Title 11: Mississippi Department of Environmental Quality

Part 2: Air Regulations

Part 2, Chapter 1: Mississippi Commission on Environmental Quality, Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants (Adopted May 8, 1970. Amended: January 25, 1972; May 26, 1976; January 31, 1978; April 25, 1978; March 12, 1981; August 26, 1981; December 8, 1982; May 9, 1984; September 17, 1984; July 17, 1985; March 12, 1986; June 25, 1986; September 23, 1987; March 23, 1988; April 25, 1988; December 14, 1988; August 23, 1989; April 25, 1991; January 23, 1992; December 9, 1993; August 25, 1994; May 25, 1995; January 25, 1996; August 22, 1996; April 24, 1997; January 22, 1998; October 22, 1998; April 22, 1999; February 24, 2000; August 22, 2002; November 20, 2003; January 26, 2006; November 16, 2006; December 11, 2008; October 28, 2010; December 14, 2011; October 24, 2013; November 20, 2014; and Last amended November 10, 2016)

TABLE OF CONTENTS

***Rule 1.1 General* ..... Page 3**

***Rule 1.2 Definitions* ..... Page 4**

***Rule 1.3 Specific Criteria for Sources of Particulate Matter* ..... Page 7**

A. Smoke ..... Page 8

B. Equivalent Opacity ..... Page 8

C. General Nuisances ..... Page 8

D. Fuel Burning ..... Page 8

E. Kraft Process Recovery Boilers ..... Page 9

F. Manufacturing Processes ..... Page 9

G. Open Burning ..... Page 10

H. Incineration ..... Page 11

I. Sampling Ports ..... Page 12

J. More Restrictive Emission Limits ..... Page 12

***Rule 1.4 Specific Criteria for Sources of Sulfur Compounds* ..... Page 12**

A. Sulfur Dioxide Emissions from Fuel Burning ..... Page 13

B. Sulfur Dioxide Emissions from Processes ..... Page 13

***Rule 1.5 Specific Criteria for Sources of Chemical Emissions* ..... Page 17**

A. Flourides ..... Page 17

B. Miscellaneous Chemical Emissions ..... Page 17

Rule 1.6 New Sources ..... **Page 18**

A. Kraft Pulping Mills ..... Page 18

B. Other Limitations ..... Page 18

C. New Source Performance Standards ..... Page 18

D. Additional Requirements for Infectious Waste Incineration ..... Page 18

Rule 1.7 Exceptions ..... **Page 19**

Rule 1.8 Provisions for Hazardous Air Pollutants ..... **Page 19**

A. Hazardous Air Pollutant Emission Standards ..... Page 19

B. National Emission Standards for Hazardous Air Pollutants; Compliance Extensions for Early Reductions ..... Page 20

C. Case by Case Maximum Achievable Control Technology Requirements ..... Page 20

Rule 1.9 Stack Height Considerations ..... **Page 20**

A. Definitions ..... Page 20

B. Stack Height Effect on Emission Limitations ..... Page 24

Rule 1.10 Provisions for Upsets, Startups, and Shutdowns ..... **Page 25**

A. Upsets ..... Page 25

B. Startups and Shutdowns ..... Page 25

Rule 1.11 Severability ..... **Page 27**

Rule 1.12 Provisions for Existing Hospital/Medical/Infectious Waste Incinerators ..... **Page 27**

A. Applicability ..... Page 27

B. Definitions ..... Page 28

C. Emission Limits ..... Page 36

D. Operator Training and Qualification Requirements ..... Page 39

E. Waste Management Guidelines ..... Page 42

F. Inspection Guidelines ..... Page 43

G. Compliance and Performance Testing ..... Page 44

H. Monitoring ..... Page 52

I. Reporting and Recordkeeping Requirements ..... Page 55

J. Compliance Schedules ..... Page 58

Rule 1.13 Provisions for Existing Commercial and Industrial Solid Waste Incineration

Units ..... **Page 61**

A. Emission Standards ..... Page 61

B. Applicability ..... Page 61

C. Schedule for Compliance ..... Page 65

D. Permitting Requirements ..... Page 66

E. Clarifications of Terminology ..... Page 66

Rule 1.1 General.

A. Authority. Pursuant to the authority granted by Miss. Code Ann. 49-17-17, the following regulations are adopted for the purpose of preventing, abating, and controlling air pollution caused by air contaminants being discharged into the atmosphere as particulates, smoke, fly ash, solvents, and other chemicals or combinations thereof.

B. Except as otherwise noted herein, stack emissions testing for demonstration of compliance with the regulations herein may be performed in accordance with the Test Methods of the U. S. Environmental Protection Agency in place at the time testing is performed or as otherwise approved by the staff of the Mississippi Office of Pollution Control and the U. S. Environmental Protection Agency.

(1) Notwithstanding this or any other provision in these or any other regulations, the owner or operator may use any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, for the purpose of submitting compliance certifications.

(2) Notwithstanding any other provision in these or any other air pollution control regulations, any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not a person has violated or is in violation of any standard or applicable requirement.

C. In the event of a conflict between any of the requirements of these regulations and/or applicable requirements of any other regulation or law, the more stringent requirements shall be applied.

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

Rule 1.2 Definitions. The terms used in the regulations shall, unless the context otherwise requires, have the following meanings:

A. "Air cleaning device." Any method, process or equipment which removes, reduces or renders less noxious air contaminants discharged into the atmosphere. This term is synonymous with air pollution control device.

B. "Air contaminant." Particulate matter, dust, fumes, gas, mist, smoke, or vapor, or any combination thereof produced by processes other than natural.

C. "Air contamination." The presence in the outdoor ambient air of one or more air contaminants which contribute to a condition of air pollution.

D. "Air contamination source." Any source at, from, or by reason of which there is emitted into the ambient air any air contaminant, regardless of who the person may be who owns or operates the building, premises, or other property in, at, or on which such source is located, or the facility, equipment or other property by which the emission is caused or from which the emission comes.

E. "Air contaminant point source." Any single point of emissions of any air contaminant such as from an individual machine or combustion device.

F. "Air pollution." The presence in the outdoor ambient air of one or more air contaminants in quantities, of characteristic, and of a duration which are materially injurious or can be reasonably expected to become materially injurious to human, plant, or animal life or to property, or which unreasonably interfere with enjoyment of life or use of property throughout the State or throughout such area of the State as shall be affected thereby.

G. "Air Quality Action Day." A day(s) the Executive Director determines that the air quality data within a specifically named area within the state may reach levels at or above the national ambient air quality standard for a specific pollutant

.

H. "Ambient air." The encompassing atmosphere existing in the matter of space and to which life of this earth is adapted. For the purposes of these regulations, that portion of the atmosphere outside of buildings, stacks, and ducts.

I. "Atmosphere." The air that envelopes or surrounds the earth. This term is synonymous with ambient air.

J. "Commission." The Mississippi Commission on Environmental Quality.

K. "Excess (or excessive) emission." The operation of a facility in which the emission of one or more pollutants exceeds the applicable limit(s).

L. "Fly ash." Particulate matter capable of being gasborne or airborne or carried in the gas stream and consisting essentially of ash, fused ash, and/or unburned material.

M. "Ground level." Unless otherwise specified in sampling techniques, will be considered to be in the range of one to twenty (20) feet of ground level. For ambient sampling, it shall

also be outside the boundaries of the property which contains the air pollution source.

N. "Incinerator." A combustion device specifically designed for the destruction by high temperature burning of solid, semi-solid, liquid or gaseous combustible wastes and from which the solid residues contain little or no combustibles.

O. "Modification." Any physical change in, or change in the method of operation of, an affected facility which increases the amount of any air pollutant emitted by such facility or which results in the emission of any air pollutant not previously emitted, except that:

(1) Routine maintenance, repair and replacement shall not be considered physical changes, and

(2) An increase in the production rate or hours of operation shall not be considered a change in the method of operation, unless it is prohibited by a permit.

P. "Multiple chamber incinerator." Any article, machine, equipment, contrivance, structure, or any part thereof used to dispose of combustible refuse by burning, which consists of three or more refractory walls, interconnected by gas passage points or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

Q. "Opacity." The degree to which emissions reduce the transmission of light and obscure the background.

R. "Open burning." The combustion of solid waste without (1) control of combustion air to maintain adequate temperature for efficient combustion, (2) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and (3) control of the emission of the combustion products.

S. "Ozone Action Day." A day(s) occurring between March 1 and October 31 of each year which the Executive Director has designated as being conducive to high rates of ozone formation for a named county(ies) among DeSoto, Hancock, Harrison, and Jackson Counties.

T. "Particulate matter." Any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

U. "Particulate matter emissions." All finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable EPA Test Method, an equivalent or alternative method specified by the EPA, or by a test method specified in the approved State Implementation Plan.

V. "Person." The State or other agency, or institution thereof, any municipality, political subdivision, public or private corporation, individual, partnership, association, or other

entity, and includes any officer or governing or managing body of any municipality, political subdivision, or public or private corporation, or the United States or any officer or employee thereof.

W. "PM2.5" Particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on Appendix L of 40 CFR 50 and designated in accordance with 40 CFR 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

X. "PM2.5 emissions." Finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, emitted to the ambient air as measured by an applicable EPA Test Method, an equivalent or alternate method specified by the EPA, or by a test method specified in the approved State Implementation Plan.

Y. "PM10." Particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J of 40 CFR 50 and designated in accordance with 40 CFR 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

Z. "PM10 emissions." Finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by an applicable EPA Test Method, an equivalent or alternate method specified by the EPA, or by a test method specified in the approved State Implementation Plan.

AA. "Process weight." The total weight of all materials introduced into a source operation including solid fuels and water. Excluded materials are as follows: Liquids and gases used solely as fuels or as a means of conveyance, liquids used as a pollutant removal medium, recycled process materials counted at initial introduction, and air introduced for purposes of combustion.

BB. "Recreational area." Recreational area means:

(1) a national, state, county, or city designated park; or

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

CC. "Residential area." Residential area means:

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

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

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

DD. "Shutdown." The termination of operation of equipment. Relative to fuel-burning equipment, a shutdown shall be construed to occur only when a unit is taken from a fired to a non-fired state.

EE. "Smoke." Small gasborne particles resulting from incomplete combustion and consisting predominantly, but not exclusively, of carbon, ash, and other combustible material.

FF. "Soot." Aggregated particles consisting mainly of carbonaceous material.

GG. "Soot blowing." The removal by mechanical means of accumulated carbon and/or ash from heat transfer surfaces of an operating fuel-burning unit.

HH. "Standard conditions." Standard conditions for gas measurement and calculation will be a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute except where set by Applicable Rules and Regulations.

II. "Startup." The bringing into operation from a non-operative condition. Relative to fuel-burning equipment, a startup shall be construed to occur only when a unit is taken from a non-fired to a fired state.

JJ. "Total reduced sulfur, (TRS)" means hydrogen sulfide, mercaptans, dimethyl sulfide, and any other organic sulfides present.

KK. "Total suspended particulate." Particulate matter as measured by the method described in Appendix B of 40 CFR 50.

JJ. "Upset." An unexpected and unplanned condition of operation of the facility in which equipment operates outside of the normal and planned parameters. An upset shall not include a condition of operation caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, operator error, or an intentional startup or shutdown of equipment.

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

Rule 1.3 Specific Criteria for Sources of Particulate Matter.

A. Smoke.

(1) No person shall cause, permit, or allow the emission of smoke from a point source into the open air from any manufacturing, industrial, commercial or waste disposal process which exceeds forty (40) percent opacity subject to the exceptions provided in Rule 1.3.A(2) & (3).

(2) Startup operations may produce emissions which exceed 40% opacity for up to fifteen (15) minutes per startup in any one hour and not to exceed three (3) startups per stack in any twenty-four (24) hour period.

(3) Emissions resulting from soot blowing operations shall be permitted provided such emissions do not exceed 60 percent opacity, and provided further that the aggregate duration of such emissions during any twenty-four (24) hour period does not exceed ten (10) minutes per billion BTU gross heating value of fuel in any one hour.

B. Equivalent Opacity. No person shall cause, allow, or permit the discharge into the ambient air from any point source or emissions, any air contaminant of such opacity as to obscure an observer's view to a degree in excess of 40% opacity, equivalent to that provided in Rule 1.3.A.(1) This shall not apply to vision obscuration caused by uncombined water droplets.

C. General Nuisances. No person shall cause, permit, or allow the emission of particles or any contaminants in sufficient amounts or of such duration from any process as to be injurious to humans, animals, plants, or property, or to be a public nuisance, or create a condition of air pollution.

(1) No person shall cause or permit the handling or transporting or storage of any material in a manner which allows or may allow unnecessary amounts of particulate matter to become airborne.

(2) When dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof escape from a building or equipment in such a manner and amount as to cause a nuisance to property other than that from which it originated or to violate any other provision of this regulation, the Commission may order such corrected in a way that all air and gases or air and gasborne material leaving the building or equipment are controlled or removed prior to discharge to the open air

D. Fuel Burning

(1) Fossil Fuel Burning. The maximum permissible emission of ash and/or particulate matter from fossil fuel burning installations shall be limited as follows:

(a) Emissions from installations of less than 10 million BTU per hour heat input shall not exceed 0.6 pounds per million BTU per hour heat input.

(b) Emissions from installations equal to or greater than 10 million BTU per hour heat input but less than 10,000 million BTU per hour heat input shall not exceed an emission rate as determined by the relationship

$$E = 0.8808 * I^{-0.1667}$$

where E is the emission rate in pounds per million BTU per hour heat input and I is the heat input in millions of BTU per hour.

(c) Emissions from installations equal to or greater than 10,000 million BTU per hour heat input shall not exceed 0.19 pounds per million BTU per hour heat input.

(2) Combination Boilers. Fuel burning operations utilizing a mixture of combustibles such as, but not limited to, fossil fuels plus bark, oil plus bark, or spent wood, or water treatment by-products sludge, to produce steam or heat water or any other heat transfer medium through indirect means may be allowed emission rates up to 0.30 grains per standard dry cubic foot.

E. Kraft Process Recovery Boilers. The emissions of particulate matter from a recovery furnace stack shall not exceed four (4) pounds per ton of equivalent air-dried Kraft pulp produced at any given time.

F. Manufacturing Processes.

(1) General. Except as otherwise specified, no person shall cause, permit, or allow the emission of particulate matter in total quantities in any one hour from any manufacturing process, which includes any associated stacks, vents, outlets, or combination thereof, to exceed the amount determined by the relationship

$$E = 4.1\ p^{0.67}$$

where E is the emission rate in pounds per hour and p is the process weight input rate in tons per hour.

Conveyor discharge of coarse solid matter may be allowed if no nuisance is created beyond the property boundary where the discharge occurs.

(2) Kraft Pulping Mills. All mills existing prior to January 25, 1972, and not modified subsequent thereto shall comply with the following emission limits:

(a) Recovery Furnaces. The emission of particulate matter from recovery furnace stacks shall not exceed four pounds per ton of equivalent air-dried Kraft pulp.

(b) Lime Kilns. The emission of particulate matter from lime kilns shall not exceed one pound per ton of equivalent air-dried Kraft pulp.

(c) Smelt Tanks. The emission of particulate matter from smelt tanks shall not exceed one-half pound per ton of equivalent air-dried Kraft pulp.

G. Open Burning. The open burning of residential, commercial, institutional, or industrial solid waste, is prohibited, except as specified herein. This prohibition does not apply to infrequent burning of agricultural wastes in the field, silvicultural wastes for forest management purposes, land-clearing debris, debris from emergency clean-up operations, and ordnance; and permitted open burning at hazardous waste disposal facilities subject to regulation under Subtitle C of the Federal Resource Conservation and Recovery Act (RCRA).

(1) Fires set for the burning of agricultural wastes in the field and/or silvicultural wastes for forest management purposes must meet the following conditions.

(a) A Permit must be obtained from the Mississippi Forestry Commission.

(b) The open burning must occur within a time period allowing adequate diffusion of air pollutants as defined by the permit and the daily weather guides issued by the National Weather Forecast Office.

(c) Starter or auxiliary fuels may consist of dried vegetation, petroleum derived fuels of the gasoline, kerosene, or light fuel oil types (diesel), or a combination thereof. Use of or burning of other combustible material that causes excessive visible emission (e.g., rubber tires, plastic materials, etc.) is prohibited.

(2) Open burning of land-clearing debris must not use starter or auxiliary fuels which cause excessive smoke (rubber tires, plastics, etc.); must not be performed if prohibited by local ordinances; must not cause a traffic hazard; must not take place where there is a High Fire Danger Alert declared by the Mississippi Forestry Commission or Emergency Air Pollution Episode Alert imposed by the Executive Director and must meet the following buffer zones.

(a) Open burning without a forced-draft air system must not occur within 500 yards of an occupied dwelling.

(b) Open burning utilizing a forced-draft air system on all fires to improve the combustion rate and reduce smoke may be done within 500 yards of but not within 50 yards of an occupied dwelling.

(c) Burning must not occur within 500 yards of commercial airport property, private air fields, or marked off-runway aircraft approach corridors unless written approval to conduct burning is secured from the proper airport authority, owner or operator.

(3) Permitted open burning at a hazardous waste disposal facility subject to regulation under Subtitle C of RCRA is considered a stationary source of air pollution subject to Mississippi air emission permitting regulations.

(4) The prohibition of open burning of residential solid waste applies to open burning of leaves and other yard waste by residential property owners, except when the Department has deferred the regulation of the burning of leaves and other yard wastes to a county board of supervisors and/or municipal governing body, and that county or municipal governing body has in effect a local ordinance that regulates such open burning and has been approved by the Department. Local ordinances approved by the Department must provide that the leaves or other yard waste is burned on the residential property where it originated. Approved local ordinances must also be deemed protective of air quality and public welfare by the Department and must provide for appropriate burning prohibitions and restrictions during Air Quality Action Days. Additionally, approved local ordinances must include fire safety provisions including prohibitions and restrictions on open burning coordinated through the State Forestry Commission during dry weather conditions.

(5) Air Quality Action Days. Open burning of agricultural wastes and silvicultural wastes described in G(1) above, open burning of land-clearing debris described in G(2) above, permitted open burning at a hazardous waste disposal facility described in G(3) above, and open burning of residential leaves and other yard wastes described in G(4) above are prohibited in the specified county(ies) when an Air Quality Action Day is declared by the Executive Director. Certain Air Quality Action Days declared by the Executive Director may be designated as Ozone Action Days in DeSoto County, Hancock County, Harrison County and Jackson County. Ozone Action Days shall be noticed the evening before on the MDEQ website and/or with local news media. The Mississippi Department of Transportation, Mississippi State Forestry Commission, local fire officials, and County Emergency Management Agencies (EMA) shall also be notified the evening before an Ozone Action Day.

H. Incineration.

(1) The maximum discharge of particulate matter from any incinerator, except those specified in paragraph (2) or (3) of this rule, or those specified in Rule 1.6 and 1.12 shall not exceed 0.2 grains per standard dry cubic foot of flue gas calculated to twelve percent (12%) carbon dioxide by volume for products of combustion. This limitation shall apply when the incinerator is operating at design capacity.

The carbon dioxide produced by combustion of any auxiliary fuels shall be excluded from the calculation to twelve percent (12%) carbon dioxide. After May 8, 1970, any new equipment shall be of the multiple chamber type or its equivalent for emission control. In critical areas where an installation is in close proximity to a residential area, an incinerator, except those specified in paragraph (2) of this rule, or those specified in Rule 1.6 and 1.12, shall be limited to emissions of 0.1 grains per standard dry cubic foot of flue gases calculated to twelve percent (12%) carbon dioxide by volume for products of combustion.

(2) The maximum discharge of smoke from the incineration of waste material resulting totally from the ginning of cotton shall not obscure an observer's view to a degree in excess of 40% opacity.

Start-up operations may produce emissions which exceed 40% opacity for up to fifteen minutes per start-up in any one hour not to exceed three (3) start-ups in any twenty-four (24) hour period.

After July 1, 1994, the emission limitation specified in paragraph (1) of this rule shall also be applicable to cotton gin waste incinerators.

(3) The emission limitation in paragraph (1) above does not apply to afterburners, flares, thermal oxidizers, and other similar devices used to reduce the emissions of air pollutants from processes.

I. Sampling Ports.

(1) New Equipment: The owner or operator of any new air pollution control equipment, obtained after May 8, 1970, and vented to the atmosphere, shall have necessary sampling ports and ease of accessibility.

(2) Existing Equipment: The owner or operator of air pollution control equipment that is in existence prior to May 8, 1970, shall provide the necessary sampling ports and ease of accessibility when deemed necessary by the Permit Board.

J. More Restrictive Emission Limits. The Commission reserves the right to prescribe more stringent emission limits as it deems necessary in problem areas. The expansion, alteration, or establishment of a new industry may also result in the prescription of more stringent emission limits.

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

Rule 1.4 Specific Criteria for Sources of Sulfur Compounds.

A. Sulfur Dioxide Emissions from Fuel Burning

(1) The maximum discharge of sulfur oxides from any fuel burning installation in which the fuel is burned primarily to produce heat or power by indirect heat transfer shall not exceed 4.8 pounds (measured as sulfur dioxide) per million BTU heat input.

(2) No person shall cause or permit the burning of fuel in any fuel burning equipment that results in an average emission of sulfur dioxide from any calendar year at a rate greater than was emitted by said fuel burning equipment for the corresponding calendar year 1970 unless otherwise authorized by the Commission. Installations under construction on January 25, 1972, are excluded

from this requirement.

(3) The maximum discharge of sulfur dioxide from any modified fuel burning unit whose generation capacity is less than 250 million BTU per hour and in which the fuel is burned primarily to produce heat or power by indirect heat transfer shall not exceed 2.4 pounds (measured as sulfur dioxide) per million BTU heat input. For the purposes of Rule 1.4 of these regulations only, "modification" shall mean any physical change in an Air Contaminant Source which increases the amount of any air pollutant (to which a standard applies) emitted by such source or which results in the emission of any air pollutant (to which a standard applies) not previously emitted.

B. Sulfur Dioxide Emissions from Processes

(1) Except as otherwise provided herein, no person shall cause or permit the emission of gas containing sulfur oxides (measured as sulfur dioxide) in excess of 2,000 ppm (volume) from any process equipment in existence on January 25, 1972, or in excess of 500 ppm (volume) from any process equipment constructed after January 25, 1972. The 500 ppm (volume) requirement shall apply for equipment constructed after January 25, 1972 unless otherwise provided by the Commission.

(2) Except as otherwise provided in paragraph B(6)(a) no person shall cause or permit the emission of any gas stream which contains hydrogen sulfide in excess of one grain per 100 standard cubic feet.

Gas streams containing hydrogen sulfide in excess of one grain per 100 standard cubic feet shall be incinerated at temperatures of not less than 1600°F for a period of not less than 0.5 seconds, or processed in such manner which is equivalent to or more effective for the removal of hydrogen sulfide.

Sulfur dioxide concentration limitations in the gas streams resulting from such incineration or processing shall be determined for each emission point on a case-by-case basis to insure that the resulting maximum ground level concentration of sulfur dioxide as determined by acceptable method or methods will be in compliance with the National Ambient Air Quality Standards for sulfur dioxide. Testing to determine the productive capacity of new fields shall be exempted from emission limitation provisions of the paragraph of the regulation providing such testing has been previously negotiated and approved by the Mississippi Office of Pollution Control.

This regulation shall not apply to sulfur recovery plants.

(3) No person shall cause or permit acid mist emissions from sulfuric acid manufacturing plants to exceed 0.5 pounds/ton of acid produced. Sulfur trioxide emissions from sulfuric acid manufacturing plants shall not exceed 0.2 pounds/ton of acid produced.

(4) No person shall cause or permit emission of sulfur oxides, calculated as sulfur dioxide, from a sulfur recovery plant to exceed 0.12 pounds per pound of sulfur processed.

