirement or by the Permit Board) of submissions of compliance certifications;

b. in accordance with Section III.A.3. of these regulations, a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;

c. a requirement that the compliance certification include the following:

(1) the identification of each term or condition of the permit that is the basis of the certification;

(2) the compliance status;

(3) whether compliance was continuous or intermittent;

(4) the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with Section III.A.3.; and

(5) such other facts as the DEQ may require to determine the compliance status of the source;

d. a requirement that all compliance certifications be submitted to the Administrator as well as to the Permit Board; and

e. such additional requirements as may be specified pursuant to Sections 114(a)(3) and 504(b) of the Federal Act.

6. such other provisions as the Permit Board may require.

D. General permits.

1. The Permit Board may, after notice and opportunity for public participation provided under Section IV.I. of these regulations, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to other Title V permits and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the DEQ shall extend coverage of the terms and conditions of the general permit for a period of time not to exceed five years from the date coverage is extended. Notwithstanding the shield provisions of Section III.F., the source shall be subject to enforcement action for operating without a Title V permit if the source is later determined not to qualify for the terms and conditions of the general permit. General permits shall not be authorized for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the Federal Act.

2. After notice and opportunity for a hearing, the Permit Board may revoke and/or modify a general permit. After notice and opportunity for a hearing, the Permit Board may also revoke or deny coverage under a general permit and require a facility to obtain a Title V permit.

3. Title V sources that would qualify for a general permit must apply to the DEQ for coverage under the terms of the general permit or must apply for a Title V permit consistent with Section II. of these regulations. The Permit Board may, in the general permit, provide for applications which deviate from the requirements of Section II. of these regulations, provided that such applications meet the requirements of Title V of the Federal Act, and include all information necessary to determine qualification for, and to assure compliance with, the general permit. Without repeating the public participation procedures required under Section IV.I. of these regulations, the DEQ may grant a source's request for coverage under a general permit, but such a grant shall not constitute a final Permit Board action for purposes of appeal only.

E. Temporary sources. The Permit Board may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

1. conditions that will assure compliance with all applicable requirements at all authorized locations;

2. requirements that the owner or operator notify the DEQ at least 10 days in advance of each change in location; and

3. conditions that assure compliance with all other provisions of this section.

F. Permit shield.

1. Except as provided in these regulations, the Permit Board shall expressly include in a Title V permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, upon satisfaction of either condition as follows:

   a. such applicable requirements are included and are specifically identified in the permit; or

   b. the Permit Board, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes such determination or a concise summary thereof.

2. Nothing in Section III.F. or in any Title V permit shall alter or affect the following:

   a. the provisions of Section 303 of the Federal Act (emergency orders), including the authority of the Administrator under that section;

   b. the liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

   c. the applicable requirements of the acid rain program, consistent with Section 408(a) of the Federal Act; or

   d. the ability of EPA to obtain information from a source pursuant to Section 114 of the Federal Act.

G. Emergency provision.

1. Definition. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which

situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

2. Effect of any emergency. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of Section III.G.3. are met.

3. The affirmative defense of emergency shall be demonstrated through properly signed contemporaneous operating logs, or other relevant evidence that include information as follows:

   a. an emergency occurred and that the permittee can identify the cause(s) of the emergency;

   b. the permitted facility was at the time being properly operated;

   c. during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and

   d. the permittee submitted notice of the emergency to the DEQ within 2 working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of Section III.A.3.c.(2). This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

5. This provision is in addition to any emergency or upset provision contained in any applicable requirement.

H. Risk Management Plans. If the source is required to develop and register a risk management plan pursuant to Section 112(r) of the Act, the permit need only specify that it will comply with the requirement to register such a plan. The content of the risk management plan need not itself be incorporated as a permit term.

XI. PERMIT ISSUANCE(S), RENEWAL(S), REOPENING(S), AND REVISION(S)

A. Action on application.

1. A permit, permit modification, or renewal may be issued only upon satisfaction of the conditions that follow:

    a. the DEQ has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under Section III.D. of these regulations;

    b. except for modifications qualifying for minor permit modification procedures under this section, the DEQ has complied with the requirements for public participation under this section;

    c. the DEQ has complied with the requirements for notifying and responding to Affected State(s) under Section V.B. of these regulations;

    d. the conditions of the permit provide for compliance with all applicable requirements and the requirements of these regulations; and

    e. the Administrator has received a copy of the proposed permit and any notices required under Section V.A. and B. of these regulations, and has not objected to issuance of the permit under Section V.C. of these regulations within the time period specified therein.