(5) No person shall cause or permit emissions of sulfur oxides, calculated as sulfur dioxide, from primary nonferrous smelters, in excess of the emission calculated as follows:

Copper smelters: $Y = 0.2\ X$
Zinc smelters: $Y = 0.564\ X^{0.85}$
Lead smelters: $Y = 0.98\ X^{0.77}$

Where X is the total sulfur fed to the smelter in pounds/hour and Y is the allowable sulfur emissions in pounds/hour.

(6) Kraft Pulp Mills

(a) All mills existing prior to November 1, 1987, and not modified subsequent thereto, excluding mills or facilities subject to New Source Performance Standards, shall control the emission of total reduced sulfur compounds (TRS) so as to not exceed the emission limits set forth below:

(1) Straight recovery boiler systems - twenty (20) parts per million TRS, expressed as hydrogen sulfide on a dry gas basis corrected to 8% oxygen, on a 12-hour average basis, except that:

(i) the International Paper Company, Vicksburg, Mississippi, shall be allowed 40 parts per million TRS, expressed as hydrogen sulfide on a dry gas basis corrected to 8% oxygen, on a 12-hour average basis,

(ii) the International Paper Company, Natchez, Mississippi, Recovery Boilers 4 & 5, shall be allowed 40 parts per million TRS, expressed as hydrogen sulfide on a dry gas basis corrected to 8% oxygen, on a 12-hour average basis, and

(iii) the Georgia-Pacific Corporation, Monticello, Mississippi, shall be allowed 40 parts per million TRS, expressed as hydrogen sulfide on a dry gas basis corrected to 8% oxygen, on a 12-hour average basis.

(2) Lime kiln systems - twenty (20) parts per million of TRS, expressed as hydrogen sulfide on a dry gas basis corrected to 10% oxygen, on a 12-hour average basis.

(3) Digester systems - five (5) parts per million of TRS, expressed as hydrogen sulfide on a dry gas basis corrected to 10% oxygen, on a 12-hour average basis.

(4) Multiple effect evaporator systems - five (5) parts per million of TRS, expressed as hydrogen sulfide on a dry gas basis corrected to 10% oxygen, on a 12-hour average basis.

(5) Condensate stripper systems - five (5) parts per million of TRS, expressed as hydrogen sulfide on a dry gas basis corrected to 10% oxygen, on a 12-hour average basis.

(6) Smelt dissolving tank - 0.016 gram of TRS, expressed as hydrogen sulfide on a dry gas basis, per kilogram of black liquor solids (dry weight).

(7) Equivalent control systems (controls for treating collected noncondensible gases in a manner equivalent to incineration in a lime kiln) - five (5) parts per million TRS, expressed as hydrogen sulfide on a dry gas basis, corrected to the actual oxygen content of the untreated gas stream, on a 12-hour average basis.

(b) All mills, as defined above, shall, by February 1, 1988, demonstrate compliance with the TRS emission limits set forth above. Compliance demonstration for recovery boilers, lime kilns, smelt tanks, and equivalent control systems for collected noncondensible gases shall be by testing in accordance with EPA Test Method 16 or 16A and submittal of a stack test report. Compliance demonstration for digester systems, multiple effect evaporator systems and condensate stripper systems shall be by certification that these systems are fully connected to a noncondensible gas collection system followed by incineration in the lime kiln or equivalent control and testing of lime kiln or equivalent control as specified above. A compliance schedule may be submitted, as set forth below, on any or all systems not expected to comply with the emission limit and such submittal will negate the requirement for immediate compliance demonstration, as referenced above, on those systems.

Any mill defined above which, on November 1, 1987, is unable to comply with the emission limits set forth above, shall, within three (3) months thereafter, submit a schedule for attaining compliance with these limits. The compliance schedule shall not extend past November 1, 1990. Compliance with emission limits shall be demonstrated by the methods specified above, as appropriate, no later than the end of the compliance schedule. Compliance demonstration for recovery boilers, lime kilns, smelt tanks, and equivalent control systems for collected noncondensible gases shall be by testing in accordance with EPA Test Method 16 or 16A

and submittal of a stack test report. Compliance demonstration for digester systems, multiple effect evaporator systems and condensate stripper systems shall be by certification that these systems are fully connected to a noncondensible gas collection system followed by incineration in the lime kiln or equivalent control and testing of lime kiln or equivalent control as specified above.

(c) All mills, as defined above, shall monitor the emission of TRS and/or other gas constituents as described below:

(1) The TRS emission concentration in recovery boiler flue gas shall be monitored by either:

(i) A continuous monitoring device which meets the requirements of 40 CFR 60, Performance Specification 5; or

(ii) Performance of EPA Method 16 or 16A on no less than a (calendar) quarterly basis.

(2) The oxygen concentration in recovery boiler flue gas shall be continuously monitored by a device which meets the requirements of 40 CFR 60, Performance Specification 3.

(3) The TRS concentration in lime kiln flue gas shall be continuously monitored by a device which meets the requirements of 40 CFR 60, Performance Specification 5.

(4) The oxygen concentration in lime kiln flue gas shall be continuously monitored by a device which meets the requirements of 40 CFR 60, Performance Specification 3.

(d) All mills, as defined above, shall obtain the necessary continuous monitoring equipment and begin monitoring by November 1, 1988, or no later than the date of final compliance with the regulation, if compliance is not immediate. For mills choosing to use EPA Method 16 or 16A for recovery boiler monitoring, the necessary equipment and/or monitoring capability must be obtained by February 1, 1988. Also, when Method 16 or 16A is used, each successive quarter's testing shall be separated from the previous quarter's by a period of not less than sixty (60) days and prior notice to the Mississippi Office of Pollution Control of all testing shall be made.

(e) All mills, as defined above, shall calculate and record, on a daily basis, the 12-hour average TRS concentration and O2 concentration for the two consecutive operating periods of each operating day for both the recovery

boiler (if continuously monitored) and lime kiln. Each 12-hour average shall be determined as the arithmetic mean of the appropriate 12 continuous 1-hour average concentrations. Each 12-hour average TRS concentration shall be corrected to 10%, or 8% O2, as appropriate to the emission limit, using the equation defined in 40 CFR 60.284(c)(3).

(f) All mills, as defined above, shall report, for each calendar quarter, the periods of emissions which exceed the TRS limits specified above from the recovery boiler and lime kiln. The report shall specify the 12-hour period of each exceedance by time and date, the average emissions concentration for the period, and total number of 12-hour periods of mill operation during the quarter. The report shall also detail all outages of the monitoring devices by time and date. The report shall be due within forty-five (45) days following the end of the calendar quarter.

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

Rule 1.5 Specific Criteria for Sources of Chemical Emissions.

A. Fluorides. No person shall allow the emission of fluorides into the ambient air in excess of four-tenths (0.4) pound per ton of P_2O_5 or equivalent. The allowable emission of fluorides shall be calculated by multiplying the unit emission, specified above, times the expressed design production capacity of the installation or plant.

B. Miscellaneous Chemical Emissions. No person shall cause, permit, or allow the emission of toxic, noxious, or deleterious substances, in addition to those considered in these regulations, into the ambient air in concentrations sufficient to affect human health and well-being, or unreasonably interfere with the enjoyment of property or unreasonably and adversely affect plant or animal life beyond the boundaries of the property containing the air pollution source.

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

Rule 1.6 New Sources. The provisions of this rule apply to the owner or operator of any source listed herein, the construction or modification of which is commenced after the date of adoption of specific emission limitations applicable to such source.

A. Kraft Pulping Mills. All sources shall minimize gaseous and particulate emission by use of modern equipment, devices, maintenance, and operating practices in accordance with best current technology. In no case shall emissions exceed the limits set forth in any applicable Federal Standard of Performance for New Stationary Sources

B. Other Limitations. The Mississippi Pollution Control Permit Board, in accordance with Title 11, Part 2, Chapter 2, may require more stringent emission limitations which it deems necessary to meet applicable national primary and secondary ambient air quality standards, necessary to insure that ambient air pollution concentrations do not exceed ambient air increments or violate other requirements under Federal Prevention of

Significant Deterioration (PSD) regulations promulgated by the U.S. Environmental Protection Agency as of August 23, 1989, pursuant to Section 160 through 169 of the Federal Clean Air Act as amended, or necessary to meet other Federal law or regulations enacted or promulgated subsequent to this regulation.

C. New Source Performance Standards. The Federal New Source Performance Standards are those duly promulgated by the U.S. Environmental Protection Agency in (or to be printed in) 40 C.F.R. Part 60, pursuant to Section 111 of the Federal Clean Air Act, as amended, and Consolidated Federal Air Rule provisions duly promulgated by the U.S. Environmental Protection Agency in (or to be printed in) 40 C.F.R Part 65. All such regulations promulgated by the U.S. Environmental Protection Agency as of August 16, 2016, are incorporated herein and adopted by reference by the Commission as official regulations of the State of Mississippi and shall hereafter be enforceable as such (except the word "Administrator" in said standards and general implementing regulations shall be replaced by the words "Executive Director" and the word "Agency" shall be replaced by the word "Department"). Hereafter, any facility subject to the Federal New Source Performance Standards shall comply with the emission limitations and other requirements of said standards.

D. Additional Requirements for Infectious Waste Incineration.

(1) Infectious waste incinerators which incinerate only those wastes generated on-site and are installed after December 9, 1993, shall comply with the following:

(a) Daily records shall be kept of the times of operation, quantity of wastes incinerated and the temperature of the secondary chamber which temperature shall be monitored continuously. Records shall be maintained on hand for at least two (2) years.

(b) Only wastes generated on-site may be incinerated. Disposal of wastes from off-site shall cause the incinerator to be classified as a commercial incinerator and, therefore, subject to the requirements applicable to such units.

(2) Commercial Incinerators. For purposes of this regulation, a commercial incinerator is any infectious waste incinerator that incinerates wastes other than or in addition to wastes generated on-site. A commercial infectious waste incinerator installed or modified after December 9, 1993, shall comply with the following:

(a) A manifest system, including a detailed description of the waste collection and transportation system shall be employed. Daily records shall be kept of the times of incinerator operation, quantity of wastes incinerated and temperature of the secondary chamber which temperature shall be monitored continuously. Records shall be maintained on hand for at least two (2) years.

(b) Notwithstanding the requirements of Rule1.6.D(2)(a) and Rule 1.12, the Permit Board may in any permit, in accordance with Title 11, Part 2, Chapter 2, establish more stringent requirements for emissions, operating parameters, monitoring, and recordkeeping subject to the provisions of Miss. Code Ann. 49-17-34(2) and (3).

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

Rule 1.7 Exceptions. If any single source of emission or combination of sources of emissions is found to compromise the ambient air quality in the State, beyond the limitations set forth in any national primary and secondary ambient air quality standards now or hereafter established by the Administrator of the Environmental Protection Agency pursuant to the Clean Air Act as amended December 31, 1970, (Public Law 91-640) notwithstanding compliance with any maximum allowable emission rate allowed by this regulation, the Mississippi Commission on Environmental Quality may require such further reduction in emission from this or these sources as is necessary to obtain compliance with said national primary and secondary ambient air quality standards.

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

Rule 1.8 Provisions for Hazardous Air Pollutants.

A. Hazardous Air Pollutant Emission Standards

Hazardous air pollutant emission standards are National Emission Standards for Hazardous Air Pollutants duly promulgated by the U. S. Environmental Protection Agency in (or to be printed in) 40 C.F.R. Part 61 pursuant to Section 112 of the Federal Clean Air Act, as amended; National Emission Standards for Hazardous Air Pollutants for Source Categories duly promulgated by the U.S. Environmental Protection Agency in (or to be printed in) 40 C.F.R. Part 63 pursuant to Section 112 of the Federal Clean Air Act, as amended; and Consolidated Federal Air Rule provisions duly promulgated by the U.S. Environmental Protection Agency in (or to be printed in) 40 C.F.R. Part 65. All such regulations promulgated by the U.S. Environmental Protection Agency as of August 16, 2016, are incorporated herein and adopted by reference by the Commission as official regulations of the State of Mississippi and shall hereafter be enforceable as such (except the word "Administrator" in said standards and general implementing regulations shall be replaced by the words "Executive Director" and the word "Agency" shall be replaced by the word "Department"). Hereafter, any facility subject to the National Emission Standards for Hazardous Air Pollutants and/or the National Emission Standards for Hazardous Air Pollutants for Source Categories shall comply with the emission limitations and other requirements of said standards.

B. National Emission Standards for Hazardous Air Pollutants; Compliance Extensions for Early Reductions.

The National Emission Standards for Hazardous Air Pollutants: Compliance Extensions for Early Reductions are regulations duly promulgated by the U.S. Environmental Protection Agency in (or to be printed in) 40 C.F.R. Part 63 pursuant to Section 112 of the Federal Clean Air Act, as amended. All such regulations promulgated by the U.S. Environmental Protection Agency are incorporated herein and adopted by reference by the Commission as official regulations of the State of Mississippi and shall hereafter be enforceable as such.

C. Case by Case Maximum Achievable Control Technology Requirements.

The Mississippi Pollution Control Permit Board, in accordance with Title 11, Part 2, Chapter 2, may require emissions limitations necessary to meet case by case maximum achievable control technology ("MACT") requirements in accordance with Section 112(j) and (g) of the Federal Act.

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

Rule 1.9 Stack Height Considerations.

A. Definitions

(1) "Emission limitation" and "emission standard." A requirement established which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(2) "Stack." Any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

(3) "A stack in existence." The owner or operator had either:

(a) Begun, or caused to begin, a continuous program of physical on-site construction of the stack, or

(b) Entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

(4) "Dispersion technique." Any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height, varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant, or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases

from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

(a) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream:

(b) The merging of exhaust gas streams where:

(1) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;

(2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the reviewing agency shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the reviewing agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

(c) The use of smoke management in agricultural or silvicultural prescribed burning programs; or

(d) Episodic restrictions on residential wood burning and open burning; or

(e) Techniques under Rule 1.9.A.(4) which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

(5) "Good engineering practice (GEP) stack height." The greater of:

(a) 65 meters measured from the ground-level elevation at the base of the stack;

(b) (1) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required, Hg = 2.5 H, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation;

(2) For all other stacks,

Hg = H + 1.5L, where

Hg = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack, and

L = lesser dimension (height or projected width) of nearby structure(s), provided that the U. S. Environmental Protection Agency or the Commission may require the use of a field study or fluid model to verify GEP stack height for the source; or

(3) The height demonstrated by a fluid model or a field study approved by the U. S. Environmental Protection Agency or the Commission, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

(c) "Nearby." As used in Rule 1.9.A.(5)(b)(2) is defined for a specific structure or terrain feature and means:

(1) For purposes of applying the formulae provided in Rule 1.9.A.5(b) that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile), and

(2) For conducting demonstrations under Rule 1.9.A(5)(c) that distance not greater than 0.8 km (1*12* mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (Ht) of the feature, not to exceed 2 miles if such feature achieves a height (ht) 0.8 km from the stack that is at least 40 percent of the GEP stack height determined by the formulae provided in Paragraph 1.9.A(5)(2) of this part or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(d) "Excessive concentration." For the purpose of determining good engineering practice stack height under Rule 1.9.A(5)(c) excessive concentration means:

(1) For sources seeking credit for stack height exceeding that established under Rule 1.9.A(5)(b) a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the Prevention of Significant Deterioration program, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this part shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the U. S. Environmental Protection Agency or the Commission, an alternative emission rate shall be established in consultation with the source owner or operator.

(2) For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under Rule 1.9.A(5)(b) either a maximum ground-level concentration due in whole or part to downwash, wakes, or eddy effects as provided in Rule 1.9.A(5)(b) of this rule, except that the emission rate specified by the State implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or the actual presence of a local nuisance caused by the existing stack, as determined by the Commission, and

(3) For sources seeking credit after January 12, 1979, for a stack height determined under Rule 1.9.A(5)(b) where the U. S. Environmental Protection Agency or the Commission requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Rule 1.9.A(5)(b) a maximum ground-level concentration due in whole or

part to downwash, wakes, or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

B. Stack Height Effect on Emission Limitations

(1) The degree of emission limitation required of any source for control of any air pollutants shall not be affected by so much of any source's stack height that exceeds good engineering practice (GEP) or by any other dispersion technique, except as provided in (2) of this paragraph.

(2) The provisions of Rule 1.9.B(1) shall not apply to stack heights in existence, or dispersion techniques implemented, prior to December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in Section 111(a)(3) of the Clean Air Act, which were constructed, or reconstructed or for which major modifications, as defined pursuant to Rule 1.6. New Sources, were carried out after December 31, 1970.

(3) If any existing source, after appropriate application of the preceding limitations and provisions, is found to exceed or potentially exceed an air quality standard or increment, as appropriate, when operating within previously established emission limitations, the emission limitations applicable to that source shall be modified so as to eliminate and prevent the exceedance.

(4) If any new source or source modification, after appropriate application of the preceding limitations and provisions, is predicted to exceed an air quality standard, or increment, as appropriate, when considered as operating under emission limitations consistent with other Applicable Rules and Regulations, the emission limitations considered shall be deemed inadequate and different emission limits, based on air quality considerations, shall be made applicable.

(5) If any source provides a field study or fluid modeling demonstration proposing a GEP stack height greater than that allowed by Rule 1.9.A(5)(a) and (b) then the public will be notified of the availability of the study and provided the opportunity for a public hearing before any new or revised emission limitation or permit is approved.

(6) The actual stack height used or proposed by a source shall not be restricted in any manner by requirements of this paragraph.

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

Rule 1.10 Provisions for Upsets, Startups, and Shutdowns.

A. Upsets

(1) For an upset defined in Rule 1.2, the Commission may pursue an enforcement action for noncompliance with an emission standard or other requirement of an applicable rule, regulation, or permit. In determining whether to pursue enforcement action, and/or the appropriate enforcement action to take, the Commission may consider whether the source has demonstrated through properly signed contemporaneous operating logs or other relevant evidence the following:

(a) an upset occurred and that the source can identify the cause(s) of the upset;

(b) the source was at the time being properly operated;

(c) during the upset the source took all reasonable steps to minimize levels of emissions that exceeded the emission standard or other requirement of an applicable rule, regulation, or permit;

(d) that within 5 working days of the time the upset began, the source submitted a written report to the Department describing the upset, the steps taken to mitigate excess emissions or any other noncompliance, and the corrective actions taken; and

(e) that as soon as practicable but no later than 24 hours of becoming aware of an upset that caused an immediate adverse impact to human health or the environment beyond the source boundary or caused a general nuisance to the public, the source provided notification to the Department.

(2) In any enforcement proceeding by the Commission, the source seeking to establish the occurrence of an upset has the burden of proof.

(3) This provision is in addition to any upset provision contained in any applicable requirement.

(4) These upset provisions apply only to enforcement actions by the Commission and are not intended to prohibit EPA or third party enforcement actions.

B. Startups and Shutdowns

(1) Startups and shutdowns are part of normal source operation. Emission limitations apply during startups and shutdowns unless source specific emission limitations or work practice standards for startups and shutdowns are defined by an applicable rule, regulation, or permit.

(2) Where the source is unable to comply with existing emission limitations established under the State Implementation Plan (SIP) and defined in this regulation, 11 Mississippi Administrative Code, Part 2, Chapter 1, the Department will consider establishing source specific emission limitations or work practice

standards for startups and shutdowns. Source specific emission limitations or work practice standards established for startups and shutdowns are subject to the following requirements:

(a) The source must demonstrate that it is technically infeasible, considering its specific control strategy, to comply with existing SIP emission limitations during startups and shutdowns.

(b) The Department has analyzed the potential worst-case emissions that could occur during startups and shutdowns based on the established emission limitations or work practice standards for startups and shutdowns.

(c) The emission limitations or work practice standards for startups and shutdowns must be specific to the source and its specific control strategy and must include the following requirements:

(i) the source must limit the frequency and duration of startups and shutdowns to the greatest extent practicable;

(ii) the source must be operated in a manner consistent with best operating practices at all times;

(iii) all possible steps are taken to minimize the impact of emissions during startups and shutdowns on ambient air quality;

(iv) the source must document all startups and shutdowns using properly signed contemporaneous operating logs or other relevant evidence;

(d) Where source specific emission limitations or work practice standards are established as an alternative to existing SIP emission limitations, the emission limitations or work practice standards must be established in a permit defined in 11 Mississippi Administrative Code, Part 2, Chapter 2. Following permit issuance, the emission limitations or work practice standards are considered State-only requirements until they have been adopted into this regulation and approved by the EPA into the SIP.

(e) The following source specific emission limitations or work practice standards for startups and shutdowns are established as an alternative to existing SIP emission limitations for air contaminants contained in this regulation that provide protection of the National Ambient Air Quality Standards:

(i) (Reserved for source specific emission limits or work practice standards for startups and shutdowns).

(3) Where an upset as defined in Rule 1.2 occurs during startup or shutdown, see the upset requirements above.

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

Rule 1.11 Severability. If any provision, section, subsection, sentence, clause or phrase of any of these regulations, or the application of same to any person or set of circumstances is for any reason challenged or held to be invalid or void, the validity of the remaining regulations and/or portions thereof or their application to other persons or sets of circumstances shall not be affected thereby.

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

Rule 1.12 Provisions for Existing Hospital/Medical/Infectious Waste Incinerators.

A. Applicability.

(1) Except as provided in subparagraphs (2) through (8) of this paragraph, the designated or affected facility to which Rule 1.12 applies is each individual hospital/medical/infectious waste incinerator (HMIWI) for which construction was commenced on or before June 20,1996.

(2) A combustor is not subject to Rule 1.12 of these regulations during periods when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned, provided the owner or operator of the combustor:

(a) Notifies the Department of an exemption claim; and

(b) Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned.

(3) Any co-fired combustor is not subject to Rule 1.12 of these regulations if the owner or operator of the co-fired combustor:

(a) Notifies the Department of an exemption claim;

(b) Provides an estimate of the relative weight of hospital waste, medical/infectious waste, and other fuels and/or wastes to be combusted; and

(c) Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor.

(4) Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act is not subject to Rule 1.12 of these regulations.

(5) Any combustor which meets the applicability requirements in standards or guidelines for certain municipal waste combustors under Subpart Cb, Ea, or Eb of 40 C.F.R. 60 is not subject to Section 12 of these regulations.

(6) Any pyrolysis unit is not subject to Rule 1.12 of these regulations.

(7) Cement kilns firing hospital waste and/or medical/infectious waste are not subject to Section 12 of these regulations.

(8) Physical or operational changes made to an existing HMIWI unit solely for the purpose of complying with Rule 1.12 of these regulations are not considered a modification and do not result in an existing HMIWI unit becoming subject to the new source provisions under Rule 1.6 of these regulations and Subpart Ec of 40 C.F.R. 60.

(9) Each existing HMIWI is subject to the permitting requirements in Title 11, Part 2, Chapter 6, Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act,. Each owner and operator of an existing HMIWI shall submit an application for a Title V permit to the Department by December 15, 1999.

(10) Beginning September 15, 2000, designated facilities subject to Rule 1.12 of these regulations shall operate pursuant to a permit issued under Title 11, Part 2, Chapter 6, Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act.

B. For the purpose of the requirements in Rule 1.12 of these regulations, the following definitions apply:

(1) "Administrator of EPA" means the Administrator of the United States Environmental Protection Agency or his authorized representative.

(2) "Batch HMIWI" means an HMIWI that is designed such that neither waste charging nor ash removal can occur during combustion.

(3) "Biologicals" means preparations made from living organisms and their products, including vaccines, cultures, etc., intended for use in diagnosing, immunizing, or treating humans or animals or in research pertaining thereto.

(4) "Blood products" means any product derived from human blood, including but not limited to blood plasma, platelets, red or white blood corpuscles, and other derived licensed products, such as interferon, etc.

(5) "Body Fluids" means liquid emanating or derived from humans and limited to blood; dialysate; amniotic, cerebrospinal, synovial, pleural, peritoneal and pericardial fluids; and semen and vaginal secretions.

(6) “Bypass stack” means a device used for discharging combustion gases to avoid severe damage to the air pollution control device or other equipment.

(7) “Chemotherapeutic waste” means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells.

(8) “Co-fired combustor” means a unit combusting hospital waste and/or medical/infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, 10 percent or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered “other” wastes when calculating the percentage of hospital waste and medical/infectious waste combusted.

(9) “Continuous emission monitoring system or CEMS” means a monitoring system for continuously measuring and recording the emissions of a pollutant from an affected facility.

(10) “Continuous HMIWI” means an HMIWI that is designed to allow waste charging and ash removal during combustion.

(11) “Dioxins/furans” means the combined emissions of tetra-through octa-chlorinated dibenzo-para-dioxins and dibenzofurans, as measured by EPA Reference Method 23.

(12) “Dry scrubber” means an add-on air pollution control system that injects dry alkaline sorbent (dry injection) or sprays an alkaline sorbent (spray dryer) to react with and neutralize acid gases in the HMIWI exhaust stream forming a dry powder material.

(13) “Fabric filter or baghouse” means an add-on air pollution control system that removes particulate matter (PM) and nonvaporous metals emissions by passing flue gas through filter bags.

(14) “Facilities manager” means the individual in charge of purchasing, maintaining, and operating the HMIWI or the owner's or operator's representative responsible for the management of the HMIWI. Alternative titles may include Director of Facilities or Vice President of Support Services.

(15) “High-air phase” means the stage of the batch operating cycle when the primary chamber reaches and maintains maximum operating temperatures.

(16) “Hospital” means any facility which has an organized medical staff, maintains at least six inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care

primarily to human inpatients who are not related and who stay on average in excess of 24 hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuing medical supervision.

(17) "Hospital/medical/infectious waste incinerator or HMIWI or HMIWI unit" means any device that combusts any amount of hospital waste and/or medical/infectious waste.

(18) "Hospital/medical/infectious waste incinerator operator or HMIWI operator" means any person who operates, controls, or supervises the day-to-day operation of an HMIWI.

(19) "Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.

(20) "Infectious agent" means any organism (such as a virus or bacteria) that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans.

(21) "Intermittent HMIWI" means an HMIWI that is designed to allow waste charging, but not ash removal, during combustion.

(22) "Large HMIWI" means:

(a) Except as provided in subparagraph (b)

(1) An HMIWI whose maximum design waste burning capacity is more than 500 pounds per hour; or

(2) A continuous or intermittent HMIWI whose maximum charge rate is more than 500 pounds per hour; or

(3) A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day.

(b) The following are not large HMIWI:

(1) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 500 pounds per hour; or

(2) A batch HMIWI whose maximum charge rate is less than or equal to 4,000 pounds per day.

(23) "Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable Federal or State standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 [42 U.S.C. 2014 (e)(2)].

(24) "Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions. During periods of malfunction the operator shall operate within established parameters as much as possible, and monitoring of all applicable operating parameters shall continue until all waste has been combusted or until the malfunction ceases, whichever comes first.

(25) "Maximum charge rate" means:

(a) For continuous and intermittent HMIWI, 110 percent of the lowest 3-hour average charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limits.

(b) For batch HMIWI, 110 percent of the lowest daily charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limits.

(26) "Maximum design waste burning capacity" means:

(a) For intermittent and continuous HMIWI,

$$C = PV * \frac{15{,}000}{8{,}500}$$

Where:

C = HMIWI capacity, lb/hr

PV = primary chamber volume, ft^3

15,000 = primary chamber heat release rate factor, $Btu/ft^3/hr$

8,500 = standard waste heating value, Btu/lb;

(b) For batch HMIWI,

$$C = PV * \frac{4.5}{8}$$

Where:

C = HMIWI capacity, lb/hr

PV = primary chamber volume, ft^3

4.5 = waste density, lb/ft;

8 = typical hours of operation of a batch HMIWI, hours.

(27) "Maximum fabric filter inlet temperature" means 110 percent of the lowest 3-hour average temperature at the inlet to the fabric filter (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the dioxin/furan emission limit.

(28) "Maximum flue gas temperature" means 110 percent of the lowest 3-hour average temperature at the outlet from the wet scrubber (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the mercury (Hg) emission limit.

(29) "Medical/infectious waste" means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that is listed in paragraphs (a) through (g) of this definition. The definition of medical/infectious waste does not include ash from incineration of medical/infectious waste, once the incineration process has been completed; human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage materials, hazardous waste, and household waste identified, listed, or defined in Part 261 of Mississippi Hazardous Waste Management Regulations.

(a) Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate, and mix cultures.

(b) Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.

(c) Human blood and blood products including:

(1) Liquid waste human blood;

(2) Products of blood;

(3) Items saturated and/or dripping with human blood; or

(4) Saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category.

(d) Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), Pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips.

(e) Animal waste including contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals.

(f) Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates, or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases.

(g) Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.

(30) "Medium HMIWI" means:

(a) Except as provided in subparagraph (b)

(1) An HMIWI whose maximum design waste burning capacity is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or

(2) A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or

(3) A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day but less than or equal to 4,000 pounds per day.

(b) The following are not medium HMIWI:

(1) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour or more than 500 pounds per hour; or

(2) A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day or less than or equal to 1,600 pounds per day.

(31) "Minimum dioxin/furan sorbent flow rate" means 90 percent of the highest 3-hour average dioxin/furan sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent performance test demonstrating compliance with the dioxin/furan emission limit.

(32) "Minimum Hg sorbent flow rate" means 90 percent of the highest 3-hour average Hg sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent performance test demonstrating compliance with the Hg emission limit.

(33) "Minimum hydrogen chloride (HCl) sorbent flow rate" means 90 percent of the highest 3-hour average HCl sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent performance test demonstrating compliance with the HCl emission limit.

(34) "Minimum horsepower or amperage" means 90 percent of the highest 3-hour average horsepower or amperage to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the applicable emission limits.

(35) "Minimum pressure drop across the wet scrubber" means 90 percent of the highest 3-hour average pressure drop across the wet scrubber PM control device (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the PM emission limit.

(36) "Minimum scrubber liquor flow rate" means 90 percent of the highest 3-hour average liquor flow rate at the inlet to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with all applicable emission limits.

(37) "Minimum scrubber liquor pH" means 90 percent of the highest 3-hour average liquor pH at the inlet to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the HC1 emission limit.

(38) "Minimum secondary chamber temperature" means 90 percent of the highest 3-hour average secondary chamber temperature (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the PM, CO, or dioxin/furan emission limits.

(39) "Modification or Modified HMIWI" means any change to an HMIWI unit after March 16, 1998, such that:

(a) The cumulative costs of the modifications, over the life of the unit, exceed 50 per centum of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs, or

(b) The change involves a physical change in or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under Section 129 or Section 111 of the Federal Clean Air Act.

(40) "Operating day" means a 24-hour period between 12:00 midnight and the following midnight during which any amount of hospital waste or medical/infectious waste is combusted at any time in the HMIWI.

(41) "Operation" means the period during which waste is combusted in the incinerator excluding periods of startup or shutdown.

(42) "Particulate matter or PM" means the total particulate matter emitted from an HMIWI as measured by EPA Reference Method 5 or EPA Reference Method 29.

(43) "Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material, and animal bedding (if applicable).

(44) "Primary chamber" means the chamber in an HMIWI that receives waste material, in which the waste is ignited, and from which ash is removed.

(45) "Pyrolysis" means the endothermic gasification of hospital waste and/or medical/infectious waste using external energy.

(46) "Secondary chamber" means a component of the HMIWI that receives combustion gases from the primary chamber and in which the combustion process is completed.

(47) "Shutdown" means the period of time after all waste has been combusted in the primary chamber. For continuous HMIWI, shutdown shall commence no less than 2 hours after the last charge to the incinerator. For intermittent HMIWI, shutdown shall commence no less than 4 hours after the last charge to the incinerator. For batch HMIWI, shutdown shall commence no less than 5 hours after the high-air phase of combustion has been completed.

(48) "Small HMIWI" means:

(a) Except as provided in subparagraph (b)

(1) An HMIWI whose maximum design waste burning capacity is less than or equal to 200 pounds per hour; or

(2) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour; or

(3) A batch HMIWI whose maximum charge rate is less than or equal to 1,600 pounds per day.

(b) The following are not small HMIWI:

(1) A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour.

(2) A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day.

(49) "Standard conditions" means a temperature of 20DC and a pressure of 101.3 kilopascals.

(50) "Standard Metropolitan Statistical Area or SMSA" means any areas listed in OMB Bulletin No. 93-17 entitled "Revised Statistical Definitions for Metropolitan Areas" dated June 30, 1993.

(51) "Startup" means the period of time between the activation of the system and the first charge to the unit. For batch HMIWI, startup means the period of time between activation of the system and ignition of the waste.

(52) "Wet scrubber" means an add-on air pollution control device that utilizes an alkaline scrubbing liquor to collect particulate matter (including nonvaporous metals and condensed organic) and/or to absorb and neutralize acid gases.

C. Emission limits.

(1) Except as provided for in subparagraph (2) no owner or operator of an affected facility shall cause to be discharged into the atmosphere from that affected facility any gases that contain stack emissions in excess of the limits presented in Table 1 of this paragraph.

(2) The emission limits in Table 2 shall apply to any small HMIWI which is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area (SMSA) and which burns less than 2,000 pounds per week of hospital waste and medical/infectious waste. The 2,000 lb/week limitation does not apply during performance tests.

(3) No owner or operator of an affected facility shall cause to be discharged into the atmosphere from the stack of that affected facility any gases that exhibit greater than 10 percent opacity (6-minute block average).

TABLE 1. EMISSION LIMITS FOR SMALL, MEDIUM, AND LARGE HMIWI

Pollutant	Units (7 percent oxygen, dry basis)	Emission Limits		
		HMIWI Size		
		Small	Medium	Large
Particulate matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot)	115(0.05)	69 (0.03)	34(0.015)
Carbon monoxide	Parts per million by volume	40	40	40
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)	125 (55) or 2.3(1.0)	125(55) or 2.3(1.0)	125(55) or 2.3(1.0)
Hydrogen chloride	Parts per million by volume or percent reduction	100 or 93%	100 or 93%	100 or 93%
Sulfur dioxide	Parts per million by volume	55	55	55
Nitrogen oxides	Parts per million by volume	250	250	250
Lead	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	1.2(0.52) or 70%	1.2(0.52) or 70%	1.2(0.52) or 70%
Cadmium	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	0.16(0.07) or 65%	0.16(0.07) or 65%	0.16(0.07) or 65%
Mercury	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	0.55 (0.24) or 85%	0.55 (0.24) or 85%	0.55 (0.24) or 85%

TABLE 2. EMISSION LIMITS FOR SMALL RURAL HMIWI

Pollutant	Units (7 percent oxygen, dry basis)	HMIWI Emission Limits
Particulate matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot)	197(0.086)
Carbon monoxide	Parts per million by volume	40
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)	800 (350) or 15(6.6)
Hydrogen chloride	Parts per million by volume	3100
Sulfur dioxide	Parts per million by volume	55
Nitrogen oxides	Parts per million by volume	250
Lead	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	10(4.4)
Cadmium	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	4(1.7)
Mercury	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	7.5 (3.3)

D. Operator Training and Qualification Requirements.

(1) Compliance with the requirements of this paragraph shall occur no later than September 15, 2000.

(2) No owner or operator of an affected facility shall allow the affected facility to operate at any time unless a fully trained and qualified HMIWI operator is accessible, either at the facility or available within 1 hour. The trained and qualified HMIWI operator may operate the HMIWI directly or be the direct supervisor of one or more HMIWI operators.

(3) Operator training and qualification shall be obtained through a State-approved program that meets the requirements included in subparagraphs (4) through (11) of this paragraph.

(4) Training shall be obtained by completing an HMIWI operator training course that includes, at a minimum, the following provisions:

(a) 24 hours of training on the following subjects:

(1) Environmental concerns, including pathogen destruction and types of emissions;

(2) Basic combustion principles, including products of combustion;

(3) Operation of the type of incinerator to be used by the operator, including proper startup, waste charging, and shutdown procedures;

(4) Combustion controls and monitoring;

(5) Operation of air pollution control equipment and factors affecting performance (if applicable);

(6) Methods to monitor pollutants (continuous emission monitoring systems and monitoring of HMIWI and air pollution control device operating parameters) and equipment calibration procedures (where applicable);

(7) Inspection and maintenance of the HMIWI, air pollution control devices, and continuous emission monitoring systems;

(8) Actions to correct malfunctions or conditions that may lead to malfunction;

(9) Bottom and fly ash characteristics and handling procedures;

(10) Applicable federal, state, and local regulations;

(11) Work safety procedures;

(12) Pre-startup inspections; and

(13) Recordkeeping requirements.

(b) An examination designed and administered by the instructor.

(c) Reference material distributed to the attendees covering the course topics.

(5) Qualification shall be obtained by:

(a) Completion of a training course that satisfies the criteria under subparagraph (4) of this paragraph; and

(b) Either 6 months experience as an HMIWI operator, 6 months experience as a direct supervisor of an HMIWI operator, or completion of at least two burn cycles under the observation of two qualified HMIWI operators.

(6) Qualification is valid from the date on which the examination is passed or the completion of the required experience, whichever is later.

(7) To maintain qualification, the trained and qualified HMIWI operator shall complete and pass an annual review or refresher course of at least 4 hours covering, at a minimum, the following:

(a) Update of regulations;

(b) Incinerator operation, including startup and shutdown procedures;

(c) Inspection and maintenance;

(d) Responses to malfunctions or conditions that may lead to malfunction; and

(e) Discussion of operating problems encountered by attendees.

(8) A lapsed qualification shall be renewed by one of the following methods:

(a) For a lapse of less than 3 years, the HMIWI operator shall complete and pass a standard annual refresher course described in subparagraph (7) of this paragraph above.

(b) For a lapse of 3 years or more, the HMIWI operator shall complete and pass a training course with the minimum criteria described in subparagraph (4) of this paragraph above.

(9) The owner or operator of an affected facility shall maintain documentation at the facility that address the following:

(a) Summary of the applicable standards under Rule 1.12 of these regulations;

(b) Description of basic combustion theory applicable to an HMIWI;

(c) Procedures for receiving, handling, and charging waste;

(d) HMIWI startup, shutdown, and malfunction procedures;

(e) Procedures for maintaining proper combustion air supply levels;

(f) Procedures for operating the HMIWI and associated air pollution control systems within the standards established under Rule 1.12 of these regulations;

(g) Procedures for responding to periodic malfunction or conditions that may lead to malfunction;

(h) Procedures for monitoring HMIWI emissions;

(i) Reporting and recordkeeping procedures; and

(j) Procedures for handling ash.

(10) The owner or operator of an affected facility shall establish a program for reviewing the information listed in subparagraph (9) of this paragraph annually with each HMIWI operator.

(a) The initial review of the information listed in subparagraph (9) of this paragraph shall be conducted by March 15, 2000, or prior to assumption of responsibilities affecting HMIWI operation, whichever date is later.

(b) Subsequent reviews of the information listed in subparagraph (9) of this paragraph shall be conducted annually.

(11) The information listed in subparagraph (9) of this paragraph shall be kept in a readily accessible location for all HMIWI operators. This information, along with records of training shall be available for inspection by the Department upon request.

E. Waste Management Guidelines.

The owner or operator of an affected facility shall prepare a waste management plan. The waste management plan shall identify both the feasibility and the approach to separate certain components of solid waste from the health care waste stream in order to reduce the amount of toxic emissions from incinerated waste. A waste management plan may include, but is not limited to, elements such as paper, cardboard, plastics, glass, battery, or metal recycling; or purchasing recycled or recyclable products. A waste management plan may include different goals or approaches for different areas or departments of the facility and need not include new waste management goals for every waste stream. It should identify, where possible, reasonably available additional waste management measures, taking into account the effectiveness of waste management measures already in place, the costs of additional measures, the emission reductions expected to be achieved, and any other environmental or energy impacts they might have. The American Hospital Association publication entitled "An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities" shall be considered in the development of the waste management plan.

F. Inspection Guidelines.

(1) Requirements of this paragraph apply to any small HMIWI subject to the emission limits in Table 2 of paragraph C in Rule 1.12 of these regulations.

(2) Later than September 15, 2000 and annually thereafter (no more than 12 months following the previous annual equipment inspection) an equipment inspection shall be performed.

(a) At a minimum, an inspection shall include the following:

(1) Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation; clean pilot flame sensor, as necessary;

(2) Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as necessary;

(3) Inspect hinges and door latches, and lubricate as necessary;

(4) Inspect dampers, fans, and blowers for proper operation;

(5) Inspect HMIWI door and door gaskets for proper sealing;

(6) Inspect motors for proper operation;

(7) Inspect primary chamber refractory lining; clean and repair/replace lining as necessary;

(8) Inspect incinerator shell for corrosion and/or hot spots;

(9) Inspect secondary/tertiary chamber and stack, clean as necessary;

(10) Inspect mechanical loader, including limit switches, for proper operation, if applicable;

(11) Visually inspect waste bed (grates), and repair/seal, as appropriate;

(12) For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments;

(13) Inspect air pollution control devices(s) for proper operation, if applicable;

(14) Inspect waste heat boiler systems to ensure proper operation, if applicable;

(15) Inspect bypass stack components;

(16) Ensure proper calibration of thermocouples, sorbent feed systems, and any other monitoring equipment; and

(17) Generally observe that the equipment is maintained in good operating condition.

(b) Within 10 operating days following an equipment inspection, all necessary repairs shall be completed unless the owner or operator obtains written approval from the Department establishing a date whereby all necessary repairs of the designated facility shall be completed.

G. Compliance and Performance Testing.

(1) The emission limits under paragraph C in Rule 1.12 of these regulations shall apply at all times except during periods of startup, shutdown, or malfunction, provided that no hospital waste or medical/infectious waste is charged to the affected facility during startup, shutdown, or malfunction.

(2) The owner or operator of an affected facility shall conduct an initial performance test in accordance with the performance test requirements contained in 40 C.F.R. 60.8 to determine compliance with the emission limits using the procedures and test methods listed in subparagraphs (2)(a) through (2)(j) of this paragraph. The use of the bypass stack during a performance test shall invalidate the performance test.

(a) All performance tests shall consist of a minimum of three test runs conducted under representative operating conditions.

(b) The minimum sample time shall be 1 hour per test run unless otherwise indicated.

(c) EPA Reference Method 1 of Appendix A of 40 C.F.R. 60 shall be used to select the sampling location and number of traverse points.

(d) EPA Reference Method 3 or 3 A of Appendix A of 40 C.F.R. 60 shall be used for gas composition analysis, including measurement of oxygen concentration. EPA Reference Method 3 or 3A of Appendix A of 40 C.F.R. 60 shall be used simultaneously with each reference method.

(e) The pollutant concentrations shall be adjusted to 7 percent oxygen using the following equation:

$$C_{adj} = C_{meas} \frac{(20.9 - 7)}{(20.9 - \%O_2)}$$

Where:

C_{adj} = pollutant concentration adjusted to 7 percent oxygen;

C_{meas} = pollutant concentration measured on a dry basis;

(20.9-7) = 20.9 percent oxygen - 7 percent oxygen (defined oxygen correction basis);

20.9 = oxygen concentration in air, percent; and

$\%O_2$ = oxygen concentration measured on a dry basis, percent.

(f) EPA Reference Method 5 or 29 Appendix A of 40 C.F.R. 60 shall be used to measure the particulate matter emissions.

(g) EPA Reference method 9 of Appendix A of 40 C.F.R. 60 shall be used to measure stack opacity.

(h) EPA Reference Method 10 or 10B of Appendix A of 40 C.F.R. 60 shall be used to measure the CO emissions.

(i) EPA Reference Method 23 of Appendix A of 40 C.F.R. 60 shall be used to measure total dioxin/furan emissions. The minimum sample time shall be 4 hours per test run. If the affected facility has selected the toxic equivalency standards for dioxin/furans, under paragraph C in Rule 1.12 of these regulations, the following procedures shall be used to determine compliance:

(1) Measure the concentration of each dioxin/furan tetra-through octa-congener emitted using EPA Reference Method 23.

(2) For each dioxin/furan congener measured in accordance with subparagraph (2)(i)(1) of this paragraph, multiply the congener concentration by its corresponding toxic equivalency factor specified in Table 3 in Rule 1.12 of these regulations.

(3) Sum the products calculated in accordance with subparagraph (2)(i)(2) of this paragraph to obtain the total concentration of dioxins/furans emitted in terms of toxic equivalency.

(j) EPA Reference Method 26 of Appendix A of 40 C.F.R. 60 shall be used to measure HCl emissions. If the affected facility has selected the percentage reduction standards for HCl under paragraph (C) in Rule 1.12 of these regulations, the percentage reduction in HCl emissions *(%R_{HCl})* is computed using the following formula:

$$\left(\%R_{HCl}\right) = \left(\frac{E_i - E_o}{E_i}\right) \times 100$$

Where:

(%R_{HCl}) = percentage reduction of HCl emissions achieved;

E_i = HCl emission concentration measured at the control device inlet, corrected to 7 percent oxygen (dry basis); and

E_0 = HCl emission concentration measured at the control device outlet, corrected to 7 percent oxygen (dry basis).

(k) EPA Reference Method 29 of Appendix A of 40 C.F.R. 60 shall be used to measure Pb, Cd, and Hg emissions. If the affected facility has selected the percentage reduction standards for metals under paragraph (C) in Rule 1.12 of these regulations, the percentage reduction in emissions *(%R_{metal})* is computed using the following formula:

$$\left(\%R_{metal}\right) = \left(\frac{E_i - E_o}{E_i}\right) \times 100$$

Where:

(%R_{metal}) = percentage reduction of metal emission (Ph, Cd, or Hg) achieved;

E_i = metal emission concentration (Pb, Cd, or Hg) measured at the control device inlet, corrected to 7 percent oxygen (dry basis); and

E_0 = metal emission concentration (Pb, Cd, or Hg) measured at the control device outlet, corrected to 7 percent oxygen (dry basis).

TABLE 3. TOXIC EQUIVALENCY FACTORS

Dioxin/Furan Congener	Toxic Equivalency Factor
2,3,7,8-tetrachlorinateddibenzo-p-dioxin	1
1,2,3,7,8-pentachlorinated dibenzo-p-dioxin	0.5
1,2,3,4,7,8- hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,7,8,9-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,6,7,8-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,4,6,7,8-heptachlorinated dibenzo-p-dioxin	0.01
octachlorinated dibenzo-p-dioxin	0.001
2,3,7,8-tetrachlorinateddibenzofuran	0.1
2,3,4,7,8-pentachlorinateddibenzofuran	0.5
1,2,3,7,8-pentachlorinated dibenzofuran	0.05
1,2,3,4,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,6,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,7,8,9-hexachlorinated dibenzofuran	0.1
2,3,4,6,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,4,6,7,8-heptachlorinated dibenzofuran	0.01
1,2,3,4,7,8,9-heptachIorinated dibenzofuran	0.01
octachlorinated dibenzofuran	0.001

(3) Following the date on which the initial performance test is completed or is required to be completed under the performance test requirements contained in 40 C.F.R. 60.8, whichever date comes first, the owner or operator of an affected facility shall:

(a) Determine compliance with the opacity limit by conducting an annual performance test (no more than 12 months following the previous performance test) using the applicable procedures and test methods listed in subparagraph (2) of this paragraph.

(b) Determine compliance with the PM, CO, and HCl emission limits by conducting an annual performance test (no more than 12 months following the previous performance test) using the applicable procedures and test methods listed in subparagraph (2) of this paragraph. If all three performance tests over a 3-year period indicate compliance with the emission limit for a pollutant (PM, CO, or HCl), the owner or operator may forego a performance test for that pollutant for the subsequent 2 years. At a minimum, a performance test for PM, CO, and HCl shall be conducted every third year (no more than 36 months following the previous performance test). If a performance test conducted every third year indicates compliance with the emission limit for a pollutant (PM, CO, or HCl), the owner or operator may forego a performance test for that pollutant for up to an additional 2 years. If any performance test indicates noncompliance with the respective emission limit, a performance test for that pollutant shall be conducted annually until all annual performance tests over a 3-year period indicate compliance with the emission limit. The use of the bypass stack during a performance test shall invalidate the performance test.