2. Except as provided under the initial transition plan or under regulations promulgated under Title IV or Title V of the Federal Act for the permitting of affected sources under the acid rain program, the Permit Board shall take final action on each permit application (including a request for permit modification or renewal) within 180 days or as otherwise provided for under State Law, after receiving a complete application.

3. The DEQ shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The DEQ shall send this statement to any person upon a written request and to EPA.

4. The submittal of a complete application shall not affect the requirement that any source have a Construction Permit.

B. Requirement for a permit. Except as provided in the following sentence, and paragraphs of this section, no Title V source may operate after the time that it is required to submit a timely and complete application, except in compliance with a Title V permit. If a Title V source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have a Title V permit is not a violation of these regulations until the Permit Board takes final action on the permit application, except as noted in this section. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to Section II.A.2., and as required by Section II.A.2. of these regulations, the applicant fails to submit by the deadline specified in writing by the DEQ any additional information identified as being needed to process the application.

C. Permit renewal and expiration.

1. Permits being renewed are subject to the same procedural requirements, including those for public participation, Affected State(s) review and EPA review, that apply to initial permit issuance; and

2. Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with Section IV.B. and Section II.A.1.c. of these regulations.

D. Administrative permit amendments.

1. An "administrative permit amendment" is a permit revision that revises a permit as follows:

   a. corrects typographical errors;

   b. identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

   c. requires more frequent monitoring or reporting by the permittee; and,

   d. allows for a change in ownership or operational control of a source in accordance with Section IV.D.4.

2. Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Federal Act.

3. Administrative permit amendment procedures. Any administrative permit amendment except for change in ownership or operational control may be made by the DEQ consistent with the following:

   a. The DEQ shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or Affected State(s) provided that it designates any such permit revisions as having been made pursuant to this paragraph.

   b. The DEQ shall submit a copy of the revised permit to the Administrator.

   c. The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

4. Permit Transfer. An administrative permit amendment may be made by the Permit Board authorizing changes in ownership or operational control consistent with the following:

   a. the Permit Board shall take action within 60 days after receipt of a completed request for a permit transfer, unless a public hearing is scheduled. The Permit Board may incorporate such changes without providing notice to the public or Affected State(s) provided that it designates any such permit revision as having been made pursuant to this paragraph.

   b. A permit transfer shall be approved upon satisfaction of the following:

      (1) the applicant for transfer approval can demonstrate to the Permit Board it has the financial resources, operational expertise and environmental compliance history over the last five years to insure compliance with the terms and conditions of the permit to be transferred except where this conflicts with State Law, and

      (2) the Permit Board determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the DEQ.

   c. The DEQ shall submit a copy of the revised permit to the Administrator.

E. Permit Modification. A permit modification is any revision to a Title V permit that cannot be accomplished under the program's provisions for administrative permit amendments under Section IV.D. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Federal Act.

   1. Minor permit modification procedures.

      a. Minor permit modification procedures may be used only for those permit modifications that satisfy the following:

         (1) do not violate any applicable requirement;

         (2) do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

         (3) do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

         (4) do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source

has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include the following:

(a) a federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I; and

(b) an alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the Federal Act;

(5) are not modifications under any provision of Title I of the Federal Act; and

(6) are not required by Commission regulations to be processed as a significant modification.

b. Notwithstanding other paragraphs of this section, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.

c. Application. An application requesting the use of minor permit modification procedures shall meet the requirements of Section II.C. of these regulations and shall include the following:

(1) a description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(2) the source's suggested draft permit;

(3) certification by a responsible official, that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

(4) completed forms for the DEQ to use to notify the Administrator and Affected State(s) as required under Section V.

d. EPA and Affected State(s) notification. Within 5 working days of receipt of a complete permit modification application, the DEQ shall notify the Administrator and Affected State(s) of the requested permit modification. The DEQ shall promptly send any notice required to the Administrator.

e. Timetable for issuance. The Permit Board may not issue a final permit modification until after EPA's 45-day review period or until EPA has notified the DEQ that EPA will not object to issuance of the permit modification, whichever is first, although the Permit Board can approve the permit modification prior to that

time. Within 90 days of the DEQ's receipt of an application under minor permit modification procedures or 15 days after the end of the Administrator's 45-day review period under Section V.C., whichever is later, the Permit Board shall take one of the actions as follows:

(1) issue the permit modification as proposed;

(2) deny the permit modification application;

(3) determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or

(4) revise the draft permit modification and transmit to the Administrator the new proposed permit modification as required by these regulations.

f. Source's ability to make change. The source may make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the Permit Board takes any of the actions specified in Section IV.E.1.e.(1)-(4), the source must comply with both the applicable requirements governing the change and the proposed terms and conditions of the permit. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with the proposed terms and conditions of its permit during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

g. Permit shield. The permit shield does not extend to minor permit modifications.

2. Group processing of minor permit modifications. Consistent with this paragraph, the Permit Board may modify the procedure to process groups of a source's applications for certain modifications eligible for minor permit modification processing.

a. Criteria. Group processing of modifications may be used only for those permit modifications which satisfy the following:

(1) meet the criteria for minor permit modification procedures and

(2) collectively, are below the threshold level. This threshold shall be 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source or 5 tons per year, whichever is least.

b. Application. An application requesting the use of group processing procedures shall meet the requirements of Section II.C. and shall include the following:

(1) a description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(2) the source's suggested draft permit;

(3) certification by a responsible official consistent with Section II.E., that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used;

(4) a list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under this section;

(5) certification that the source has notified EPA of the proposed modification. Such notification need only contain a brief description of the requested modification;

(6) completed forms for the DEQ to use to notify the Administrator and Affected State(s) as required.

c. EPA and Affected State(s) notification. On a quarterly basis or within 5 business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level, whichever is earlier, the DEQ promptly shall notify the Administrator and Affected State(s) of the requested permit modifications. The DEQ shall send any notice required under these regulations to the Administrator.

d. Timetable for issuance. The provisions of this section shall apply to modifications eligible for group processing, except that the Permit Board shall take one of the actions specified in Section IV.E.1.e.(1)-(4) within 180 days of receipt of the application or 15 days after the end of the Administrator's 45-day review period whichever is later.

e. Source's ability to make change. The provisions of Section IV.E.1.f. shall apply to modifications eligible for group processing.

f. Permit shield. The provisions of Section IV.E.1.g. of this section shall also apply to modifications eligible for group processing.

3. Significant modification procedures.

a. Criteria. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. The DEQ shall determine whether a

modification is significant. At a minimum, every significant modification in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall be considered significant.

b. Significant permit modifications shall meet all requirements of these regulations, including those for applications, public participation, review by Affected State(s), and review by EPA, as they apply to permit issuance and permit renewal.

F. Operational Flexibility. A permitted facility is authorized to make the changes described below within their facility without requiring a permit revision, if the changes are not modifications under any provision of Title I of the Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions): Provided that the facility provides the Administrator and the Department with written notification as required below in advance of the proposed changes, which shall be a minimum of seven (7) days, unless other applicable regulations specify a different time frame for emergencies. The source, Department, and EPA shall attach each such notice to their copy of the relevant permit.

1. The permitted sources are allowed to make Section 502(b)(10) changes without requiring a permit revision, if the changes are not modifications under any provision of Title I of the Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions).

a. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.

b. The permit shield described in Section III.F. shall not apply to any change made pursuant to Section IV.F.1.

2. The Department may provide for permitted sources to trade increases and decreases in emissions in the permitted facility, where the Mississippi State Implementation Plan (SIP) provides for such emissions trades without requiring a permit revision and based on the 7-day notice prescribed herein. This provision is available in those cases where the permit does not already provide for such emissions trading.

a. The written notification required above shall include such information as may be required by the provision in the SIP authorizing the emissions trade, including at a minimum, when the proposed change will occur, a description of each such change, any change in emissions, the permit requirements with which the source will comply using the emissions trading provisions of the SIP, and the pollutants emitted subject to the emissions trade. The notice shall also refer to the provisions with which the source will comply in the SIP and that provide for the emissions trade.

b. Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the SIP authorizing the emissions trade.

c. The permit shield described in Section III.F. shall not apply to any change made pursuant to Section IV.F.2.

3. The Department shall, if a permit applicant requests it, issue permits that contain terms and conditions, including all terms required under Section III.A. and C. to determine compliance, allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The Department shall not be required to include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements.

a. The written notification required above shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit.

b. The permit shield described in Section III.F. shall apply to any changes made pursuant to Section IV.F.3.