(c) Facilities using a CEMS to demonstrate compliance with any of the emission limits under paragraph C in Rule 1.12 of these regulations shall:

(1) Determine compliance with the appropriate emission limit(s) using a 12-hour rolling average, calculated each hour as the average of the previous 12 operating hours (not including startup, shutdown, or malfunction).

(2) Operate all CEMS in accordance with the applicable procedures under Appendices B and F of 40 C.F.R. 60.

(4) The owner or operator of an affected facility equipped with a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and wet scrubber shall:

(a) Establish the appropriate maximum and minimum operating parameters, indicated in Table 4 of Rule 1.12 of these regulations for each control system, as site specific operating parameters during the initial performance test to determine compliance with the emission limits; and

(b) Following the date on which the initial performance test is completed or is required to be completed under the performance test requirements contained in 40 C.F.R. 60.8, whichever date comes first, ensure that the affected facility does not operate above any of the applicable maximum operating parameters or below any of the applicable minimum operating parameters listed in Table 4 in Rule 1.12 of these regulations and measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times except during periods of startup, shutdown, and malfunction. Operating parameter limits do not apply during performance tests. Operation above the established maximum or below the established minimum operating parameter(s) shall constitute a violation of established operating parameter(s).

(5) Except as provided in subparagraph (8) of this paragraph, for affected facilities equipped with a dry scrubber followed by a fabric filter:

(a) Operation of the affected facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the CO emission limit.

(b) Operation of the affected facility above the maximum fabric filter inlet temperature, above the maximum charge rate, and below the minimum dioxin/furan sorbent flow rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the dioxin/furan emission limit.

(c) Operation of the affected facility above the maximum charge rate and below the minimum HCl sorbent flow rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the HCl emission limit.

(d) Operation of the affected facility above the maximum charge rate and below the minimum Hg sorbent flow rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the Hg emission limit.

(e) Use of the bypass stack (except during startup, shutdown, or malfunction) shall constitute a violation of the PM, dioxin/furan, HCl, Pb, Cd and Hg emission limits.

(6) Except as provided in subparagraph (8) of this paragraph, for affected facilities equipped with a wet scrubber:

(a) Operation of the affected facility above the maximum charge rate and below the minimum pressure drop across the wet scrubber or below the

minimum horsepower or amperage to the system (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the PM emission limit.

(b) Operation of the affected facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the CO emission limit.

(c) Operation of the affected facility above the maximum charge rate, below the minimum secondary chamber temperature, and below the minimum scrubber liquor flow rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the dioxin/furan emission limit.

(d) Operation of the affected facility above the maximum charge rate and below the minimum scrubber liquor pH (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the HCl emission limit.

(e) Operation of the affected facility above the maximum flue gas temperature and above the maximum charge rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the Hg emission limit.

(f) Use of the bypass stack (except during startup, shutdown, or malfunction) shall constitute a violation of the PM, dioxin/furan, HCl, Pb, Cd and Hg emission limits.

(7) Except as provided in subparagraph (h) of this paragraph, for affected facilities equipped with a dry scrubber followed by a fabric filter and a wet scrubber:

(a) Operation of the affected facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the CO emission limit.

(b) Operation of the affected facility above the maximum fabric filter inlet temperature, above the maximum charge rate, and below the minimum dioxin/furan sorbent flow rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the dioxin/furan emission limit.

(c) Operation of the affected facility above the maximum charge rate and below the minimum scrubber liquor pH (each measured on a 3-hour

rolling average) simultaneously shall constitute a violation of the HCl emission limit.

(d) Operation of the affected facility above the maximum charge rate and below the minimum Hg sorbent flow rate (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the Hg emission limit.

(e) Use of the bypass stack (except during startup, shutdown, or malfunction) shall constitute a violation of the PM, dioxin/furan, HCl, Pb, Cd and Hg emission limits.

(8) The owner or operator of an affected facility may conduct a repeat performance test within 30 days of violation of applicable operating parameter(s) to demonstrate that the affected facility is not in violation of the applicable emission limit(s). Repeat performance tests conducted pursuant to this paragraph shall be conducted using the identical operating parameters that indicated a violation under subparagraph (5), (6), or (7) of this paragraph.

(9) The owner or operator of an affected facility using an air pollution control device other than a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and a wet scrubber to comply with the emission limits under paragraph C in Rule 1.12 of these regulations shall petition the Administrator for other site-specific operating parameters to be established during the initial performance test and continuously monitored thereafter. The owner or operator shall not conduct the initial performance test until after the petition has been approved by the Administrator.

(10) The owner or operator of an affected facility may conduct a repeat performance test at any time to establish new values for the operating parameters. The Department may request a repeat performance test at any time.

(11) Any small HMIWI subject to the emission limits in Table 2 of paragraph C in Rule 1.12 of these regulations shall meet the following compliance and performance testing requirements:

(a) Conduct the performance testing requirements in subparagraphs (1), (2)(a) through (2)(i), (2)(k)(mercury only), and (3)(a) of this paragraph. The 2,000 lb/week limitation does not apply during performance tests.

(b) Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits.

(c) Following the date on which the initial performance test is completed or is required to be completed under the performance test requirements

contained in 40 C.F.R. 60.8, whichever date comes first, ensure that the designated facility does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times except during periods of startup, shutdown, or malfunction. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameter(s).

(d) Except as provided in subparagraph (11)(e) of this paragraph below, operation of the designated facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emission limits.

(e) The owner or operator of a designated facility may conduct a repeat performance test within 30 days of violation of applicable operating parameter(s) to demonstrate that the designated facility is not in violation of the applicable emission limit(s). Repeat performance tests conducted pursuant to this paragraph must be conducted using the identical operating parameters that indicated a violation under subparagraph (11)(d), of this paragraph above.

H. Monitoring.

(1) The owner or operator of an affected facility shall install, calibrate (to manufacturer's specifications), maintain, and operate devices (or establish methods) for monitoring the applicable maximum and minimum operating parameters listed in Table 4 in Rule 1.12 of these regulations such that these devices (or methods) measure and record values for these operating parameters at the frequencies indicated in Table 4 in Rule 1.12 of these regulations at all times except during periods of startup and shutdown.

(2) The owner of operator of an affected facility shall install, calibrate (to manufacturer's specifications), maintain, and operate a device or method for measuring the use of the bypass stack including date, time, and duration.

(3) The owner or operator of an affected facility using something other than a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and a wet scrubber to comply with the emission limits under paragraph C in Rule 1.12 of these regulations shall install, calibrate (to the manufacturer's specifications), maintain, and operate the equipment necessary to monitor the site-specific operating parameters developed pursuant to subparagraph G.(l) in Rule 1.12 of these regulations.

(4) The owner or operator of an affected facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day and for 90 percent of the operating days per calendar quarter that the affected facility is combusting hospital waste and/or medical/infectious waste.

(5) Any small HMIWI subject to the emission limits in Table 2 of paragraph C in Rule 1.12 of these regulations shall meet the following monitoring requirements:

(a) Install, calibrate (to manufacturer's specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation.

(b) Install, calibrate (to manufacturer's specifications), maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI.

(c) The owner or operator of a designated facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hour per day and for 90 percent of the operating hour per calendar quarter that the designated facility is combusting hospital waste and/or medical/infectious waste.

TABLE 4. OPERATING PARAMETERS TO BE MONITORED AND MINIMUM MEASUREMENT AND RECORDING FREQUENCIES

Operating Parameters to be Monitored	**Minimum Frequency**		**Control System**		
	Data Measurement	**Data Recording**	**Dry Scrubber followed by Fabric Filter**	**Wet Scrubber**	**Dry Scrubber followed by Fabric Filter and Wet Scrubber**
Maximum operating parameters:					
Maximum charge rate	Continuous	1 x hour	X	X	X
Maximum fabric filter inlet temperature	Continuous	1 x minute	X		X
Maximum flue gas temperature	Continuous	1 x minute	X	X	
Minimum operating parameters:					
Minimum secondary chamber temperature	Continuous	1 x minute	X	X	X
Minimum dioxin/furan sorbent flow rate	Hourly	1 x hour	X		X
Minimum HCl sorbent flow rate	Hourly	1 x hour	X		X
Minimum mercury (Hg) sorbent flow rate	Hourly	1 x hour	X		X
Minimum pressure drop across the wet scrubber or minimum horsepower or amperage to wet scrubber	Continuous	1 x minute		X	X
Minimum scrubber liquor flow rate	Continuous	1 x minute		X	X
Minimum scrubber liquor pH	Continuous	1 x minute		X	X

I. Reporting and Recordkeeping Requirements.

(1) The owner or operator of an affected facility shall maintain the following information (as applicable) for a period of at least 5 years:

(a) Calendar date of each record;

(b) Records of the following data:

(1) Concentrations of any pollutant listed in paragraph C in Rule 1.12 of these regulations or measurements of opacity as determined by the continuous emission monitoring system (if applicable);

(2) Results of fugitive emissions (by EPA Reference Method 22) tests, if applicable;

(3) HMIWI charge dates, times, and weights and hourly charge rates;

(4) Fabric filter inlet temperatures during each minute of operation, as applicable;

(5) Amount and type of dioxin/furan sorbent used during each hour of operation, as applicable;

(6) Amount and type of Hg sorbent used during each hour of operation, as applicable;

(7) Amount and type of HCl sorbent used during each hour of operation, as applicable;

(8) Secondary chamber temperatures recorded during each minute of operation;

(9) Liquor flow rate to the wet scrubber inlet during each minute of operation, as applicable;

(10) Horsepower or amperage to the wet scrubber during each minute of operation, as applicable;

(11) Pressure drop across the wet scrubber system during each minute of operation, as applicable;

(12) Temperature at the outlet from the wet scrubber during each minute of operation, as applicable;

(13) pH at the inlet to the wet scrubber during each minute of operation, as applicable;

(14) Records indicating use of the bypass stack, including dates, times, and durations; and

(15) For affected facilities complying with subparagraphs G(1) and H(3) in Rule 1.12 of these regulations, the owner or operator shall maintain all operating parameter data collected.

(c) Identification of calendar days for which data on emission rates or operating parameters specified under subparagraph (1)(b) of this paragraph have not been obtained, with an identification of the emission rates or operating parameters not measured, reasons for not obtaining the data, and a description of corrective actions taken.

(d) Identification of calendar days, times and durations of malfunctions, a description of the malfunction and the corrective action taken.

(e) Identification of calendar days for which data on emission rates or operating parameters specified under subparagraph (1)(b) of this paragraph exceeded the applicable limits, with a description of the exceedances, reasons for such exceedances, and a description of corrective actions taken.

(f) The results of the initial, annual, and any subsequent performance tests conducted to determine compliance with the emission limits and/or to establish operating parameters, as applicable.

(g) Records showing the names of HMIWI operators who have completed review of the information in subparagraph (D)(9) as required by subparagraph (D)(10) including the date of the initial review and all subsequent annual reviews;

(h) Records showing the names of the HMIWI operators who have completed the operator training requirements, including documentation of training and the dates of the training;

(i) Records showing the names of the HMIWI operators who have met the criteria for qualification under paragraph D. in Rule 1.12 of these regulations and the dates of their qualification; and

(j) Records of calibration of any monitoring devices as required under subparagraphs H(1), (2), and (3) in Rule 1.12 of these regulations.

(2) The owner or operator of an affected facility shall submit the information specified in subparagraphs (2)(a) through (2)(c) of this paragraph no later than 60 days following the initial performance test. All reports shall be signed by the facilities manager.

(a) The initial performance test data as recorded under subparagraphs G(2)(a) through (2)(k) as applicable.

(b) The values for the site-specific operating parameters established pursuant to subparagraphs G(4) or (9) as applicable.

(c) The waste management plan as specified in paragraph E in Rule 1.12 of these regulations.

(3) An annual report shall be submitted 1 year following the submission of the information in subparagraph (2) of this paragraph and subsequent reports shall be submitted no more than 12 months following the previous report (once the unit is subject to permitting requirements in Title 11, Part 2, Chapter 6, Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act, the owner or operator of an affected facility must submit these reports semiannually). The annual report shall include the information specified in subparagraphs (3)(a) through (3)(h) of this paragraph. All reports shall be signed by the facilities manager.

(a) The values for the site-specific operating parameters established pursuant to subparagraph G(4) or (9) as applicable.

(b) The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter recorded for the calendar year being reported, pursuant to subparagraph G(4) or (9) as applicable.

(c) The highest maximum operating parameter and the lowest minimum operating parameter, as applicable for each operating parameter recorded pursuant to subparagraph G(4) or (9) for the calendar year preceding the year being reported, in order to provide the Department with a summary of the performance of the affected facility over a 2-year period.

(d) Any information recorded under (1)(c) through (1)(e) of this paragraph for the calendar year being reported.

(e) Any information recorded under subparagraphs (1)(c) through (1)(e) of this paragraph for the calendar year preceding the year being reported, in order to provide the Department with a summary of the performance of the affected facility over a 2-year period.

(f) If a performance test was conducted during the reporting period, the results of that test.

(g) If no exceedances or malfunctions were reported under subparagraphs (1)(c) through (1)(e) of this paragraph for the calendar year being reported, a statement that no exceedances occurred during the reporting period.

(h) Any use of the bypass stack, the duration, reason for malfunction, and corrective action taken.

(4) The owner or operator of an affected facility shall submit semiannual reports containing any information recorded under subparagraphs (1)(c) through (1)(e) of this paragraph no later than 60 days following the reporting period. The first semiannual reporting period ends 6 months following the submission of information in subparagraph (2) of this paragraph. Subsequent reports shall be submitted no later than 6 calendar months following the previous report. All reports shall be signed by the facilities manager.

(5) All records specified under subparagraph (1) of this paragraph shall be maintained onsite in either paper copy or computer-readable format, unless an alternative format is approved by the Department.

(6) Any small HMIWI subject to the emission limits in Table 2 of paragraph C in Rule 1.12 of these regulations shall meet the following reporting and recordkeeping requirements:

(a) Maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within 10 days of an inspection or the timeframe established by the Department; and

(b) Submit an annual report containing information recorded under subparagraph (6)(1) above no later than 60 days following the year in which data were collected. Subsequent reports shall be sent no later than 12 calendar months following the previous report (once the unit is subject to permitting requirements in Title 11, Part 2, Chapter 6, Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act, the owner or operator must submit these reports semiannually). The report shall be signed by the facilities manager.

J. Compliance Schedules.

(1) Except as provided in subparagraph (2) designated or affected facilities to which the provisions in Rule 1.12 of these regulations applies (as defined in paragraph 1) shall comply with all requirements in Rule 1.12 of these regulations on or before September 15, 2000, regardless of whether the Department has identified a

designated or affected facility in the State Plan inventory required by Subpart B of 40 C.F.R. 60.

(2) For designated facilities planning to install the necessary air pollution control equipment, the Department may allow compliance on or before September 15, 2002, but as expeditiously as possible. No later than December 15, 1999, these facilities shall petition the Department in writing, as outlined in subparagraphs (a) through (b) below. Under no circumstances can compliance with the provisions in Rule 1.12 of these regulations extend beyond September 15, 2002.

(a) Documentation of the analyses undertaken to support the need for an extension, including an explanation of why September 15, 2002, is sufficient time to comply while September 15, 2000, is not sufficient. The documentation shall also include an evaluation of the option to transport the waste offsite to a commercial medical waste treatment and disposal facility on a temporary or permanent basis; and

(b) Documentation of measurable and enforceable incremental steps of progress to be taken towards compliance with the requirements in Rule 1.12 of these regulations, as defined in subparagraphs (1) through (10) below:

(1) Date for submitting a petition for site specific operating parameters under subparagraph G(9) in Rule 1.12 of these regulations;

(2) Date for obtaining services of an architectural and engineering firm regarding the air pollution control device(s);

(3) Date for obtaining design drawings of the air pollution control device(s);

(4) Date for ordering the air pollution control device(s);

(5) Date for obtaining the major components of the air pollution control device(s);

(6) Date for initiation of site preparation for installation of the air pollution control device(s);

(7) Date for initiation of installation of the air pollution control device(s);

(8) Date for initial startup of the air pollution control device(s); and

(9) Date for initial compliance test(s) of the air pollution control device(s);

(10) Date for final compliance.

(3) Designated facilities planning to shut down permanently to demonstrate compliance with subparagraph (1) of this paragraph shall notify the Department in writing, no later than December 15, 1999. The notification shall include documentation of measurable and enforceable incremental steps of progress to be taken towards compliance with the requirements in Rule 1.12 of these regulations, as defined in subparagraphs (a) though (f) below:

(a) Date for designated facility plan for shut down;

(b) Date for contract with the appropriate vendor (off-site hauler or alternative waste treatment equipment);

(c) Date to begin construction of alternative waste treatment equipment (if applicable);

(d) Date for complete installation of alternative waste treatment equipment (if applicable);

(e) Date for shut down of incinerator;

(f) Date for dismantling incinerator.

(4) Department Actions on Petitions. On receipt of a petition, the Department will authorize one of the following actions, as it shall determine:

(a) The petition may be dismissed if the Department determines that it is not adequate under subparagraph (2) of this paragraph.

(b) The Department may grant the request of the petition, as petitioned or by imposing such conditions as the requirements in Rule 1.12 of these regulations may require in the Title V permit, including the establishment of schedules of compliance.

(c) The Department may deny the petition. If such a denial is made, the Department shall notify the petitioner in writing, state the reasons for denial and outline procedures for appeal.

(5) Termination Procedures. Any petition granted by the Department may be terminated by the Department whenever the Department finds, after an opportunity for the petitioner to demonstrate compliance and after notice and an opportunity for hearing, that the petitioner is in violation of any requirement, condition, schedule, limitation or any other provision of the petition or that operation under the petition does not meet the minimum requirements established

by State and Federal laws and regulations or is unreasonably threatening the public health.

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

***Rule 1.13 Provisions for Existing Commercial and Industrial Solid Waste Incineration Units*.**

A. Emission Standards. Provisions under this paragraph that apply to existing commercial and industrial solid waste incineration (CISWI) units are the requirements that are contained in 40 CFR 60.2575 through 60.2875. All such requirements are hereby adopted by reference by the Commission as official regulations of the State of Mississippi and shall hereafter be enforceable as such.

B. Applicability. The requirements of Rule 1.13 shall apply to each existing commercial and industrial solid waste incineration unit that commenced construction on or before November 30, 1999 and meets the following criteria:

(1) Commercial and industrial solid waste incineration (CISWI) unit means any combustion device that combusts commercial and industrial waste. The boundaries of a CISWI unit are defined as, but not limited to, the commercial or industrial solid waste fuel feed system, grate system, flue gas system, and bottom ash. The CISWI unit does not include air pollution control equipment or the stack. The CISWI unit boundary starts at the commercial and industrial solid waste hopper (if applicable) and extends through two areas:

(a) the combustion unit flue gas system, which ends immediately after the last combustion chamber and

(b) the combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(2) Commercial and industrial waste means solid waste combusted in an enclosed device using controlled flame combustion without energy recovery that is a distinct operating unit of any commercial or industrial facility (including field-erected, modular, and custom built incineration units operating with starved or excess air), or solid waste combusted in an air curtain incinerator without energy recovery that is a distinct operating unit of any commercial or industrial facility.

(3) Solid waste means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, agricultural operations, and from community activities but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial

discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (42 U.S.C. 1342), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

(4) Solid waste combustion units are exempt from the requirements of Rule 1.13 as described and set forth below:

(a) Pathological waste incineration units. Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste as defined in 40 CFR 60.2875 are not subject to the requirements of Rule 1.13 if the owner or operator of the CISWI unit meets the two requirements specified in (a)(1) and (2) of this paragraph.

(1) Notify the Executive Director that the unit meets these criteria.

(2) Keep records on a calendar quarter basis of the weight of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.

(b) Agricultural waste incineration units. Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of agricultural wastes as defined in 40 CFR 60.2875 are not subject to the requirements of Rule 1.13 if the owner or operator of the CISWI unit meets the two requirements specified in (b)(1) and (2) of this paragraph.

(1) Notify the Executive Director that the unit meets these criteria.

(2) Keep records on a calendar quarter basis of the weight of agricultural waste burned, and the weight of all other fuels and wastes burned in the unit.

(c) Municipal waste combustion units. Incineration units that meet either of the two criteria specified in (c)(1) and (2) of this paragraph.

(1) Are regulated under 40 CFR 60, Subpart Ea (Standards of Performance for Municipal Waste Combustors); 40 CFR 60, Subpart Eb (Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994); 40 CFR 60, Subpart Cb (Emission Guidelines and Compliance Time for Large Municipal Combustors that are Constructed on or Before September 20, 1994); 40 CFR

60, Subpart AAAA (Standards of Performance for New Stationary Sources: Small Municipal Waste Combustion Units); or 40 CFR 60, Subpart BBBB (Emission Guidelines for Existing Stationary Sources: Small Municipal Waste Combustion Units).

(2) Burn greater than 30 percent municipal solid waste or refuse-derived fuel, as defined in Subpart Ea, Subpart Eb, Subpart AAAA, and Subpart BBBB, and that have the capacity to burn less than 35 tons (32 megagrams) per day of municipal solid waste or refuse-derived fuel, if the owner or operator of the CISWI unit meets the two requirements in (c)(2)(i) and (ii) of this paragraph.

(i) Notify the Executive Director that the unit meets these criteria.

(ii) Keep records on a calendar quarter basis of the weight of municipal solid waste burned, and the weight of all other fuels and wastes burned in the unit.

(d) Medical waste incineration units. Incineration units regulated under 40 CFR 60, Subpart Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996) or 40 CFR 60, Subpart Ca (Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators).

(e) Small power production facilities. Units that meet the three requirements specified in (e)(1) through (3) of this paragraph.

(1) The unit qualifies as a small power-production facility under Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796 (17)(C)).

(2) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(3) The owner or operator of the CISWI unit notifies the Executive Director that the unit meets all of these criteria.

(f) Co-generation facilities. Units that meet the three requirements specified in (f)(1) through (3) of this paragraph.

(1) The unit qualifies as a co-generation facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)).

(2) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(3) The owner or operator of the CISWI unit notifies the Executive Director that the unit meets all of these criteria.

(g) Hazardous waste combustion units. Units that meet either of the two criteria specified in (g)(1) or (2) of this paragraph.

(1) Units for which the owner or operator is required to get a permit under section 3005 of the Solid Waste Disposal Act.

(2) Units regulated under Subpart EEE of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors).

(h) Materials recovery units. Units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters.

(i) Air curtain incinerators. Air curtain incinerators that burn only the materials listed in (h)(1) through (3) of this paragraph are only required to meet the requirements under "Air Curtain Incinerators" 40 CFR 60.2810 through 60.2870.

(1) 100 percent wood waste.

(2) 100 percent clean lumber.

(3) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

(j) Cyclonic barrel burners. (See 40 CFR 60.2875)

(k) Rack, part, and drum reclamation units. (See 40 CFR 60.2875)

(l) Cement kilns. Kilns regulated under Subpart LLL of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry).

(m) Sewage sludge incinerators. Incineration units regulated under Subpart O of 40 CFR Part 60 (Standards of Performance for Sewage Treatment Plants).

(n) Chemical recovery units. Combustion units burning materials to recover chemical constituents or to produce chemical compounds where there is an

existing commercial market for such recovered chemical constituents or compounds. The seven types of units described in (n)(1) through (7) of this paragraph are considered chemical recovery units.

(1) Units burning only pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery process and reused in the pulping process.

(2) Units burning only spent sulfuric acid used to produce virgin sulfuric acid.