G. Reopening for cause.

1. Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

a. Additional applicable requirements under the Federal Act become applicable to a major Title V source with a remaining permit term of 3 or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended.

b. Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

c. The Permit Board or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

d. The Administrator or the Permit Board determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

2. Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

3. Reopenings shall not be initiated before a notice of such intent is provided to the Title V source by the DEQ at least 30 days in advance of the date that the permit is to be reopened, except that the Permit Board may provide a shorter time period in the case of an emergency.

H. Reopenings for cause by EPA.

1. The DEQ shall within 90 days after receipt of notification from the Administrator that cause exists to terminate, modify, or revoke and reissue a permit, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate.

2. The Permit Board shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke and issue the permit in accordance with the Administrator's objection.

I. Public participation. Except for administrative permit amendments and modifications qualifying for minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall provide adequate procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit. These procedures shall include the following:

1. Notice shall be given by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice; to persons on a mailing list developed by the DEQ, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public;

2. The notice shall identify the affected facility; the name and address of the permittee; the name and address of the Permit Board; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, and all other materials available to the Permit Board that are relevant to the permit decision; a brief description of the comment procedures

required by these regulations; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);

3. The DEQ shall provide notice and opportunity for participation by Affected State(s) as is provided for by Section V.

4. Timing. 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.

5. The DEQ shall keep a record of all commenters and also of the issues raised during the public participation process. Such records shall be available to the public.

XII. PERMIT REVIEW BY EPA AND AFFECTED STATE(S)

A. Transmission of information to the Administrator.

1. The DEQ shall provide to the Administrator a copy of each permit application (including any application for permit modification), each proposed permit and each final Title V permit. The applicant may be required by the Permit Board to provide a copy of the permit application (including the compliance plan) directly to the Administrator. Upon agreement with the Administrator, the DEQ may submit to the Administrator a permit application summary form and any relevant portion of the permit application and compliance plan, in place of the complete permit application and compliance plan. To the extent practicable, the preceding information shall be provided in computer-readable format compatible with EPA's national database management system.

2. The DEQ shall keep such records for 5 years and submit to the Administrator such information as the Administrator may reasonably require.

B. Review by Affected State(s).

1. The DEQ shall give notice of each draft permit to any Affected State(s) on or before the time that the DEQ provides this notice to the public.

2. As part of the submittal of the proposed permit to the Administrator (or as soon as possible after the submittal for minor permit modification procedure), the DEQ shall notify the Administrator and any Affected State(s) in writing of any refusal by the Permit Board to accept all recommendations for the proposed permit that the Affected State(s) submitted during the public or Affected State(s) review period. The notice shall include the Permit Board's reasons for not accepting any such recommendation. The Permit Board is not required to accept recommendations that are not based on applicable requirements or the requirements of these regulations.

C. EPA objection.

1. No permit for which an application must be transmitted to the Administrator shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information.

2. The DEQ shall within 90 days after the date of an objection revise and submit a proposed permit in response to the objection.

D. Public petitions to the Administrator.

If the Administrator objects to the permit as a result of a petition filed within 60 days after the expiration of the Administrator's 45-day review period to make such objection when no objection was made during that 45-day review period, the Permit Board shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the Permit Board has issued a permit prior to receipt of an EPA objection under this paragraph and the Administrator modifies, terminates, or revokes such permit, the Permit Board may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

E. Prohibition on default issuance. A Title V permit (including a permit renewal or modification) will not issue until Affected State(s) and EPA have had an opportunity to review the proposed permit as required.

XIII. PERMIT FEES

A. Fee Amounts. The owner or operator of any stationary source that is required to hold a Title V permit shall pay to the Department of Environmental Quality an annual permit fee. The Commission shall establish the amount of each fee to cover the permit program costs. The fee shall be deposited into the Air Operating Permit Program Fee Trust Fund.

1. For purposes of fee assessment and collection, the maximum emission rate of each pollutant used in the calculation of fees shall be four thousand (4,000) tons per year per facility.

2. For purposes of fee assessment and collection, the permit holder shall elect for actual or allowable emissions to be used in determining the annual quantity of emissions unless the Commission determines by order that the method chosen by the applicant for calculating actual emissions fails to reasonably represent actual emissions.

a. In electing to use actual emissions as the basis of the fee, the permit holder shall provide a report of actual emissions which complies with the following:

(1) At a minimum, the report of actual emissions shall consist of an inventory of the actual emissions summarized on a form supplied by the Department of

Environmental Quality for that purpose and of supporting information as appropriate and necessary for proper use of one or more of the emissions determination methods described in (6) below.

(2) The permit holder shall deliver the report of actual emissions to the Department of Environmental Quality by close of business on July 1 of each year. If the report of actual emissions is not received by the Department by close of business on July 1, allowable emissions shall be used by the Department to calculate the fee for the pertinent annual period.

(3) The emissions reported shall be the actual emissions determined for and only for the previous calendar year.

(4) The total annual actual emissions shall be expressed in tons/year for each pollutant specified on the form. If the total annual emissions value of any pollutant is left blank or is reported only by reference to another document, the allowable emissions for that pollutant shall be used in calculation of the fee.

(5) The emissions reporting form shall be signed in the original by the facility's responsible official.

(6) Actual emissions shall be calculated using emission monitoring data or direct emissions measurements for the pollutant(s); mass balance calculations such as the amount of the pollutant(s) entering and leaving process equipment and where mass balance calculations can be supported by direct measurement of process parameters, such direct measurement data shall be supplied; published emission factors such as those relating release quantities to throughput or equipment type (e.g., air emission factors); or other approaches such as engineering calculations (e.g., estimating volatilization using published mathematical formulas) or best engineering judgments where such judgments are derived from process and/or emission data which supports the estimates of maximum actual emissions.

(7) If the Commission determines that there is not sufficient information available to the permit holder regarding the facility's emissions to allow the permit holder accurately to calculate actual emissions by July 1, the calculation of the permit holder's fee initially shall be based on the permitted allowable emissions. If, after July 1, sufficient information becomes available and an adequate determination of actual emissions is made by the permit holder and approved by the Department, the Department shall modify the permit holder's annual fee as follows:

i. For approvable actual emissions reported after July 1 but before October 1, the permit holder's total annual fee shall be the sum of one-fourth of

the fee based on allowable emissions and three-fourths of the fee based on actual emissions.

ii. For approvable actual emissions reported after October 1 but before January 1, the permit holder's total annual fee shall be the sum of one-half of the fee based on allowable emissions and one-half of the fee based on actual emissions.

iii. For approvable actual emissions reported after January 1 but before April 1, the permit holder's total annual fee shall be the sum of three-fourths of the fee based on allowable emissions and one-fourth of the fee based on actual emissions.

iv. For approvable actual emissions reported after April 1, the permit holder's total annual fee shall be based solely on allowable emissions.

This paragraph shall not apply to situations where adequate information was available to the permit holder in order for a calculation to be submitted by July 1 and no adequate calculation was submitted. That circumstance shall be governed by VI.A.2.a.(2) above. This paragraph shall not alter a permit holder's responsibility to make payments of appropriate sums in a timely fashion as otherwise required by this section and by law and shall not exempt any permit holder from paying a penalty for late fee payment.

b. For facilities using allowable emissions as the basis for the fee, the fee shall be calculated based upon the allowable emissions contained in the permit on the date of the invoice. Allowable emissions contained in the permit include emissions of air pollutants not limited by the permit and therefore not listed in the permit (but allowed by the permit) as well as those air pollutant emissions limited by the permit. No fee actually paid to the Department shall be refunded due to a change of the basis of the fee calculation from allowable emissions to actual emissions. If a fee calculated based on allowable emissions is later recalculated to a fee based in whole or in part on actual emissions, and the facility already has paid part or all of the annual period fee, then the annual period fee may be reduced down to the amount as calculated, but no less than the amount of the fee already paid to the Department for that annual period.

3. A minimum annual fee of Two Hundred Fifty Dollars ($250.00) shall be assessed to and collected from the owner or operator of each facility that is required to hold a Title V permit. The maximum annual fee shall be Two Hundred Fifty Thousand Dollars ($250,000.00) per facility.

4. Prior to the date of full implementation of the Title V program in Mississippi, the fee assessed shall be Four Dollars ($4.00) per ton of emissions of each air pollutant for which fees can be assessed under the Title V program, not to exceed Fifty Thousand Dollars ($50,000.00) per facility with the exceptions as follows:

a. no fee shall be assessed for carbon monoxide emissions, and

b. no fee shall be assessed for emissions of Class I or Class II substances as established by Title VI of the Federal Act.