(3) Units burning only wood or coal feedstock for the production of charcoal.

(4) Units burning only manufacturing byproduct streams/residues containing catalyst metals which are reclaimed and reused as catalysts or used to produce commercial grade catalysts.

(5) Units burning only coke to produce purified carbon monoxide that is used as an intermediate in the production of other chemical compounds.

(6) Units burning only hydrocarbon liquids or solids to produce hydrogen, carbon monoxide, synthesis gas, or other gases for use in other manufacturing processes.

(7) Units burning only photographic film to recover silver.

(o) Laboratory analysis units. Units that burn samples of materials for the purpose of chemical or physical analysis.

C. Schedule for compliance.

(1) Except as provided in sub-paragraph (2), each designated or affected facility to which the provisions of Rule 1.13 are applicable, shall comply with the emission standards and requirements set forth in Rule 1.13 not later than December 1, 2003.

(2) Any designated or affected facility that does not comply with sub-paragraph (1) shall be subject to the increments of progress requirements set forth in 40 CFR 60.2575 through 60.2605 and shall comply as follows:

(a) Increment 1 - Submit final control plan - April 1, 2003

(b) Increment 2 - Achieve final compliance - December 1, 2005

D. Permitting requirements. Each CISWI unit affected by the provisions of Rule 1.13 shall be subject to the permitting requirements of Title 11, Part 2, Chapter 6, Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act; and the owner and/or operator of the affected facility shall submit the necessary permit application not later than April 1, 2003. Beginning December 1, 2003, affected facilities shall only operate pursuant to authorization, or a permit issued, pursuant to the operating permit regulations referenced herein.

E. Clarifications of terminology. Clarification for certain terms contained in the requirements adopted by reference into Rule 1.13 are as follows:

(1) The term "Administrator", as it relates to the State Air Pollution Control Agency in 40 CFR 60.2575 through 60.2875, means the "Executive Director" of the Mississippi Department of Environmental Quality.

(2) The term "You" in 40 CFR 60.2575 through 60.2875 means the owner or operator of a CISWI unit.

(3) The term "State Plan" in 40 CFR 60.2575 through 60.2875 means the plan (including the requirements set forth in Rule 1.13) submitted to the U.S. Environmental Protection Agency that implement the emission guidelines contained in 40 CFR 60, Subpart DDDD.

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

Part 2, Chapter 2: Mississippi Commission on Environmental Quality, Permit Regulations for the Construction and/or Operation of Air Emissions Equipment (Adopted May 8, 1970; Last Amended July 28, 2005)

Rule 2.1 GENERAL REQUIREMENTS.

A. Replacement of Previous Regulation.

This regulation supercedes and replaces previously adopted Title 11, Part 2, Chapter 2, "Permit Regulations for the Construction and/or Operation of Air Emissions Equipment."

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

C. Definitions.

(1) "Applicable rules and regulations" Any Commission regulation concerning and/or affecting air emissions and air quality established pursuant to State Law.

(2) "Building, structure, facility, or installation". All the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same first two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

(3) "Commission". The Mississippi Commission on Environmental Quality.

(4) "Concentrated animal feeding operation" (CAFO). Any facility included within the definition of that term found at 40 CFR 122.23(b)(3).

(5) "De minimis NSR modification". Any modification in which the emissions increase of each regulated NSR pollutant is less than three-fourths of the threshold

for a major modification using the same procedures for calculating the emissions increase as the procedures of 40 CFR 52.21(a)(2)(iv)(c) through (f) for calculating a significant emissions increase; and which is not one of the following types of modifications:

(a) a major modification;

(b) a moderate modification;

(c) a modification involving “netting” out of PSD;

(d) a modification involving medical waste incineration or hazardous waste incineration;

(e) a modification meeting the definition of "constructing or reconstructing a major source of hazardous air pollutants" in Title 11, Part 2, Chapter 8, “Air Toxics Regulations”, and 40 CFR, Part 63, Subpart B and thereby requiring a case-by-case Maximum Achievable Control Technology (MACT) determination.

(6) “DEQ”. The Mississippi Department of Environmental Quality.

(7) “EPA”. The U.S. Environmental Protection Agency.

(8) “Federal Act”. The Federal Clean Air Act as amended in 1990, and any subsequent amendments.

(9) “Fixed capital cost”. The capital needed to provide all the depreciable components.

(10) “Light commercial area”. An area zoned for commercial use, or, in the absence of any local zoning ordinances, an area predominantly used for wholesale and retail trade in goods and services.

(11) “Major Title V source”. Any major stationary source as determined in the "Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act", Miss. Admin Code, Title 11, Part 2, Chapter 6.

(12) “Minor stationary source”. Any stationary source that is neither a major stationary source nor a moderate stationary source.

(13) “Moderate modification”. Any modification in which the source is making enforceable emissions reductions to avoid major source requirements of Title 11, Part 2, Chapter 5, “Regulations for the Prevention of Significant Deterioration of Air Quality”, or Rule 2.5.E. of these regulations (i.e., “netting” out of PSD/NSR). These modifications are often called “synthetic minor modifications”.

(14) "Moderate stationary source". Any new stationary source which makes enforceable emissions reductions to avoid major source requirements of Commission Regulation Miss. Admin. Code, Title 11, Part 2, Chapter 5, "Regulations for the Prevention of Significant Deterioration of Air Quality" or Rule 2.5.E of these regulations (i.e., "netting" out of PSD/NSR).

(15) "Modification". Any physical change in or change in the method of operation of a facility which increases the actual emissions or the potential uncontrolled emissions of any air pollutant subject to regulation under the Federal Act emitted into the atmosphere by that facility or which results in the emission of any air pollutant subject to regulation under the Federal Act into the atmosphere not previously emitted. A physical change or change in the method of operation shall not include:

(a) routine maintenance, repair, and replacement;

(b) use of an alternative fuel or raw material by reason of an order under Sections 2 (a) and (b) of the Federal Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(c) use of an alternative fuel by reason of an order or rule under Section 125 of the Federal Act;

(d) use of an alternative fuel or raw material by a stationary source which:

(1) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51 Subpart I or 40 CFR 51.166; or

(2) the source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51 Subpart I or 40 CFR 51.166;

(e) an increase in the hours of operation or in the production rate unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51 Subpart I or 40 CFR 51.166; or

(f) any change in ownership of the stationary source.

(16) “Modified Permit”. Any permit already effective which is altered substantively as a result of the Permit Board's determination of the need for such alteration. Alterations to correct typographical errors or to clarify requirements shall not be considered substantive changes and, therefore, are not modifications for the purposes of this definition.

(17) “NSR”. New source review.

(18) “Permit Board”. The Mississippi Environmental Quality Permit Board.

(19) “PSD”. Prevention of Significant Deterioration.

(20) “Recreational area”. Recreational area means:

(a) a national, state, county, or city park; or

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

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

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

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

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

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

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

(24) “Responsible Official”. Responsible Official means as follows:

(a) for a corporation: a president, secretary, treasurer, or vice-president of the company or corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the company or corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of

one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in 1980 dollars), if authority to sign documents has been assigned or delegated in accordance with corporate procedures;

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

(c) for a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official (for the purposes of these regulations, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). A principal executive officer of a military facility includes the facility commander, chief executive officer, or any other similar person who performs similar policy- or decision-making functions for the institution.

(25) "Significant minor source". A stationary source that is (a) not a synthetic minor source; (b) is not a major Title V source and is not otherwise required to obtain a Title V Permit to Operate; and (c) is one of the following categories of sources:

(a) hot-mix asphalt plants,

(b) cotton gins,

(c) medical waste incinerators, not subject to the requirements of Rule 1.12 of Miss. Admin. Code, Title 11, Part 2, Chapter 1, "Air Emission Regulations for the Prevention, Abatement, and Control of Air Pollutants".

(d) rendering plants, or

(e) Any other new stationary source deemed by the Permit Board to be a significant minor source due to (i) the source's potential to require significant air pollution control operations in order to avoid a violation of the Mississippi Air and Water Pollution Control Law or any regulation promulgated thereunder, (ii) the source's potential to require significant compliance demonstration or testing requirements, (iii) the source's potential to cause a substantial threat to public health, welfare, or the environment, or (iv) the sources' potential to cause or substantially contribute to a violation of any applicable ambient air quality standard.

(26) "State Law". The Mississippi Air and Water Pollution Control Law, specifically, Miss. Code Ann. §§ 49-17-1 through 49-17-45, and any subsequent amendments.

(27) "State Permit to Operate or State Operating Permit". A permit issued under State Law to operate air emissions equipment at a significant minor source, exclusive of Title V Permits.

(28) "Stationary source". For purposes of this regulation, any building, structure, facility, or installation which emits or may emit regulated air pollutant(s).

(29) "Synthetic minor source". Any stationary source which would otherwise constitute a major source as defined by Miss. Admin. Code, Title 11, Part 2, Chapter 6, "Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act", except that the owner or operator of the stationary source elects for federally enforceable emissions limitations which may include permit conditions restricting hours of operation, or type or amount of material stored, combusted or processed, or establishing more stringent air pollution control efficiency requirements to lower allowable emissions for air pollutants in the State Permit to Operate below applicability thresholds for a Title V major source.

(30) "Title V". The air operating permit program mandated in Title V of the 1990 amendments to the Federal Clean Air Act, codified in 42 U.S.C. §7661.

(31) "Title V permit". Any permit or group of permits covering a Title V source that is issued, renewed, amended, or revised pursuant to Miss. Admin. Code, Title 11, Part 2, Chapter 6.

(32) "Title V sources". Title V sources include the following:

(a) any major source;

(b) any source, including an area source, subject to a standard, limitation or other requirement under Section 111 of the Federal Act;

(c) any source, including an area source, subject to a standard or other requirement under Section 112 of the Federal Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under Section 112(r) of the Federal Act;

(d) any affected source; and

(e) any source in a source category designated by the Administrator.

D. Permitting Requirements.

(1) Permit Types. The Permit Board will issue two types of air pollution control permits, a permit to construct air emissions equipment and a State Permit to

Operate such equipment. A State Permit to Operate is required for synthetic minor sources, major Title V sources, and significant minor sources.

(2) Unless otherwise provided by Rule 2.13 and 2.15 or other provisions of these Regulations, any new stationary source or modification of a stationary source must have a permit to construct or multi-media permit incorporating such permit before beginning construction.

(3) All applications must be submitted on the form supplied by the Permit Board and must be signed by a responsible official.

(4) The Permit Board may require the applicant to submit any additional information which the Permit Board deems relevant to its decision on the permit application including, but not limited, to ambient air quality modeling. The Permit Board may require that all other media permits for a facility be issued simultaneously with any required air permit or may issue the air permit prior to or subsequent to other permits required by the facility.

(5) A permit issued by the Permit Board will generally be for a specific site identified in the application. No permit application, except one for a portable facility which will be located only temporarily at a site or sites, will be processed unless the applicant controls the real property upon which the facility is located. The applicant may demonstrate control or the legal right to operate through ownership, lease, eminent domain, easement, license and/or contract. For portable facilities which will be located only temporarily at a site or sites, the Permit Board may issue a statewide permit or a permit for operation in multiple areas.

(6) It is the responsibility of the applicant/permittee to obtain all other approvals, permits, clearances, easements, agreements, etc., which may be required including, but not limited to, all required local government zoning approvals or permits. DEQ may delay processing any permit application until the applicant provides to DEQ information or documentation sufficient to demonstrate any approval listed in this paragraph.

(7) The provisions of a permit are severable. If any provision of a permit, or the application of any provision of a permit to any circumstances, is challenged or held invalid, the validity of the remaining permit provisions and/or portions thereof or their application to other persons or sets of circumstances, shall not be affected thereby.

(8) In the event of a conflict between any of the requirements of these regulations and/or applicable requirements of any other regulation or law, the more stringent requirements shall be applied.

(9) A stationary source which emits or causes to be emitted matter other than through a stack or a defined outlet of an air cleaning device may be classified inadequate

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

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

Rule 2.2 GENERAL STANDARDS APPLICABLE TO ALL PERMITS.

A. Except as provided for in the "Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act", Miss Admin. Code, Title 11, Part 2, Chapter 6, no permit shall be issued unless the applicant has complied with applicable requirements of the Commission "Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants", Miss. Admin. Code, Title 11, Part 2, Chapter 1; the Commission "Permit Regulations for the Construction and/or Operation of Air Emissions Equipment", Miss. Admin. Code, Title 11, Part 2, Chapter 2 the Commission "Regulations for the Prevention of Air Pollution Emergency Episodes", Miss. Admin. Code, Title 11, Part 2, Chapter 3; the Commission "Ambient Air Quality Standards", Miss. Admin. Code, Title 11, Part 2, Chapter 4 except as provided for in Rule 2.5.E. herein; the Commission "Regulations for the Prevention of Significant Deterioration of Air Quality", Miss. Admin. Code, Title 11, Part 2, Chapter 5, any amendments to these Rules and Regulations, and additional relevant Rules and Regulations promulgated by the Commission and/or Permit Board.

B. General Provisions.

(1) Any stationary source which holds a valid Title V permit shall be deemed to be in compliance with the requirements regarding a State Permit to Operate contained in, Miss. Admin. Code, Title 11, Part 2, Chapter 2 and State Law.

(2) The Permit Board may require a permittee to submit an application for a Title V permit at any time the permittee becomes subject to Title V. The Permit Board may require a permittee to submit a Title V application even though the permittee has previously submitted an application for renewal of its State Operating Permit.

(3) When requested by the Permit Board, an applicant shall submit information to demonstrate it has the financial resources to comply with the terms and conditions of the permit.

(4) When requested by the Permit Board, an applicant shall submit information on the applicant's compliance history to provide reasonable assurance that it will comply with the terms and conditions of the permit.

(5) The knowing submittal of a permit application with false information may serve as the basis for the Permit Board to void the permit issued pursuant thereto or

subject the applicant to penalties for operating without a valid permit pursuant to State Law.

(6) Acceptance by the Permit Board of a permit application does not constitute a waiver of the DEQ's right to assess appropriate penalties against the applicant pursuant to State Law for constructing or operating without a valid permit.

(7) The issuance of a permit does not release the permittee from liability for constructing or operating air emissions equipment in violation of any applicable statute, rule or regulation of state or federal environmental authorities.

(8) Applicants for all permits to construct or operate, or to renew a State Permit to Operate, shall specify in their application the air emission rate for each air pollutant subject to regulation under the Federal Act that can be reasonably expected to be emitted into the air as a result of operations from the source.

(9) Each application must be signed by the responsible official. The signature of the applicant shall constitute an agreement that the applicant assumes the responsibility for any alterations, additions or changes in operation that may be necessary to achieve and maintain compliance with all Applicable Rules and Regulations.

(10) The Permit Board may, in any permit, establish limitations and requirements on the emission of air pollutants and on other parameters of a stationary source to assure that the requirements of Applicable Rules and Regulations are met subject to Miss. Code Ann. §49-17-34(2) and (3). Where the Permit Board does not establish limitations and requirements in a permit, the permit shall provide that the rates of emissions and other operating conditions and parameters specified in the application shall be the applicable limitations and requirements.

(11) The Permit Board may, in any permit, establish requirements for compliance testing by emissions sampling and analysis, for emissions and operation monitoring, and for reporting of the results from such testing and monitoring. The Permit Board shall consider factors in establishing such requirements as follows:

(a) Applicable Rules and Regulations which address testing, monitoring, and reporting;

(b) prior results of testing and monitoring at the stationary source;

(c) the applicant's compliance history;

(d) the size of the stationary source;

(e) the cost of the testing, monitoring, reporting; and

(f) the potential environmental impact of the stationary source.

(12) The Permit Board may, in any permit, subdivide the permit requirements to facilitate their expression so as to adequately define, describe, and encompass emissions-producing units, processes, and other portions of a stationary source subject to the requirements.

(13) The Permit Board may, in any permit to construct, require the permittee to perform special environmental monitoring for the purpose of detecting, quantifying, and determining the impact of pollutants existing prior to the date the permittee begins to emit when, during the review of the application and the public participation process, questions arise, with regard to separate environmental impacts of pollution raised by the applicant or the Department and which cannot be determined by available scientific data and scientific methods. The Permit Board may, in any State Permit to Operate, require the permittee to perform special environmental monitoring for the purpose of detecting, quantifying, and determining the impact of pollutants emitted by the permittee when such monitoring is necessary because traditional air quality monitoring techniques will not measure the quality of the environment nor the impact of the pollutants emitted into the environment. Such special monitoring may include, but is not limited to, parameters such as ambient concentration, deposition, bio-accumulation in flora and fauna, etc.

(14) No permit for the construction or relocation of equipment which will cause the issuance of air contaminants shall be issued when said equipment cannot comply with buffer zone requirements as follows:

(a) All sources of air emissions must be at least 150 feet from the nearest residential or recreational area.

(b) All sources of air emissions at asphalt plants utilizing conventional technology for the control of air contaminants must be at least 1500 feet from the nearest residential, recreational or light commercial area.

(c) All sources of air emissions at asphalt plants utilizing best available technology for the control of air contaminants must be at least 600 feet from the nearest residential, recreational or light commercial area.

(d) Rendering plants or other similar operations which may cause objectionable odors must be at least 1500 feet from the nearest residential, recreational or light commercial area and be located in compliance with Miss. Code Ann. §41-51-19.

(e) Notwithstanding (a) above, incinerators must be at least 150 feet from any dwelling or from any light commercial building not owned by the applicant.

(f) Where buffer zone requirements cannot be met, the Permit Board will consider requests for exceptions to, or variances from, these requirements upon the applicant's submittal of sufficient proof that affected property owners within the subject buffer zone have had timely and sufficient notice of the proposed stationary source. Any comments received as a result of such notice shall be considered prior to action upon any request for exceptions to, or variances from, the buffer zone requirements.

(g) The Permit Board may establish buffer zone requirements for facilities not included in 15(a)-(f) considering factors including but not limited to, the type of emissions, the quantity of emissions, the physical characteristics of the stationary source (such as the location) and such other factors that the Permit Board deems appropriate to protect human health, welfare, or the environment.

(15) Each permit issued shall include the following:

(a) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit unless halting or reducing activity would create an imminent and substantial endangerment threatening the public health and safety of the lives and property of the people of this state.

(b) The permit and/or any part thereof may be modified, revoked, reopened, and reissued, or terminated for cause. Sufficient cause for a permit to be reopened shall exist when an air emissions stationary source becomes subject to Title V. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(c) The permit does not convey any property rights of any sort, or any exclusive privilege.

(d) The permittee shall furnish to the DEQ within a reasonable time any information the DEQ may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the DEQ copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee shall furnish such records to the DEQ along with a claim of confidentiality.

The permittee may furnish such records directly to the Administrator along with a claim of confidentiality.

C. Permit Modification or Revocation

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

(1) persistent violation of any of the terms or conditions of the permit;

(2) obtaining the permit by misrepresentation or failure to disclose fully all relevant facts; or

(3) a change in federal, state or local laws or regulations that require either a temporary or permanent reduction or elimination of previously authorized air emissions.

D. Modification of Permits Without Modification of Facilities

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

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

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

A. All engineering plans and specifications required by DEQ must bear the signature, registration number, and seal of a professional engineer registered in the State of Mississippi.

B. Information Required.

(1) The Permit Board may require each application for a permit to construct a new stationary source be accompanied by two (2) complete sets of site drawings, construction drawings, design calculations and specifications.

(2) Upon request by the Permit Board, the applicant shall furnish any additional information necessary to evaluate the design adequacy of the new stationary source.

(3) The Permit Board may require the applicant to predict the impact of emissions on air quality using air quality models as referenced in Rule 2.5.B. herein.

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

Rule 2.4 Public Participation and Public Availability of Information.

A. For any application for a Prevention of Significant Deterioration Permit to Construct, the DEQ will follow public information procedures specified in Commission Regulation, Miss. Admin Code, Title 11, Part 2, Chapter 5, "Regulations for the Prevention of Significant Deterioration of Air Quality", and any other Applicable Rules and Regulations set forth herein.

B. For any application for a Title V Permit to Operate, the DEQ will follow public information procedures specified in Commission Regulation, Miss. Admin. Code, Title 11, Part 2, Chapter 6, "Air Emissions Operating Permit Regulations For The Purposes Of Title V Of The Federal Clean Air Act".

C. For any application for a permit to construct a new moderate stationary source, a moderate modification, or a new major stationary source impacting a nonattainment area as defined in Rule 2.5.E., the DEQ will provide opportunity for public comment on information submitted by the owner and operator. The public information will include the DEQ's analysis of the effect of construction or modification on ambient air quality, including the DEQ's recommendation for permit issuance or denial and shall include, as a minimum, the following:

(1) availability for public inspection in at least one location in the area affected of the information submitted by the owner or operator and of DEQ's analysis of the effect on air quality;

(2) a 30-day period for submittal of public comment; and

(3) a notice, by prominent advertisement in the area affected, of the location of the source information and analysis.

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

D. For any application for a new State Permit to Operate a synthetic minor source, and any application for renewal of a State Permit to Operate a synthetic minor source, the DEQ will provide opportunity for public comment on information submitted by the owner or operator. The public information will include the application submitted, the DEQ's

recommendation for permit issuance or denial (including the draft permit) and shall include, as a minimum, the following:

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

(2) a 30-day period for submittal of public comment; and

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

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

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

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

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

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

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

J. For a multi-media general permit incorporating a general permit to operate a synthetic minor source, the DEQ shall follow public information procedures described in D. and F.

above. The incorporated general permit to operate in such a permit is federally enforceable.

K. For any application for a PAL permit at an existing major stationary source in accordance with Rule 2.15.B. of these regulations, the DEQ shall follow public information procedures described in 40 CFR 52.21(aa)(5) except that the term "Administrator" as it appears shall mean the Permit Board.

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

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

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

Rule 2.5 Application Review.

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

(1) The stationary source shall be designed and constructed so as to operate without causing a violation of any Applicable Rules and Regulations.

(2) The stationary source shall be designed and constructed so as to operate without interfering with the attainment and maintenance of State and National Ambient Air Quality Standards.

(3) The stationary source shall be designed and constructed so as to operate such that the emission of air toxics does not result in an ambient concentration sufficient to adversely affect human health and well-being or unreasonably and adversely affect plant or animal life beyond the stationary source boundaries.

(a) The Permit Board may require the applicant to provide data necessary to evaluate the impacts of air toxics, including the predicted emission rates and ambient concentrations, when it deems necessary, considering factors that follow:

(1) the types of air toxics involved;

(2) the quantity of emissions involved;

(3) the physical characteristics of the stationary source (such as the location, size, etc.);

(4) the anticipated human health effects;

(5) the weight of scientific data supporting the health effects associated with the air toxics;

(6) the level of air pollution control equipment employed; and

(7) such other factors as the Permit Board deems appropriate.

(b) When an air toxics evaluation is required by the Permit Board, the evaluation shall consider:

(1) an analysis of the chronic human health risks associated with the air toxics including the lifetime excess cancer risks to the most exposed individual from air toxics which are known, probable, or possible human carcinogens calculated or determined using appropriate pathways of exposure;

(2) an analysis of the acute human health effects associated with the air toxics utilizing the most current health-effects data published by EPA and/or recognized public health institutions or, in its absence, other extrapolative acute health-effects data; and

(3) where applicable, an analysis of the impacts and effects of the air toxics on plant and/or animal life beyond the boundaries of the applicant's property.

(c) The carcinogenic risk analysis shall be considered to have satisfied applicable requirements of this regulation and Title 11, Part 2, Chapter 1 when the lifetime excess cancer risk to the most exposed individual outside the property boundary is determined to be less than 1×10^{-6}. When the excess cancer risk is determined to be greater than 1×10^{-6} but less than 1×10^{-4}, the Permit Board may either:

(1) require the applicant to demonstrate that, notwithstanding the calculated risks, public health is not threatened by the proposed emissions of air toxics; or

(2) establish permit conditions to limit or prohibit the emissions of air toxics.

When this excess cancer risk is calculated or determined to be greater than 1×10^{-4}, the applicant must demonstrate that, notwithstanding the

calculated risks, public health is not threatened by the proposed emissions of air toxics.

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

B. Air Quality Models.

(1) All estimates of ambient concentrations of air pollutants shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models (Revised)" 40 CFR, Part 51, Appendix W, which are incorporated herein and adopted by reference.

(2) Where an air quality impact model specified in the "Guideline on Air Quality Models (Revised)" 40 CFR, Part 51, Appendix W, is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis. Written approval of the DEQ and the Administrator of EPA must be obtained for any modification or substitution. In addition, use of a modified or substituted model shall be subject to public notice and opportunity for public comment.

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

(1) The permit to construct will expire if construction does not begin within eighteen (18) months from the date of issuance or if construction is suspended for eighteen (18) months or more.

(2) The permittee must notify DEQ in writing when construction begins within fifteen (15) days of beginning actual construction.

(3) The permittee must notify DEQ in writing when construction does not begin within eighteen (18) months of issuance or if construction is suspended for eighteen (18) months or more.

(4) The Permit Board may extend the permit to construct for such additional time it deems appropriate if, at the time of the extension request, the applicant can demonstrate it meets all requirements necessary to issue a new permit to construct.

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

(1) Upon the completion of construction or installation of an approved stationary source or modification, the applicant shall notify the Permit Board that

construction or installation was performed in accordance with the approved plans and specifications on file with the Permit Board.

(2) The Permit Board shall be promptly notified in writing of any change in construction from the previously approved plans and specifications or permit. If the Permit Board determines the changes are substantial, it may require the submission of a new application to construct with "as built" plans and specifications. Notwithstanding any provision herein to the contrary, the acceptance of an "as built" application shall not constitute a waiver of the right to seek compliance penalties pursuant to State Law.

(3) A new stationary source issued a Permit to Construct cannot begin operation until certification of construction by the permittee.

(4) Except as prohibited by (7) below, after certification of construction by the permittee, the Permit to Construct shall be deemed to satisfy the requirement for a permit to operate until the date the application for issuance or modification of the Title V Permit or the application for issuance or modification of the State Permit to Operate, whichever is applicable, is due. This provision is not applicable to a source excluded from the requirement for a permit to operate as provided by Rule 2.13.G.

(5) Except as otherwise required in (7) below, the application for issuance or modification of the State Permit to Operate or the application for issuance or modification of the Title V Permit, whichever is applicable, is due, twelve (12) months after beginning operation or such earlier date or time as specified in the Permit to Construct. The Permit Board may specify an earlier date or time for submittal of the application. Beginning operation will be assumed to occur upon certification of construction, unless the permittee specifies differently in writing.

(6) Except as otherwise required in (7) below, upon submittal of a timely and complete application for issuance or modification of a State Permit to Operate, or application for issuance or modification of a Title V Permit, whichever is applicable, the applicant may continue to operate under the terms and conditions of the Permit to Construct and in compliance with the submitted application until the Permit Board issues, modifies, or denies the Permit to Operate.

(7) For moderate modifications that require contemporaneous enforceable emissions reductions from more than one emission point in order to "net" out of PSD/NSR, the applicable Title V Permit to Operate or State Permit to Operate must be modified prior to beginning operation of the modified facilities.

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

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

(a) Notwithstanding Appendix S, the requirements for Offsets and Lowest Achievable Emission Rate will apply to all major stationary sources and major modifications which have a significant impact on nonattainment of the applicable ambient air quality standard.

(b) The source types specified in Section IV.B. of Appendix S of 40 CFR Part 51 will not be excepted from any conditions of the Offset Policy or any of the requirements contained herein.

(c) All terms in Rule 2.5.E shall have the same definitions as those contained in the Offset Policy including the term "major stationary source" which is defined differently for purposes of this paragraph than throughout the remainder of Commission Regulations Miss. Adm. Code, Title 11, Part 2, Chapter 2.

(2) Definitions

(a) "Nonattainment area." A geographical area of the state in which a violation of a National Ambient Air Quality Standard is occurring and which has been designated by the Commission or EPA as nonattainment with respect to that standard.

(b) "Nonattainment Area Implementation Plan." A revision to the Commission's Implementation Plan for the Control of Air Pollution, such revision having been adopted by the Commission and approved by the U.S. Environmental Protection Agency pursuant to the Federal Act, for the purpose of attainment and maintenance of the applicable National Ambient Air Quality Standard in a nonattainment area.

(c) "Reasonable Further Progress Schedule." An incremental reduction in total emissions of the applicable air pollutant allowed in order to provide for the attainment of the applicable National Ambient Air Quality Standard by the applicable statutory deadlines.

(d) "Significance Levels." Concentrations of pollutants against which air quality contributions of a stationary source are compared to determine whether the stationary source significantly impacts air quality in an area. The levels are as follows:

SO_2 1.0 μg/m^3, annual average; 5 μg/m^3, 24-hour average; 25 μg/m^3, 3-hour average

PM_{10} 1.0 μg/m^3, annual average; 5 μg/m^3, 24-hour average

NO_2 1.0 μg/m^3, annual average

CO 0.5 mg/m^3, 8-hour average; 2.0 mg/m^3, 1-hour average

(e) "Significant impact." Air quality impact which exceeds the significance level.

(3) A new stationary source which is a major stationary source or major modification for the pollutant which contributes to violations of the National Ambient Air Quality Standard for which the area is nonattainment and which locates in or significantly impacts a nonattainment area must also meet the following requirements before a construction permit or a State Operating Permit is issued:

(a) The stationary source must meet the lowest achievable emission rate for the applicable air pollutant.

(b) When the applicable Nonattainment Area Implementation Plan contains a Reasonable Further Progress Schedule, the Permit Board must determine that, by the time the stationary source is to commence operation, total combined allowable emissions of the applicable air pollutant from existing sources in the area, the proposed new stationary source, and all other new facilities in the area shall be no greater than the total allowable emissions for the nonattainment area which represents reasonable further progress for attaining the standard as defined in the applicable Nonattainment Area Implementation Plan Reasonable Further Progress Schedule.

(c) The owner or operator of the proposed new stationary source must demonstrate that all major stationary sources which are owned or operated by such person (or by any entity controlled by, or under common control with such person) in the state are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations contained in any Applicable Rules and Regulations.

(d) Exceptions will be made to the inclusion of fugitive emissions in the determination of whether a new stationary source is a major stationary source or major modification to the extent that those exceptions are made in the Offset Policy.

(e) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in an enforceable limitation on the capacity of the source or modification

otherwise to emit a pollutant, the requirements of these Regulations shall apply to the source or modification as though construction had not yet commenced.

(f) When the Reasonable Further Progress Schedule in an applicable Nonattainment Area Implementation Plan is determined to have become inapplicable due to consumption of all available growth allowance under such Schedule, the stationary source must meet the conditions of Rule 2.5.E(4) below.

(4) A new major stationary source which proposes to locate in or near an area where an air quality standard is being or will be exceeded but for which no nonattainment area implementation plan has been adopted shall be subject to the following:

(a) The stationary source shall be subject to the Offset Policy if:

(1) The stationary source is a major stationary source or major modification for the pollutant for which the standard is or will be exceeded; and

(2) The stationary source is within or has significant impact in the area where the standard is or will be exceeded.

(b) In addition to the requirements of the Offset Policy, the stationary source shall not be granted a construction permit or a State Operating Permit unless the owner or operator demonstrates that:

(1) emissions reductions to offset the new stationary source emissions will compensate for the adverse ambient impact caused by the new stationary source; and

(2) the emissions reductions have been achieved.

(5) The granting of a Permit shall not relieve the source of the responsibility to comply with other applicable requirements of this Regulation or with any other applicable Regulation or Law.

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

Rule 2.6 Compliance Testing.

A. Where compliance testing is required in any permit, it shall be performed as provided herein. The Permit Board may require in any permit the installation of sampling ports with safe access and the installation, maintenance and use of monitoring equipment.

B. Requirements.

(1) The emissions sampling and analysis will be performed in accordance with EPA Test Methods and with any continuous emission monitoring requirements, if applicable, unless otherwise approved by the Permit Board and the EPA. The Permit Board may establish an appropriate method for deviation from a test method.

(2) In the event there is no applicable EPA Test Method or method required by Applicable Rules and Regulations, the Permit Board may specify an appropriate test method, taking into consideration any test methodology proposed by the applicant.

(3) The results of the emissions sampling and analysis shall be expressed both in units consistent with the emission standards as set forth in any Applicable Rules and Regulations and in units of mass per time.

(4) Compliance testing will be performed at the expense of the applicant.

(5) The Permit Board may monitor compliance tests and perform compliance tests. Proper notification of compliance tests shall be provided to the Permit Board in accordance with Applicable Rules and Regulations or as specified in the applicable permit.

(6) The emissions sampling and analysis report shall include but not be limited to the following:

(a) detailed description of testing procedures;

(b) sample calculation;

(c) results; and

(d) comparison of results to all Applicable Rules and Regulations and to emission limitations in the permit.

(7) Unless otherwise specified in Applicable Rules and Regulations or by a condition of a permit issued by the Permit Board, compliance testing must be performed when the stationary source is operating at capacity and is otherwise operating normally. In the event that a demonstration of compliance by testing is performed at less than capacity, the Permit Board may modify the permit to limit capacity of the stationary source to the rate at which compliance was demonstrated if the Permit Board determines the rate was not representative of the normal operation of the stationary source or compliance with Applicable Rules and Regulations was not demonstrated. In the event that the stationary source is not operating or

being operated normally during a demonstration of compliance by testing, the results of such testing will not be accepted by the Permit Board as representative of normal operation and will be considered inadequate.

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

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

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

A. an emission inventory including:

(1) location and description of control equipment at each point source;

(2) determination of all possible pollutants at each point source (characteristics, conditions, particle size distribution, etc.);

(3) listing of all stack parameters at each point of emission, and

(4) detailed description of input material (e.g., percent sulfur content, percent moisture, average BTU heating value, input rate, etc.); and

B. a detailed engineering report including:

(1) sufficient calculations to demonstrate uncontrolled emissions;

(2) sufficient calculations to support or show design efficiency of control equipment;

(3) sufficient calculations to demonstrate controlled emissions; and

(4) comparison of calculated controlled emissions with the applicable emission standards as set forth in Commission Regulation Miss. Admin. Code, Title 11, Part 2, Chapter 1.

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

Rule 2.8 Procedures For Renewal Of State Permit To Operate.

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

B. Not less than one hundred and eighty (180) days prior to the expiration date of the State Permit to Operate, the applicant shall make application for renewal of a State Permit to Operate if the applicant desires to continue operation of that stationary source. If the applicant submits a timely and complete application pursuant to this paragraph and the Permit Board, through no fault of the applicant, fails to act on the application on or before the expiration date of the existing permit, the applicant shall continue to operate the stationary source under the terms and conditions of the expired permit which shall remain in effect until final action on the application is taken by the Permit Board.

C. The application for renewal of a State Permit to Operate shall be substantiated with current emissions data, test results or reports, or other data as deemed necessary.

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

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

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

Rule 2.10 Emission Reduction Schedule.

A. In accordance with Commission Regulation Miss. Admin. Code Title 11, Part 2, Chapter 3, it is the responsibility of each and every stationary source with actual emissions in excess of 0.25 tons per day of total air contaminants, and other significant sources, to have a Commission-approved emissions reduction schedule which shall set forth preplanned abatement strategies in the event of an emergency episode.

B. Required Information.

(1) The emissions reduction schedule must have three (3) stages of reduction procedures: (1) alert level reduction; (2) warning level reduction; and (3) emergency level reduction.

(2) Each level of reduction procedures must show the type and source of air contaminants, the amount of reduction of contaminants, the time required to reduce, and the manner in which reduction will be achieved.

C. The emissions reduction schedule shall be subject to review and approval by the Commission.

D. An unacceptable emissions reduction schedule shall be returned to the applicant along with the Commission's reasons for denial.

E. The applicant shall have not more than thirty (30) days to amend a disapproved emissions reduction schedule to conform with the emission reduction standards as set forth by the Commission.

F. Any person aggrieved by the requirements to amend an emissions reduction schedule shall be entitled to a hearing.

G. Should an applicant fail to submit an emissions reduction schedule within the allowable time period or fail to submit an amended preplanned strategy, the Commission will establish or revise said plan to cause it to meet the standards as set forth by the Commission.

H. Such established or revised preplanned strategies will thereafter be the preplanned strategies which the applicant will put into effect upon the issuance of an appropriate order by the Commission.

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

Rule 2.11 General Permits. The Permit Board may issue general permits to construct and operate as described below to classes of articles, machines, equipment, or other contrivances. A general permit shall be issued for a period of time not to exceed five years. The Permit Board shall establish the schedule for submittal of the notice of intent (NOI) and the information that shall be required in the NOI. The Permit Board may choose, for certain types of operations, to confer automatic coverage under a general permit without requiring the submittal of an application or other request. General permits to construct moderate sources, general permits to construct moderate modifications, general permits to operate a synthetic minor source, or general Title V Permits must require submittal of a NOI. For any request for coverage under a general permit to construct a moderate source or moderate modification or for a general permit to operate a synthetic minor source, the public information procedures required by Rule 2.4.E or Rule 2.4.F of these regulations shall be followed.

A. The applicant shall apply for coverage under an issued general permit in accordance with the schedule and requirements established in that general permit.

B. If the proposed determination is to grant coverage under an issued general permit, the Permit Board’s designee shall issue a certificate of coverage to the applicant

C. Any stationary source covered or eligible to be covered under a general permit may be required to obtain an individual permit at the discretion of the Permit Board. Any interested person may petition the Permit Board to take action under this paragraph.

D. The Permit Board may revoke and/or modify a general permit or coverage under a general permit.

E. Any stationary source covered by a general permit may request to be excluded from such coverage by applying for an individual permit. Coverage under the general permit is automatically terminated upon issuance of an individual permit.

F. Any stationary source excluded from coverage under a general permit solely because it is already covered under an individual permit may request that the individual permit be revoked and that it be covered by the general permit. Upon revocation of the individual permit by the Permit Board, coverage under the general permit may be granted to the stationary source if approved by the Permit Board.

G. A general permit shall remain in force until it is either reissued, modified, or revoked by the Permit Board. All coverages under the general permit continue until the general permit is reissued or as defined in the reissued general permit. A stationary source may apply for coverage under any general permit that is currently in force.

H. The granting of coverage under a general permit does not imply or express exclusion from the requirements of any emission-limiting regulation.

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

Rule 2.12 Multi-Media Permits.

A. The Permit Board may issue a multi-media permit incorporating a permit to construct air emissions equipment and/or a State Permit to Operate such equipment.

B. For purpose of these regulations, a multi-media permit incorporating a permit to construct shall be the same as a permit to construct. The procedures for applying for such a multi-media permit and the standards applicable to such a permit follow those for a permit to construct. These procedures and standards are found in Rules 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, and 2.10.

C. For purpose of these regulations, a multi-media permit incorporating a State Permit to Operate shall be the same as a State Permit to Operate. The procedures for applying for such a multi-media permit and the standards applicable to such a permit follow those for a State Permit to Operate. These procedures and standards are found in Rule 2.1 through 2.4, and 2.6.

D. For purpose or these regulations, a multi-media general permit incorporating a permit to construct and/or a State Permit to Operate combined with certificate of coverage shall be the same as a permit to construct and/or a State Permit to Operate. The procedures for applying for coverage follow those for a general permit to construct and operate. These procedures are found in Rules 2.5 and 2.11 of these regulations.

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

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

Rule 2.13 Exclusions.

A. New Source Permit to Construct. Any new "Greenfield" stationary source must obtain a permit to construct except as excluded in D. or E.

B. Compliance with Other Applicable Requirements. Exclusions from permit requirements does not exclude anyone from complying with all other applicable requirements and regulations.

C. Maintenance of Emission Increase Records. Stationary sources excluded from the requirement for a permit to construct must maintain records of any emissions increases associated with any excluded activities and report that to DEQ upon request. Indirect measurements of emissions increases are allowable for these recordkeeping requirements.

D. Categorical Exclusions from Both Permit to Construct and Operate. The following are excluded from the requirement for a permit to construct or a permit to operate:

(1) Residential heating, cooking, or cleaning devices.

(2) Residential yard and garden equipment.

(3) Mobile sources.

(4) Air conditioning, space heating, or ventilating systems not uniquely designed or operated in a manner to remove air contaminants generated by or released from equipment.

(5) Stationary sources, other than incinerators or CAFOs, which neither emit nor have potential uncontrolled emissions of, 10 TPY or more of either PM_{10}, SO_2, NO_x, CO or VOC, nor 1.0 TPY of a HAP, nor 2.5 TPY of all HAPs.

(6) Feed milling facilities which mill, formulate, or otherwise prepare animal feed products for direct local retail sale solely in prepackaged form and are not associated with a grain elevator. Milling facilities engaged in preparing feed

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

(7) Sawmills/woodworking plants which do not have drying kilns onsite and process less than 25,000 board feet/day.

(8) Any equipment used exclusively for preparation of food for direct retail sale at a restaurant, cafeteria, bakery, or food service.

(9) Auto body shops with only one (1) paint spray booth and with substantial portions of business devoted to repainting entire vehicles or collision repairs.

(10) Surface sand and/or gravel mining operations which do not utilize rock crushers, pneumatic conveyors, or dust collectors.

(11) Recreational heaters.

(12) Gasoline service stations with no more than 17 refueling positions.

(13) Retail propane filling operations.

(14) Outdoor kerosene heaters.

(15) Refrigeration systems.

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

(1) Coal or residual oil-fired combustion devices or groups of devices with a total rated input capacity of less than 2,000,000 BTU/hr, clean wood waste boilers or groups of boilers with a total rated input capacity of less than 10,000,000 BTU/hr, distillate oil or combination distillate and gas-fired units or groups of units with a total rated input capacity less than 10,000,000 BTU/hr and natural gas fired and/or LPG fired devices or groups of devices with all individual rated input capacities of less than 10,000,000 BTU/hr and a total rated input capacity less than 25,000,000 BTU/hr.

(2) Equipment used exclusively for oil and gas field production, gathering, storing, and transmission, including, but not limited to: gas/oil separators, emulsion treaters, free water knockouts, compressors or group of compressors with a total rated capacity less than 500 brake horsepower, segregation basins, API oil/water separators, tank facilities, and crude oil loading equipment used solely for crude

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

(3) Emergency safety relief systems, including pilot lights.

(4) Sand blasting operations which use no more than 83 tons of sand in any given 365-day period.

(5) Wood, plastic, and/or metal machining operations which are totally enclosed within a building, and which have no direct exhausts to the ambient air other than common building ventilation points.

(6) Petroleum products storage facilities with no individual storage tank greater than 19,800 gallons and total storage capacity less than 55,000 gallons.

(7) A compressor or groups of compressors firing either natural gas, gasoline, LPG and/or diesel fuel with a total rated capacity less than or equal to 500 brake horsepower.

(8) Surface coating operations which utilize less than 50 pounds per day of all solvents and coatings.

(9) Fire training exercises and equipment.

(10) Groundwater recovery/treatment facilities used for the remediation of motor fuel contamination addressed under the Underground Storage Tank Program when the facilities are located on the site of the contamination.

(11) Temporary storage/aeration of soils contaminated with motor fuel which are produced as a result of a remedial response to a release from an underground storage tank when the storage/operation is on the site of the tank.

(12) CERCLA/Superfund remediation or removal projects on the site of the contamination.

(13) Remediation of sites contaminated with hazardous constituents required under State authority on the site of the contamination.

(14) Portable TSCA treatment facilities permitted by EPA.

(15) Wastewater collection and treatment facilities, other than CAFOs or those listed in 40 CFR 61, Subpart FF - National Emission Standard for Benzene Waste Operations and in 40 CFR 60, Subpart QQQ, - Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems, which have the potential to emit no more than 5 tons/year of Volatile Organic Compounds (VOC).

(16) Surface coal mining operations for which a permit has been issued by the Permit Board pursuant to Miss. Code Ann. §53-9-1, et seq. or by the Federal Office of Surface Mining pursuant to the Federal Surface Mining Control and Reclamation Act, 30 U.S.C. §1201, et seq. However, any rock crushers, pneumatic conveyors, and dust collectors at such operations may require permitting if they meet the definition of "stationary source".

(17) Auto body shops.

(18) Dedicated fuel stations with total storage capacity less than 55,000 gallons and no individual tank greater than 19,800 gallons.

(19) Subject to Rule 2.14, any existing or new animal feeding operation that is not a concentrated animal feeding operation (CAFO) and that does not incinerate animal carcasses or waste. For the purpose of this paragraph, "animal feeding operation" means any facility where animals have been, are, or will be stabled or confined, or allowed to roam or graze within a fenced or otherwise restricted area. This definition includes, but is not limited to, aquatic animal production facilities, kennels, swine growing operations, veal farms, chicken growing operations, cattle growing operations, and dairies.

(20) Initial field testing of oil and gas wells, after proper notification to the Commission provided such tests will not produce 100 tons per year or more of any pollutant.

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

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

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

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

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

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

Rule 2.15 Options.

A. Plantwide Applicability Limitation (PAL). In accordance with 40 CFR 52.21(aa), any major stationary source may establish a plantwide applicability limitation based on baseline actual emissions (actuals PAL) for use in future NSR actions. The actuals PAL can be established in a PSD Permit to Construct, a Title V Permit, or a Permit to Operate a Synthetic Minor Source. The applicable permit to construct or permit to operate shall be referred to as a PAL permit and, in addition to the normal applicable procedures and requirements for the permit action, shall meet all the requirements for a PAL permit and issuance shall follow all procedures for a PAL permit as specified in 40 CFR 52.21(aa) except that the term "Administrator" as it appears in 40 CFR 52.21(aa) shall mean the Permit Board.

B. Optional Pre-Permit Construction. Pre-permit construction approval is available for new moderate stationary sources, new minor stationary sources, minor modifications, and moderate modifications except those sources and modifications excluded from this provision in 9. below. The applicant may request the Permit Board for approval to commence construction or modification of qualifying sources before receiving the required permit to construct. To obtain the Permit Board's pre-construction approval, the applicant shall satisfy the following requirements:

(1) The applicant shall apply for a permit to construct or optional Title V permit modification in accordance with D. below.

(2) The applicant shall submit a pre-permit construction approval application which must contain, but not be limited to (a) a letter requesting approval to construct before obtaining the required permit to construct, (b) a copy of the notice referenced in 4. below, (c) proof of eligibility, (d) process description(s), (e) equipment list(s), (f) proposed emission limits, (g) proof that buffer zone

requirements in Rule 2.2.B.(14) are met, (h) certification that construction is at the applicant's own risk, and (i) certification that the applicant shall not contest the final permit to construct or Title V permit modification decision based on the fact that construction has already begun.

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

(4) The applicant shall provide notice to the public of the application for pre-permit construction approval by notice published in a newspaper of general circulation in the county(ies) in which the stationary source is or will be located. The notice shall be in the format provided by DEQ and shall include (a) a general description of the proposed source or modification, (b) a statement that pre-permit construction approval is being requested from the Permit Board, (c) the location and address where additional information about the proposed source or modification and application may be obtained, (d) a statement that comments may be made to DEQ, and (e) DEQ's address where comments may be submitted; and shall provide at least ten (10) days for the public to comment to the Permit Board. Notarized proof of publication of the notice shall be included in the application for pre-permit construction approval.

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

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

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

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

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

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

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

Rule 2.16 Permit Transfer.

A. "Transfer" shall mean any sale, conveyance, or assignment of the rights held by the applicant in any permit issued pursuant to these Regulations which meets the conditions of both 1. and 2. below:

(1) There is a change of more than 50 percent of the equity ownership of the permit holder over a sustained period which results in a new majority owner. A new majority owner for purposes of this provision shall be an individual, partnership, company, or group of affiliated companies.