5. Following the date of full implementation of the Title V program in Mississippi, the regulated pollutants for fee calculations and the fee schedule for Title V permit fees for any subsequent calendar year shall be set by order of the Commission in an amount sufficient to cover the permit program cost. The Commission's order shall follow:

a. receipt of the report and recommendations of the Advisory Council; and

b. a public hearing to be held not earlier than thirty (30) days following receipt by the Commission of the report and recommendations of the Advisory Council. The commission may proceed with entry of the order on fees if the Advisory Council fails to submit its report in a timely manner.

6. Following the date of full implementation of Title V in this state, all new sources required to hold a Title V permit shall pay an annual permit fee to the DEQ in accordance with the following:

a. any new source commencing operation between and including January 1 and September 1 of any year shall pay a Title V permit fee on or before September 1 of the year it commences operation;

b. any new source commencing operation between and including September 2 and December 31 of any year shall pay a Title V permit fee on or before September 1 of the year after it commences operation; and

c. any new source shall submit to DEQ a declaration of its emissions on or before the first July 1 after it commences operation.

B. Excess Fees. If the annual fees collected exceed the cost of administering the Title V program for that fiscal year, then the excess shall be applied to the cost of administering the program for the succeeding fiscal year. In the succeeding fiscal year, the total to be collected from fees shall be reduced by the excess retained in the fund and the assessment rates shall be adjusted proportionately.

C. Disputed Fees. Any owner or operator required to pay the Title V permit fee set forth under this chapter who disagrees with the calculation or applicability of the owner's or operator's fee may petition the Commission in writing for a hearing in accordance with State Law. Any disputed portion of the fee for which a hearing has been requested will not incur any penalty or interest from and after the receipt by the Commission of the hearing petition.

D. Due Dates. The air operating permit fee shall be due September 1 of each year. A permit holder may elect a quarterly payment method of four (4) equal payments with the payments due September 1, December 1, March 1 and June 1. The permit holder shall notify the Department of Environmental Quality that the quarterly payment method will be used by September 1.

1. If any part of the air operating permit fee imposed is not paid within thirty (30) days after the due date, a penalty of ten percent (10%) of the amount due shall at once accrue and be added thereto. If the fee is not paid in full, including any interest and penalty within sixty (60) days of the due date, the Permit Board may revoke the permit upon proper notice and hearing as required by law.

2. If at any time within the year the Commission determines that the information submitted by the permittee on actual emissions is insufficient or incorrect, the permittee will be notified of the deficiencies and the adjusted fee schedule. Past due fees from the adjusted fee schedule will be paid on the next scheduled quarterly payment time.

XIV. INSIGNIFICANT ACTIVITIES AND EMISSIONS

A. The following activities/emissions sources are not required to be included in a Title V permit application:

1. new or modified pilot plants, subject to temporary source regulations located in Section III.E.

2. maintenance and upkeep:

a. maintenance, structural changes, or repairs which do not change the capacity of such process, fuel-burning, refuse-burning, or control equipment, and do not involve any change in quality, nature, or quantity of potential emissions of any regulated air pollutants; and

b. housekeeping activities or building maintenance procedures;

3. air conditioning or ventilation: comfort air conditioning or comfort ventilating systems which do not transport, remove, or exhaust regulated air pollutants to the atmosphere;

4. laboratory equipment:

a. laboratory equipment used exclusively for chemical or physical analysis for quality control or environmental monitoring purposes; or

b. non-production laboratory equipment used at non-profit health or non-profit educational institutions for chemical or physical analyses, bench scale experimentation or training, or instruction;

5. hot water heaters which are used for domestic purposes only and are not used to heat process water;

6. fuel use related to food preparation by a restaurant, cafeteria, residential cooker or barbecue grill where the products are intended for human consumption;

7. clerical activities such as operating copy machines and document printers, except operation of such units on a commercial basis;

8. hand held equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiber board, masonry, carbon, glass, or wood;

9. equipment for washing or drying fabricated glass or metal products, if no VOCs are used in the process and no oil or solid fuel is burned;

10. water cooling towers (except at nuclear power plants); water treatment systems for process cooling water or boiler feed water; and water tanks, reservoirs, or other water containers not used in direct contact with gaseous or liquid process streams containing carbon compounds, sulfur compounds, halogens or halogen compounds, cyanide compounds, inorganic acids, or acid gases;

11. domestic sewage treatment facilities (excluding combustion or incineration equipment, land farms, storage silos for dry material, or grease trap waste handling or treatment facilities);

12. stacks or vents to prevent escape of sewer gases through plumbing traps;

13. vacuum cleaning systems for housekeeping, except at a source with hazardous air pollutants;

14. alkaline/phosphate washers and associated cleaners and burners;

15. mobile sources;

16. livestock and poultry feedlots and associated fuel burning equipment other than incinerators;

17. outdoor kerosene heaters;

18. equipment used for hydraulic or hydrostatic testing;

19. safety devices, excluding those with continuous emissions; and

20. brazing, soldering, or welding equipment that is used intermittently or in a non-continuous mode.

B. The following activities/emissions sources must be listed in the application but emissions from these activities do not have to be quantified.

1. all gas fired, #2 oil fired, infrared, electric ovens with no emissions other than products of fuel combustion;

2. combustion units with rated input capacity less than 10 million Btu/hr that are fueled by:

   a. liquefied petroleum gas or natural gas supplied by a public utility; or

   b. commercial fuel oil #2 or lighter;

3. equipment used for inspection of metal products;

4. equipment used exclusively for forging, pressing, drawing, spinning, or extruding metals;

5. equipment used exclusively to mill or grind coatings and molding compounds where all materials charged are in paste form;

6. mixers, blenders, roll mills, or calendars for rubber or plastics for which no materials in powder form are added and in which no organic solvents, diluents, or thinners are used;

7. all storage tanks used exclusively to store fuel oils, kerosene, diesel, jet fuel, crude oil, natural gas, or liquified petroleum gas (the application must list the size of the tank, date constructed and/or modified, type tank, and material stored);

8. space heaters utilizing natural or LPG gas and used exclusively for space heating;

9. back-up or emergency use generators, boilers or other fuel burning equipment which is of equal or smaller capacity than normal main operating equipment, cannot be used in conjunction with normal main operating equipment, and does not emit, have or cause the potential to emit of any regulated air pollutant to increase;

10. blast cleaning equipment using a suspension of abrasives in water;

11. die casting machines;

12. foundry sand mold forming equipment to which no heat is applied and from which no organics are emitted;

13. bark and wood-waste storage and handling;
14. log wetting areas;
15. log flumes;
16. sodium hydrosulfide storage tank;
17. smelt dissolving tank view ports;
18. spout cooling water storage;
19. effluent drains;
20. white water chest;
21. repulper vents;
22. clay storage tank;
23. alum storage tank;
24. starch storage tank;
25. steam vents and leaks;
26. deaerator vents;
27. mill air and instrument air system;
28. demineralizer water storage tank;
29. acid storage tank;
30. process water tank;
31. air purification system vents;
32. effluent neutralizing tank/system;
33. dregs washer;
34. lime silo;
35. lime mud mix tank;

36. lime mud slurry tank;

37. H_2O_2 storage tank;

38. green liquor tank; and

39. tall oil storage tank.

C. Notwithstanding Sections VII.A. and B. above, the applicant shall include all emissions sources and quantify emissions if needed to determine major source status, to determine compliance with an applicable requirement and/or the applicability of any applicable requirement such as a NSPS, NESHAP, MACT standard, etc. as such term is defined in Section I., or collect any permit fee owed under the approved fee schedule.

D. Notwithstanding Sections VII.A. and B. above, the applicant shall include all emission sources with a potential to emit:

1. greater than 1 pound per hour of any regulated pollutant that is not a hazardous air pollutant, or is not a GHG;

2. greater than 0.1 pound per hour of any hazardous air pollutant.

E. The permittee does not have to report the addition of any insignificant activity listed in Section VII.A. unless the addition is a Title I modification or requires a permit to construct If a Title I permit or a permit to construct is required, then the modification procedures outlined in Section IV.E. shall be followed.

F. The addition of any insignificant activity listed in Section VII.B. shall be handled as an administrative amendment as defined in Section IV.D. unless the addition is a Title I modification or requires a permit to construct. If a Title I permit or a permit to construct is required, then the modification procedures outlined in Section IV.E. shall be followed.