(2) The change in the ultimate ownership of the permit holder involves the parent, grandparent, or great-grandparent company.

B. A permit issued pursuant to these Regulations shall not be transferred except upon approval of the Permit Board.

C. When requested by the Permit Board, an applicant for transfer approval shall submit information to demonstrate that it has the financial resources, operational expertise and environmental compliance history over the last five years to ensure compliance with the

terms and conditions of the permit to be transferred except where this conflicts with State Law.

D. The application for approval of the transfer may be combined with an early application for permit renewal.

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

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

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

Part 2, Chapter 3: Mississippi Commission on Environmental Quality, Regulations for the Prevention of Air Pollution Emergency Episodes (Adopted May 8, 1970, Last Amended April 25, 1988)

Rule 3.1 General. Authority. Pursuant to the authority granted by Section 49-17-17, Mississippi Code of 1972, Recompiled, the following regulations are adopted to prevent the excessive buildup of air pollutants during air pollution episodes, thereby preventing the occurrence of an emergency due to the effects of these pollutants on the health of persons.

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

Rule 3.2 Definitions.

A. "Air Standards." The maximum allowable concentration of any air contaminant existing in the ambient air during a stated period of time, as adopted by the Commission.

B. "Director." The Director of the Mississippi Department of Natural Resources.

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

Rule 3.3 Episode Criteria. Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Director determines that the accumulation of air pollutants in any place is attaining or has attained levels which could if such levels are sustained or exceeded, lead to a substantial threat to the health of persons. In making this determination, the Director will be guided by the following criteria:

A. "Air Pollution Forecast": An internal watch by the Office of Pollution Control shall be actuated by a National Weather Service advisory that Atmospheric Stagnation Advisory is in effect or the equivalent local forecast of stagnant atmospheric condition.

B. "Alert": The Alert level is that concentration of pollutants at which first stage control actions are to begin. An Alert will be declared when any one of the following levels is reached at any monitoring site:

(1) The SO_2 level is equal to or greater than 0.3 ppm (800 $\mu g/m^3$) for a 24-hour average.

(2) The PM_{10} level is equal to or greater than 350 $\mu g/m^3$ for a 24-hour average.

(3) The CO level is equal to or greater than 15 ppm (17 mg/m^3) for an 8-hour average.

(4) The ozone (O_3) level is equal to or greater than 0.2 ppm (400 $\mu g/m^3$) for 1-hour average.

(5) The NO_2 level is equal to or greater than 0.6 ppm (1130 $\mu g/m^3$) for a 1-hour average or 0.15 ppm (282 $\mu g/m^3$) for a 24-hour average.

(6) In addition to the levels listed for the above pollutants, meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase, or in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken.

C. "Warning": The warning level indicates that air quality is continuing to degrade and that additional control actions are necessary. A warning will be declared when any one of the following levels is reached at any monitoring site:

(1) The SO_2 level is equal to or greater than 0.7 ppm (1600 $\mu g/m^3$) for a 24-hour average.

(2) The PM_{10} level is equal to or greater than 420 $\mu g/m^3$ for a 24-hour average.

(3) The CO level is equal to or greater than 30 ppm (34 mg/m^3) for an 8-hour average.

(4) The ozone (O_3) level is equal to or greater than 0.4 ppm (800 $\mu g/m^3$) for a 1-hour average.

(5) The NO_2 level is equal to or greater than 1.2 ppm (2260 $\mu g/m^3$) for a 1-hour average.

(6) In addition to the levels listed for the above pollutants, meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase, or in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken.

D. "Emergency": The emergency level indicates that air quality is continuing to degrade to a level that should never be reached and that the most stringent control actions are necessary. An emergency will be declared when any one of the following levels is reached at any monitoring site:

(1) The SO_2 level is equal to or greater than 0.8 ppm (2100 $\mu g/m^3$) for a 24-hour average.

(2) The PM_{10} level is equal to or greater than 500 $\mu g/m^3$ for a 24-hour average.

(3) The CO level is equal to or greater than 40 ppm (46 mg/m^3) for an 8-hour average.

(4) The ozone (O_3) level is equal to or greater than 0.5 ppm (1000 $\mu g/m^3$) for a 1-hour average.

(5) The NO_2 level is equal to or greater than 1.6 ppm (3000 $\mu g/m^3$) for a 1-hour average or 0.4 ppm (750 $\mu g/m^3$) for a 24-hour average.

(6) In addition to the levels listed for the above pollutants, meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase, or in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken.

E. "Termination": Once declared, any status reached by application of these criteria will remain in effect until the criteria for that level are no longer met. At such time, the next lower status will be assumed.

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

Rule 3.4 Emission Control Action Programs.

A. Any person responsible for the operation of a source of air contaminant which emits 0.25 tons per day or more of air contaminants for which air standards have been adopted shall prepare emission control action programs, consistent with good industrial practice and safe operating procedures, for reducing the emission of air contaminants into the outdoor atmosphere during periods of an AIR POLLUTION ALERT, AIR POLLUTION WARNING, AND AIR POLLUTION EMERGENCY. Emission control action programs shall be designed to reduce or eliminate emissions of air contaminants into the

outdoor atmosphere in accordance with the objectives set forth in Tables 1-5 which are made a part of this rule.

B. Emission control action programs as required under Rule 3.4.A. shall be in writing and show the source of air contamination, the approximate amount of reduction of contaminants, the approximate time required to effect the program, a brief description of the manner in which the reduction will be achieved during each stage of an air pollution episode, and such other information as the Commission shall deem pertinent.

C. During a condition of AIR POLLUTION ALERT, AIR POLLUTION WARNING, AND AIR POLLUTION EMERGENCY, emission control action programs as required by Rule 3.4.A. shall be made available on the premises to any person authorized to enforce the provisions of the Commission's emergency procedure.

D. Emission control action programs as required by Rule 3.4.A. shall be submitted to the Commission in accordance with procedures described in Commission Regulation Miss. Admin Code, Title 11, Part 2, Chapter 2; such emission control action programs shall be subject to review and approval by the Commission. If, in the opinion of the Commission, such emission control action programs do not effectively carry out the objectives as set forth in Tables 1-5, the Commission may disapprove said emission control action programs, state its reason for disapproval and order the preparation of amended emission control action programs within the time period specified in the order. Any person aggrieved by the order requiring the preparation of a revised program is entitled to a hearing in accordance with Section 49-17-41, Mississippi Code of 1972. If the person responsible fails within the time period specified in the order to submit an amended emission control action program which in the opinion of the Commission meets the said objectives, the Commission may revise the emission control action program to cause it to meet these objectives. Such revised program will thereafter be the emission control action program which the person responsible will put into effect upon the issuance of an appropriate order by the Commission.

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

Rule 3.5 Emergency Orders.

A. Following are emergency orders which may be appropriate for use by the Director upon his declaration that an Air Pollution Emergency Episode exists for any air contaminants for which air standards have been adopted:

(1) Air Pollution Alert

(a) Any one or combination of air contaminants:

(1) Any person responsible for the operation of a source of air contaminants as set forth in Rule 3.4.B. shall take all AIR POLLUTION ALERT actions as required for such source of air

contamination, and shall particularly put into effect the emission control action programs for an AIR POLLUTION ALERT.

(b) PM_{10}

(1) There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.

(2) The use of incinerators for the disposal of any form of solid waste shall be limited to the hours between 12:00 Noon and 4:00 P.M.

(3) Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 Noon and 4:00 P.M.

(c) Nitrogen Oxides

(1) There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.

(2) The use of incinerators for the disposal of any form of solid waste shall be limited to the hours between 12:00 Noon and 4:00 P.M.

(2) Air Pollution Warning

(a) Any one or combination of air contaminants

(1) Any person responsible for the operation of a source of air contamination as set forth in Rule 3.4.A. shall take all AIR POLLUTION WARNING actions as required for such source of air contamination; and shall particularly put into effect the emission control action programs for an AIR POLLUTION WARNING.

(b) PM_{10}

(1) There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.

(2) The use of incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited.

(3) Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 Noon and 4:00 P.M.

(c) Nitrogen oxides

(1) There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.

(2) The use of incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited.

(3) Air Pollution Emergency

(a) Any one or combination of contaminants:

(1) Any person responsible for the operation of a source of air contamination as described in Rule 3.4.A. shall take all AIR POLLUTION EMERGENCY actions as listed as required for such source of air contaminants; and shall particularly put into effect the emission control action programs for an AIR POLLUTION EMERGENCY.

(2) All manufacturing establishments except those included in Rule 3.4.A(3)(a)(1) will institute such action as will result in maximum reduction of air contaminants from their operations by ceasing, curtailing, or postponing operations which emit air contaminants to the extent possible without causing injury to persons or damage to equipment.

(3) All places of employment described below shall immediately cease operations:

(i) Mining and quarrying of non-metallic minerals.

(ii) All contract construction work except that which must proceed to avoid physical harm.

(iii) Wholesale trade establishments, i.e. places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies.

(iv) All offices of local, county, and state government including authorities, joint meetings, and any other public body; except to the extent that such office must continue to operate in order to enforce the requirements of this order pursuant to statute.

(v) All retail trade establishments except pharmacies and stores primarily engaged in the sale of food.

(vi) Banks; credit agencies other than banks; securities and commodities brokers, dealers, exchanges and services; office of insurance carriers, agents and brokers; real estate offices.

(vii) Wholesale and retail laundries; laundry services and cleaning and dyeing establishments; photographic studios; beauty shops, barber shops, shoe repair shops.

(viii) Advertising Offices; consumer credit reporting, adjustment and collection agencies; duplicating, addressing, blueprinting; photocopying, mailing, mailing list and stenographic services; equipment rental services; commercial testing laboratories.

(ix) Automobile repair, automobile services, garages.

(x) Establishments rendering amusement and recreation services including motion picture theaters.

(xi) Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools, and public and private libraries.

(4) There shall be no open burning by any person of tree waste, vegetation, refuse, or debris in any form.

(5) The use of incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited.

(6) The use of motor vehicles is prohibited except in emergencies with the approval of local or state police.

B. When the Director determines that an Air Pollution Emergency Episode condition exists at one or more monitoring sites solely because of emissions from a limited number of sources, he may order such source or sources to put into effect the emission control action programs which are applicable for each episode stage.

Table 1. EMISSION REDUCTION OBJECTIVES FOR PM_{10}		
Source of Air Contamination	Level	Action Required
1. Coal or oil-fired electric power generating facilities.	Alert	a. Substantial reduction by utilization of fuels having lowest available ash content.
		b. Maximum utilization of mid-day (12:00 Noon to 4:00 P.M.) atmospheric turbulence for boiler lancing and soot blowing.
		c. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.
	Warning	a. Maximum reduction by utilization of fuels having lowest available ash content.
		b. Maximum utilization of mid-day (12:00 Noon to 4:00 P.M.) atmospheric turbulence for boiler lancing and soot blowing.
		c. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.
	Emergency	a. Maximum reduction by utilization of fuels having lowest available ash content.
		b. Maximum utilization of mid-day (12:00 Noon to 4:00 P.M.) atmospheric turbulence for boiler lancing and soot blowing.
		c. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area

Table 1. EMISSION REDUCTION OBJECTIVES FOR PM_{10}		
Source of Air Contamination	Level	Action Required
2. Coal or oil-fired process steam generating facilities	Alert	a. Substantial reduction by utilization of fuels having lowest available ash content
		b. Maximum utilization of mid-day (12:00 Noon to 4:00 P.M.) atmospheric turbulence for boiler lancing and soot blowing.
		c. Reduction of steam load demands consistent with continuing plant operations.
	Warning	a. Maximum reduction by utilization of fuels having lowest available ash content.
		b. Maximum utilization of mid-day (12:00 Noon to 4:00 P.M.) atmospheric turbulence for boiler lancing and soot blowing.
		c. Reduction of steam load demands consistent with continuing plant operations.
		d. Making ready for use a plan of action to be taken if an emergency develops.
	Emergency	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
		b. Maximum utilization of mid-day (12:00 Noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

Table 1. EMISSION REDUCTION OBJECTIVES FOR PM_{10}		
Source of Air Contamination	Level	Action Required
3. A - Manufacturing, processing, and mining industries. AND B - Other persons required by the Commission to prepare standby plans.	Alert	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.
		b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.
		c. Reduction of heat load demands for processing consistent with continuing plant operations.
	Warning.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.
	Emergency	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
		b. Elimination of air contaminants from trade waste disposal processes which emit particles, gases, vapors or malodorous substances.
		c. Maximum reduction of heat load demands for processing.

Table 1. EMISSION REDUCTION OBJECTIVES FOR PM_{10}		
Source of Air Contamination	Level	Action Required
4. Refuse disposal operations	Alert	a. Maximum reduction by prevention of open burning.
		b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 Noon and 4:00 p.m.
	Warning	a. Maximum reduction by prevention of open burning.
		b. Complete elimination of the use of incinerators.
	Emergency	a. Maximum reduction by prevention of open burning.
		b. Complete elimination of the use of incinerators.

Table 2. EMISSION REDUCTION OBJECTIVES FOR SULFUR OXIDES		
Source of Air Contamination	Level	Action Required
1. Coal or oil-fired electric power generating facilities.	Alert	a. Substantial reduction by utilization of fuels having lowest available sulfur content.
		b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.
	Warning	a. Substantial reduction by utilization of fuels having lowest available sulfur content.
		b. Substantial reduction by diverting electric power generation to facilities outside of Warning Area.
	Emergency	a. Maximum reduction by utilization of fuels having lowest available sulfur content.
		b. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal or oil-fired process steam generating facilities.	Alert	a. Substantial reduction by utilization of fuels having lowest available sulfur content.
		b. Reduction of steam load demands consistent with continuing plant operations.
	Warning	a. Maximum reduction by utilization of fuels having the lowest available sulfur content.
		b. Reduction of steam load demands consistent with continuing plant operations.

Table 2. EMISSION REDUCTION OBJECTIVES FOR SULFUR OXIDES		
Source of Air Contamination	Level	Action Required
		c. Making ready for use a plan of action to be taken if an emergency develops.
	Emergency	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
		b. Taking the action called for in the emergency plan.
3. A - Manufacturing and Processing Industries AND B. – Other persons required by the Commission to prepare standby plans.	Alert	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.
		b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors, or malodorous substances.
		c. Reduction of heat load demands for processing consistent with continuing plant operations.
	Warning	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship postponing production and allied operations.
		b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors, or malodorous substances.

Table 2. EMISSION REDUCTION OBJECTIVES FOR SULFUR OXIDES		
Source of Air Contamination	Level	Action Required
		c. Reduction of heat load demands for processing consistent with continuing plant operations.
	Emergency	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing, or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
		b. Elimination of air contaminants from trade waste disposal processes which emit particles, gases, vapors or malodorous substances.
		c. Maximum reduction of heat load demands for processing.

TABLE 3. EMISSION REDUCTION OBJECTIVES FOR NITROGEN OXIDES		
Source of Air Contamination	Level	Action Required
1. Steam-electric power generating facilities.	Alert	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant.
		b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.
	Warning	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant.
		b. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.
	Emergency	a. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Process steam generating facilities.	Alert	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant.
		b. Reduction of steam load demands consistent with continuing plant operations.
	Warning	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant.
		b. Reduction of steam load demands consistent with continuing plant operations.

TABLE 3. EMISSION REDUCTION OBJECTIVES FOR NITROGEN OXIDES		
Source of Air Contamination	Level	Action Required
		c. Making ready for use a plan of action to be taken if an emergency develops.
	Emergency	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
3. A.- Manufacturing and processing industries. AND B. – Other persons required by the Commission to prepare standby plans.	Alert	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.
		b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors, or malodorous substances.
		c. Reduction of heat load demands for processing consistent with continuing plant operations.
	Warning	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.
		b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors, or malodorous substances.

TABLE 3. EMISSION REDUCTION OBJECTIVES FOR NITROGEN OXIDES		
Source of Air Contamination	Level	Action Required
		c. Reduction of heat load demands for processing consistent with continuing plant operations.
	Emergency	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
		b. Elimination of air contaminants from trade waste disposal processes which emit particles, gases, vapors or malodorous substances.
		c. Maximum reduction of heat load demands for processing.
4.Stationary internal combustion engines	Alert	a. Reduction of power demands for pumping consistent with continuing operations.
	Warning	a. Reduction of power demands for pumping consistent with continuing operations.
		b. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.
5. Refuse disposal operations.	Alert.	a. Maximum reduction by prevention of open burning.
		b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 Noon and 4:00 p.m.

TABLE 3. EMISSION REDUCTION OBJECTIVES FOR NITROGEN OXIDES		
Source of Air Contamination	Level	Action Required
	Warning	a. Maximum reduction by prevention of open burning.
		b. Complete elimination of the use of incinerators.
	Emergency	a. Maximum reduction by prevention of open burning.
		b. Complete elimination of the use of incinerators.

Table 4. EMISSION REDUCTION OBJECTIVES FOR HYDROCARBONS		
Source of Air Contamination	Alert	Action Required
1. Petroleum products storage and distribution.	Alert	a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.
	Warning	a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.
	Emergency	a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.
2. Surface coating and preparation.	Alert	a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.
	Warning	a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.
	Emergency	a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.

Table 4. EMISSION REDUCTION OBJECTIVES FOR HYDROCARBONS		
Source of Air Contamination	Alert	Action Required
3. A - Manufacturing and processing industries. AND B. – Other persons required by the Commission to prepare standby plans.	Alert	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.
	Warning	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.
	Emergency	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.

TABLE 5. EMISSION REDUCTION OBJECTIVES FOR CARBON MONOXIDE		
Source of Air Contamination	Level	Action Required
1. A-Manufacturing AND B – Other persons required by the Commission to prepare standby plans.	Alert	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.
	Warning	a. Substantial reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.
	Emergency	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
Refuse disposal operations	Alert	a. Maximum reduction by prevention of open burning.
	Warning	a. Maximum reduction by prevention of open burning.
	Emergency	a. Maximum reduction by prevention of open burning.

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

Part 2, Chapter 4: Mississippi Commission on Environmental Quality, Ambient Air Quality Standards (Adopted February 9, 1983, Amended June 22, 1988, June 27, 2002, and Last Amended October 24, 2013)

Rule 4.1. Except for odor, as covered below, the ambient air quality standards for Mississippi shall be the Primary and Secondary National Ambient Air Quality Standards as duly promulgated by the U.S. Environmental Protection Agency in (or to be printed in) 40 CFR Part 50, pursuant to the Federal Clean Air Act, as amended. All such standards promulgated by the U.S. Environmental Protection Agency as of September 6, 2013, are hereby adopted and incorporated herein by the Commission by reference as the official ambient air quality standards of the State of Mississippi and shall hereafter be enforceable as such (except that the word "Administrator" in said standards shall be replaced by the words "Executive Director" and the word "Agency" in said standards shall be replaced by the word "Department").

There shall be no odorous substances in the ambient air in concentrations sufficient to adversely and unreasonably:

A. affect human health and well-being;

B. interfere with the use or enjoyment of property; or

C. affect plant or animal life.

In determining that concentrations of such substances in the ambient air are adversely and unreasonably affecting human well-being or the use or enjoyment of property of plant or animal life, the factors to be considered by the Commission will include, without limiting the generality of the foregoing, the number of complaints or petitioners alleging that such a condition exists, the frequency of the occurrence of such substances in the ambient air as confirmed by the Department of Environmental Quality staff, and the land use of the affected area.

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

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

Table of Contents

***Rule 5. 1 Purpose of this regulation*..... Page 121**

***Rule 5.2 Adoption of Federal Rules by Reference*..... Page 121**

***Rule 5.3 Definition of term "Administrator"*..... Page 121**

Rule 5.4 Adoption of Federal Rules for Public Participation and Exclusions from Increment Consumption **..... Page 122**

Rule 5.5 Transmittal of Permit Applications to EPA Administrator **..... Page 122**

Rule 5.6 Applicability **..... Page 123**

Rule 5.1 The purpose of this regulation is to implement a program for the prevention of significant deterioration of air quality as required by 40 CFR 51.166. This regulation supercedes and replaces the previous adoption by reference of 40 CFR 52.21 and 40 CFR 51.166. 40 CFR 52.21 and 51.166 as used in this regulation refer to the federal regulations as amended and promulgated by February 17, 2016, except as provided in Rule 5.2 below. CFR refers to the "Code of Federal Regulations".

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

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

A. (a)(1) [Plan disapproval],

B. (q) [Public Participation],

C. (s) [Environmental Impact Statements],

D. (u) [Delegation of authority], and

E. (cc) [Routine maintenance, repair, and replacement]

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

Rule 5.3 The term "Administrator" as it appears in 40 CFR 52.21 shall mean the Mississippi Environmental Quality Permit Board, except that:

A. In subparagraph (b)(3)(iii) [relating to "net emissions increase"], it shall mean either the Mississippi Environmental Quality Permit Board or the Administrator of the United States Environmental Protection Agency (USEPA).

B. In the following subsections, it shall continue to mean the Administrator of the USEPA:

(1) (b)(17) [definition of "federally enforceable"];

(2) paragraph b(37)(i);

(3) paragraph b(43);

(4) paragraph b(48)(ii)(c);

(5) paragraph b(50)(i);

(6) paragraph b(51);

(7) (g)(l)-(g)(6) [Redesignation];

(8) (1)(2) [Air quality models];

(9) (p)(2) [concerning Federal Land Manager];

(10) (t) [Disputed permits or redesignations].

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

Rule 5.4 Subsections 40 CFR 51.166(f) Exclusions from Increment Consumption (excluding the phrase "The plan may provide that") and 40 CFR 51.166(q) "Public Participation" (excluding the phrase "The plan shall provide that.") are incorporated herein and adopted by reference, except for the changes set forth below:

A. The phrases "the plan provides that" and "it shall also provide that" are excluded from paragraph 40 CFR 51.166(f)(2),

B. The term "Administrator" as it appears in subparagraphs (f)(1)(v),(f)(4), and (q)(2)(iv) shall continue to mean the Administrator of the USEPA,

C. The phrase "specified time period" in subparagraph (q)(l) shall mean thirty (30) days,

D. The phrase "reviewing authority" shall mean the Mississippi Department of Environmental Quality, and

E. The words "one year" in subparagraph (q)(2) shall be replaced by the words "one hundred and fifty (150) days."

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

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

application.

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

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

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

Part 2, Chapter 6: Mississippi Commission on Environmental Quality, Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act (Adopted October 27, 1993, Last Amended June 28, 2012)

Rule 6.1 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 Rule 6.4.I. or Affected State(s) review under Rule 6.5.

(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 Rule 6.4 and Rule 6.5 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 Rule 6.3.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 (PM10) nonattainment areas classified as "serious", sources with the potential to emit 70 tpy or more of PM10.

(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 Rule 6.4.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 Rule 6.5.

(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 CO2e 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-l to Subpart A of 40 CFR Part 98 - Global Warming Potentials, and summing the resultant value for each to compute a tpy CO_2e.

(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 Rule 6.1.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 Rule 6.1.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.

Source: Miss. Code Ann. *§§ 49-2-9(1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-17-32, 49-2-1, et seq. and 49-17-1, et seq.*

Rule 6.2 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 rule.

(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 Commission Regulation Miss. Admin. Code, Title 11, Part 2, Chapter 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 Rule 6.2.C, except that applications for permit revision need supply such information only if it is related to the proposed change. Information required under Rule 6.2.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 Rule 6.2.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 Rule 6.4.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 Rule 6.7.A, need not be included in permit applications. For insignificant activities which are specified in Rule 6.7.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 Rule 6.6 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 Rule 6.7. 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 Rule 6.6 of these regulations.

(b) identification and description of all points of emissions described in Rule 6.2.C(3)(a) of this rule in sufficient detail to establish.

(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 Rule 6.2.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 Rule 6.3.A(9) of these regulations or to define permit terms and conditions implementing 40 CFR 70.4(b)(12) or Rule 6.3.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 Rule 6.2.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.

Source: Miss. Code Ann. *§§ 49-2-9(1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-17-32, 49-2-1, et seq. and 49-17-1, et seq.*

Rule 6.3 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 non-instrumental 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 Rule 6.3.A(3)(e). 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 Rule 6.3.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:

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

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

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

(iv) the analytical techniques or methods used;

(v) the results of such analyses;

(vi) 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 Rule 6.2.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 hereunder.

(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 Rule 6.6 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 Rule 6.3.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 Rule 6.3.A and Rule 6.3.C to determine compliance;

(b) may extend the permit shield described in Rule 6.3.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 Rule 6.3.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 Rules 6.3, 6.4, or 6.5 of these regulations, other than those contained in Rule 6.3.B.

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

(1) Consistent with Rule 6.3 of this rule, 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 Rule 6.2.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 Rule 6.2.C(8) of these regulations.

(4) Progress reports consistent with an applicable schedule of compliance and Rule 6.2.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 Rule 6.3.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 Rule 6.3.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 Rule 6.4.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 Rule 6.3.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 Rule 6.2 of these regulations. The Permit Board may, in the general permit, provide for applications which deviate from the requirements of Rule 6.2 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 Rule 6.4.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 rule.

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 Rule 6.3.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 Rule 6.3.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 Rule 6.3.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.

Source: Miss. Code Ann. *§§ 49-2-9(1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-17-32, 49-2-1, et seq. and 49-17-1, et seq.*

Rule 6.4 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 Rule 6.3.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 Rule 6.5.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 Rule 6.5.A. and Rule 6.5.B. of these regulations, and has not objected to issuance of the permit under Rule 6.5.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 Rule 6.2.A(2) and as required by Rule 6.2.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 Rule 6.4.B and Rule 6.2.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 Rule 6.4.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 Rule 6.4.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:

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

(ii) 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 rule, 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 Rule 6.2.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 Rule 6.5.

(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 Rule 6.5.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 Rule 6.4.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 Rule 6.2.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 Rule 6.2.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 rule;

(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 rule shall apply to modifications eligible for group processing, except that the Permit Board shall take one of the actions specified in Rule 6.4.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 Rule 6.4.E(1)(f) shall apply to modifications eligible for group processing.

(f) Permit shield. The provisions of Rule 6.4.E(1)(g) of this rule 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.

(a) The permit shield described in Rule 6.3.F. shall not apply to any change made pursuant to Rule 6.4.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 Rule 6.3.F shall not apply to any change made pursuant to Rule 6.4.F(2).

(3) The Department shall, if a permit applicant requests it, issue permits that contain terms and conditions, including all terms required under Rule 6.3.A and 6.3.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 Rule 6.3.F shall apply to any changes made pursuant to Rule 6.4.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 no 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 Rule 6.5;

(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.

Source: Miss. Code Ann. *§§ 49-2-9(1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-17-32, 49-2-1, et seq. and 49-17-1, et seq.*

Rule 6.5 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.

Source: Miss. Code Ann. *§§ 49-2-9(1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-17-32, 49-2-1, et seq. and 49-17-1, et seq.*

Rule 6.6 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 Rule 6.6.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.

(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 often 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.

Source: Miss. Code Ann. *§§ 49-2-9(1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-17-32, 49-2-1, et seq. and 49-17-1, et seq.*

Rule 6.7 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 Rule 6.3.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 liquefied 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) sodium hydrosulfide storage tank;

(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) de-aerator 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 Rule 6.7.A. and 6.7.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 Rule 6.1., or collect any permit fee owed under the approved fee schedule.

D. Notwithstanding Rule 6.7.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 Rule 6.7.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 Rule 6.4.E. shall be followed.

F. The addition of any insignificant activity listed in Rule 6.7.B. shall be handled as an administrative amendment as defined in Rule 6.4.D. unless the addition is a Title I modification or requires a permit to construct. If a Title I permit or a permit to constructs required, then the modification procedures outlined in Rule 6.4.E. shall be followed.

Source: Miss. Code Ann. *§§ 49-2-9(1)(b), 49-17-17, 49-17-28, 49-17-29, 49-17-30, 49-17-32, 49-2-1, et seq. and 49-17-1, et seq.*

Part 2, Chapter 7: Mississippi Commission on Environmental Quality Acid Rain Program Permit Regulations for Purposes of Title IV of the Federal Clean Air Act (Adopted November 17, 1994 Last Amended December 14, 2011)

Rule 7.1. The Federal permit regulations applicable to facilities affected by the requirements of Title IV of the Clean Air Act are those regulations promulgated by the U.S. Environmental Protection Agency in (or to be printed in) 40 CFR Parts 72 and 76. All such regulations duly promulgated by the U.S. Environmental Protection Agency as of November 4, 2011, are

incorporated herein and adopted by reference by the Commission as official regulations of the State of Mississippi and shall hereafter be enforceable as such (the word "Administrator" in said regulations shall mean the Administrator of the United States Environmental Protection Agency and the words "permitting authority" shall mean "Mississippi Environmental Quality Permit Board").

In any case where the provisions or requirements of 40 CFR Parts 72 and 76 conflict with or are not included in Commission Regulation, Miss. Admin. Code, Title 11, Part 2, Chapter 6, Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act, the provisions of 40 CFR Parts 72 and 76 shall apply and take precedence.

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

Part 2, Chapter 8: Mississippi Commission on Environmental Quality, Air Toxics Regulations (Adopted May 28, 1998, Last Amended November 16, 2006)

TABLE OF CONTENTS

Rule 8.1 Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Section 112(g)

Rule 8.2 Chemical Accident Prevention Provisions

Rule 8.1 Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Section 112(g).

A. Regulations for case-by-case maximum achievable control technology (MACT) applicable to facilities affected by the requirements of Section 112(g) of the Federal Clean Air Act are those regulations duly promulgated by the United States Environmental Protection Agency in (or to be printed in) Subpart B of Part 63 of Title 40 of the Code of Federal Regulations (C.F.R.). All such regulations promulgated by United States Environmental Protection Agency are incorporated herein and adopted by reference by the Mississippi Commission on Environmental Quality as official regulations of the State of Mississippi and shall hereafter be enforceable as such except as follows:

(1) The "effective date of Section 112(g)(2)(b)" as defined in 40 C.F.R. 63.41 shall be the effective date of this regulation.

(2) The "permitting authority" as defined in 40 C.F.R. 63.41 shall be the "Mississippi Environmental Quality Permit Board" (Permit Board).

(3) The "Notice of MACT Approval" as defined in 40 C.F.R. 63.41 shall be the "Permit to Construct" pursuant to Commission Regulation, Miss. Admin. Code, Title 11, Part 2, Chapter 2, Permit Regulations for the Construction and/or Operation of Air Emissions Equipment, as adopted by the Mississippi

Commission on Environmental Quality (Commission) and said Permit to Construct shall include the case-by-case MACT determination.

(4) In lieu of the administrative procedures for review of the Notice of MACT Approval as set forth in 40 C.F.R. 63.43(f)(1) through (5), the Permit Board will follow Commission Regulation, Miss. Admin. Code, Title 11, Part 2, Chapter 2, Permit Regulations for the Construction and/or Operation of Air Emissions Equipment, as adopted by the Commission.

(5) In lieu of the opportunity for public comment on the Notice of MACT Approval as set forth in 40 C.F.R. 63.43(h), the Permit Board will provide opportunity for public comment on information submitted by the owner or operator. The public information will include the Mississippi Department of Environmental Quality's (MDEQ's) analysis of the case-by-case MACT determination, including the MDEQ's recommendation for permit issuance or denial. The public information and opportunity for comment shall also include the following:

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

(b) a 30-day period for submittal of public comment; and

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

B. Applicability.

(1) Overall requirements. The requirements of the regulations referenced in Rule 8.1.A. apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after the effective date of this regulation unless the major source in question has been specifically regulated or exempted from regulation under a MACT standard issued pursuant to Section 112(d), a work practice standard or other requirement pursuant to Section 112(h), or an equivalent emission limitation by permit pursuant to Section 112(j) and incorporated in another Subpart of Part 63, or the owner or operator of such major source has received all necessary air quality permits for such construction or reconstruction project before the effective date of the regulations referenced in Rule 8.1.A.

(2) Exclusion for electric utility steam generating units. The requirements of the regulations referenced in Rule 8.1.A. do not apply to electric utility steam generating units unless and until such time as these units are added to the source category list pursuant to Section 112(c)(5) of the Federal Clean Air Act as amended.

(3) Exclusion for stationary sources in deleted source categories. The requirements of the regulations referenced in Rule 8.1.A. do not apply to stationary sources that are within a source category that has been deleted from the source category list pursuant to Section 112(c)(9) of the Federal Clean Air Act as amended.

(4) Exclusion for research and development activities. The requirements of the regulations referenced in Rule 8.1.A. do not apply to research and development activities, as defined in the regulations referenced in Rule 8.1.A.

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

Rule 8.2 Chemical Accident Prevention Provisions.

A. Chemical Accident Prevention Provisions are regulations duly promulgated by the United States Environmental Protection Agency in (or to be printed in) Part 68 of Title 40 of the Code of Federal Regulations. All such regulations promulgated by the United States Environmental Protection Agency as of September 15, 2006 are incorporated herein and adopted by reference by the Mississippi Commission on Environmental Quality as official regulations of the State of Mississippi and shall be enforceable as such except as follows:

(1) The word "Administrator" shall mean the Administrator of the United States Environmental Protection Agency.

(2) The words "air permitting authority" shall mean "Mississippi Environmental Quality Permit Board".

(3) The words "implementing agency" shall mean "Mississippi Department of Environmental Quality".

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

Part 2, Chapter 9: Mississippi Commission on Environmental Quality Regulations for Lead-Based Paint Activities (Adopted January 22, 1998, Amended November 20, 2003, and Last Amended December 10, 2009, and Last Amended October 24, 2013)

TABLE OF CONTENTS

Rule 9.1 General Scope and Applicability

Rule 9.2 Definitions

Rule 9.3 Accreditation of Training Programs

A. Scope
B. Application Process
C. Requirements for the Accreditation of Training Programs
D. Minimum Training Curriculum Requirements
E. Requirements for the Accreditation of Refresher Training Programs
F. Re-accreditation of Training Programs
G. Suspension, Revocation, and Modification of Accredited Training Programs
H. Procedures for Suspension, Revocation, or Modification of Training Program Accreditation
I. Training Program Recordkeeping Requirements
J. Amendment of Accreditation
K. Training Course Notification
L. Non-English Language Courses
M. Type and Duration of Certificates
N. Reciprocity

Rule 9.4. Certification of Individuals and Firms Engaged in Lead-Based Paint Activities

A. Certification of Individuals
B. Inspector
C. Risk Assessor
D. Supervisor
E. Project Designer
F. Abatement Worker
G. Renovator
H. Dust Sampling Technician
I. Documents
J. Certification Based on Prior Training
K. Re-Certification
L. Certification of Firms
M. Suspension, Revocation, and Modification of Certifications of Individuals Engaged in Lead-Based Paint Activities
N. Suspension, Revocation, and Modification of Certifications of Firms Engaged in Lead-Based Paint Activities
O. Procedures for Suspension, Revocation, or Modification of the Certification of Individuals or Firms
P. Type and Duration of Certificates
Q. Reciprocity

Rule 9.5 Work Practice Standards for Conducting Lead-Based Paint Activities

A. Effective Date, Applicability, and Terms
B. Inspection
C. Lead Hazard Screen
D. Risk Assessment
E. Abatement

F. Renovation
G. Collection and Laboratory Analysis of Samples
H. Composite Dust Sampling
I. Recordkeeping
J. Project Notifications
K. Lead-Based Paint Activities Requirements

Rule 9.6 Compliance Monitoring and Enforcement

A. Compliance Inspections and Investigations
B. Enforcement - Penalties, Reprimands, Suspensions, Revocation of Certificates, Proceedings, and Hearings before the Commission and Appeals
C. Severability

Rule 9.1 General Scope and Applicability. Pursuant to the authority granted by the Lead-Based Paint Activity Accreditation and Certification Act, Miss. Code 49-17-501 through 49-17-531, the following regulations contain procedures and requirements for the accreditation of lead-based paint activities training programs, procedures and requirements for the certification of inspectors, risk assessors, project designers, supervisors, workers, renovators, dust sampling technicians, and firms engaged in lead-based paint activities, and work practice standards for performing such activities. No person may engage in lead-based paint activities in target housing or child-occupied facilities as an inspector, risk assessor, project designer, supervisor, worker, renovator, dust sampling technician, or firm on or after the effective date of these regulations, unless applicable initial or renewed certificates to so engage in lead-based paint activities have been issued to such persons by the Commission, and are currently in effect. No firm shall employ any person on a lead-based paint activity who does not possess a current certificate issued by the Commission or has not been appropriately trained as a renovation worker. No individual will be certified as an inspector, risk assessor, or supervisor until the individual has passed the required certification (3rd party) examination for the discipline.

These regulations are applicable to all persons engaged in lead-based paint activities in target housing and child-occupied facilities. These regulations also apply to lead-based paint activities performed on or in other non-residential buildings or structures located on the property of target housing and child-occupied facilities where the lead-based paint activity would pose a health risk to those using the property. Persons who perform lead-based paint activities within residential dwellings that they own and occupy are exempt from the regulations unless the residential dwelling is occupied by a person or persons other than the owner or owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level as determined by the United States Department of Health and Human Services; Centers for Disease Control and Prevention.

These regulations do not require the performance of lead-based paint activities but establish requirements and procedures to follow when lead-based paint activities are performed. Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any property or facility, or engaged in any activity resulting, or which may result, in a lead-based paint hazard, and each officer, agent, or employee

thereof shall be subject to, and comply with all of the requirements of these regulations regarding lead-based paint, lead-based paint activities and lead-based paint hazards.

These regulations require that owners and occupants of target housing and child-occupied facilities receive information on lead-based paint hazards before renovations begin. The pamphlet, Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools, must be distributed.

Compliance with these regulations shall not affect or substitute for compliance with all other applicable laws and regulations of the United States Department of Housing and Urban Development, the United States Occupational Safety and Health Administration, the United States Environmental Protection Agency and other federal agencies with jurisdiction over issues concerning lead-based paint hazards.

It is the intent of the "Lead-Based Paint Activity Accreditation and Certification Act" that the cost of the administration and enforcement of the act be borne fully by federal grants and fees for accreditation, certification, and abatement projects. Any fee to fund activities shall be set by order of the Commission on Environmental Quality and shall be at levels graduated to reflect the type of certificate and the size of the project, as the case may be. Fees for more than one (1) discipline shall be paid by a separate check or money order for each discipline. All fees shall be submitted to the Commission by check or money order, payable to the Lead-Based Paint Program Operations Funds.

Source: Miss. Code Ann. *§§ 49-17-501, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 9.2 Definitions.

A. "Abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

(1) The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and

(2) All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

(3) Specifically, abatement includes, but is not limited to:

(a) Projects for which there is a written contract or other documentation, which provides that a person will be conducting activities in or to a residential dwelling or child-occupied facility that will result in the permanent elimination of lead-based paint hazards; or are designed to permanently eliminate lead-based paint hazards as defined in this rule.

(b) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by persons certified in accordance with Rule 9.4, unless such projects are covered by paragraph (3)(d) of this definition;

(c) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by persons who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities as identified and defined by this rule, unless such projects are covered by paragraph (3)(d) of this definition; or

(d) Projects resulting in the permanent elimination of lead-based paint hazards that are conducted in response to state or local abatement orders.

(4) Abatement does not include renovation, remodeling, painting or repainting, landscaping or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

B. "Accredited training program" means a training program that has been accredited by either: the Commission, the United States Environmental Protection Agency (EPA), or an EPA-approved lead-based paint program in a state or tribe with reciprocity agreements with the Commission to provide training for individuals engaged in lead-based paint activities.

C. "Adequate quality control" means a plan or design to ensure the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling.

D. "Administrator" means the Administrator of the Environmental Protection Agency.

E. "Certificate" means a document authorizing a person to perform lead-based paint activities as described in these regulations.

F. "Child-occupied facility", as the term applies to abatements, means a building or portion of a building constructed prior to 1978, visited regularly by the same child, 6 years of age or under, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least 3 hours and the combined weekly visit lasts at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day-care centers, preschools and kindergarten classrooms.

G. "Child-occupied facility", as the term applies to renovations, means a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, under 6 years of age, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least 3 hours and the combined weekly visits last at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day care centers, preschools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age 6, such as restrooms and cafeterias. Common areas that children under age 6 only pass through, such as hallways, stairways, and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age 6.

H. "Clearance levels" are values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement or renovation activity.

I. "Cleaning verification card" means a card developed and distributed, or otherwise approved, by EPA for the purpose of determining, through comparison of wet and dry disposable cleaning cloths with the card, whether post-renovation cleaning has been properly completed.

J. "Commission" means the Mississippi Commission on Environmental Quality.

K. "Common area" means a portion of a building that is generally accessible to all occupants. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

L. "Component or building component" means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include, but are not limited to, interior components such as: ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills or stools and troughs), built in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners; and exterior components such as: painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fasciae, rake boards, corner boards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes and wells, and air conditioners.

M. “Containment” means a process to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement or renovation. The containment must be constructed such that no dust or debris is permitted to leave the work area.

N. “Course agenda” means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

O. “Course test” means an evaluation of the overall effectiveness of the training which shall test the trainee’s knowledge and retention of the topics covered during the course.

P. “Course test blue print” means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

Q. “Department” means the Mississippi Department of Environmental Quality.

R. “Deteriorated paint” means paint that is cracking, flaking, chipping, peeling, or otherwise separating from the substrate of a building component or unit.

S. “Discipline” means one of the specific types or categories of lead-based paint activities identified in this rule for which individuals may receive training from accredited programs and become certified by the Commission. For example, “worker” is a discipline.

T. “Distinct painting history” means the application history, as indicated by its visual appearance or a record of application, over time, of paint or other surface coatings to a component, room, or unit of a building structure.

U. “Documented methodologies” are methods or protocols used to sample for the presence of lead in paint, dust, and soil.

V. “Dry disposable cleaning cloth” means a commercially available dry, electrostatically charged, white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or counter tops.

W. “Dust sampling technician” means an individual employed to perform dust clearance sampling.

X. “Elevated blood lead level (EBL)” means an excessive absorption of lead as determined by the United States Department of Health and Human Services; Centers for Disease Control and Prevention.

Y. “Encapsulant” means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating (with or without reinforcement materials) or an adhesively bonded covering material.

Z. “Encapsulation” means the application of an encapsulant.

AA. “Enclosure” means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

BB. “EPA” means the United States Environmental Protection Agency.

CC. “Executive Director” means the Executive Director of the Mississippi Department of Environmental Quality.

DD. “Firm” means a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity that performs or offers to perform lead-based paint activities. This term also includes a Federal, State, Tribal, or local government agency, or a nonprofit organization that performs or offers to perform lead-based paint activities.

EE. “Guest instructor” means an individual designated by the training program manager or principal instructor to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

FF. “HEPA vacuum” means a vacuum cleaner which has been designed with a high-efficiency particulate air (HEPA) filter as the last filtration stage. A HEPA filter is a filter that is capable of capturing particles of 0.3 microns with 99.97% efficiency. The vacuum cleaner must be designed so that all the air drawn into the machine is expelled through the HEPA filter with none of the air leaking past it. HEPA vacuums must be operated and maintained in accordance with the manufacturers’ instructions.

GG. “Hands-on skills assessment” means an evaluation which tests the trainees’ ability to satisfactorily perform the work practices and procedures identified in Rule 9.3.D, as well as any other skills taught in a training course.

HH. “Inspection” means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

II. “Inspector” means an individual employed to inspect or reinspect for the presence of lead-based paint, to collect samples for the presence of lead in dust and soil for the purposes of abatement and renovation clearance testing and to prepare inspection reports.

JJ. “Interim controls” means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

KK. “Lead-based paint” means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

LL. “Lead-based paint activities” means, in the case of target housing and child-occupied facilities, inspection, risk assessment, renovation, and abatement, as defined in this rule.

MM. “Lead-based paint hazard” means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the Department pursuant to the federal Toxic Substances Control Act (TSCA) Section 403.

NN. “Lead-contaminated dust” means surface dust in residential dwellings, or child-occupied facilities that contains an area or mass concentration of lead at or in excess of levels identified by the Department pursuant to TSCA Section 403.

OO. “Lead-contaminated soil” means bare soil on residential real property and on the property of a child-occupied facility that contains lead at or in excess of levels identified by the Department pursuant to TSCA Section 403.

PP. “Lead-hazard screen” is a limited risk assessment activity that involves limited paint and dust sampling as described in Rule 9.5.C.

QQ. “Living area”, involving abatement activities, means any area of a residential dwelling used by one or more children age 6 and under, including, but not limited to, living rooms, kitchen areas, dens, play rooms, and children’s bedrooms

RR. “Living area”, in the case of renovations, means any area of a residential dwelling used by one or more children age 5 or under, including, but not limited to, living rooms, kitchen areas, dens, play rooms, and children’s bedrooms.

SS. “Minor repair and maintenance activities” are activities including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupts 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by paragraph F.(2)(a)(3) of Rule 9.5 are used and where the work does not involve window replacement or demolition of painted surface areas. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

TT. “Multi-family dwelling” means a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

UU. “Paint in poor condition” means more than 10 square feet of deteriorated paint on exterior components with large surface areas; or more than 2 square feet of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors); or more than 10 percent of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (window sills, baseboards, soffits, trim).

VV. “Painted surface” means a component surface covered in whole or in part with paint or other surface coatings.

WW. “Pamphlet” means the EPA pamphlet titled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* developed under Section 406(a) of TSCA for use in complying with Section 406(b) of TSCA, or any State or Tribal pamphlet approved by EPA pursuant to 40 CFR 745.326 that is developed for the same purpose. This includes reproductions of the pamphlet when copied in full and without revision or deletion of material from the pamphlet (except for the addition or revision of state or local sources of information). Before December 7, 2008, the term “pamphlet” also meant any pamphlet developed by EPA under Section 406(a) of TSCA or any State or Tribal pamphlet approved by EPA pursuant to 40 CFR 745.326.

XX. “Permanently covered soil” means soil which has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass, mulch, and other landscaping materials are not considered permanent covering.

YY. “Person” means any natural or judicial person including any individual corporation, partnership, or association; any Indian Tribe, State, or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government.

ZZ. “Principal instructor” means the individual who has the primary responsibility for organizing and teaching a particular course.

AAA. “Project designer” means an individual employed to prepare abatement project designs, occupant protection plans and abatement project reports.

BBB. “Recognized laboratory” means an environmental laboratory recognized by EPA pursuant to TSCA Section 405(b) as being capable of performing an analysis for lead compounds in paint, soil, and dust.

CCC. “Recognized test kit” means a commercially available kit recognized by EPA under 40 CFR 745.88 as being capable of allowing a user to determine the presence of lead at levels equal to or in excess of 1.0 milligrams per square centimeter, or more than 0.5% lead by weight, in a paint chip, paint powder or painted surface.

DDD. “Reduction” means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls, and abatement.

EEE. “Renovation” means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by this regulation. The term renovation includes (but is not limited to): The removal, modification, or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weather-stripping) and interim controls that disturb painted surfaces. A renovation performed for the purpose of converting a building, or part or a building, into target housing or a child-occupied facility is a renovation under this rule. The term renovation does not include minor repair and maintenance activities.

FFF. “Renovator” means an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized State or Tribal program and has been certified to perform renovations in the State of Mississippi.

GGG. “Residential dwelling” means (1) a detached single family dwelling unit, including attached structures such as porches and stoops; or (2) a single family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

HHH. “Risk assessment” means (1) an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and (2) the provision of a report by the person conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

III. “Risk assessor” means an individual employed to conduct risk assessments and lead hazard screens, to prepare inspection reports and to collect samples for the presence of lead in dust and soil for the purposes of abatement and renovation clearance testing.

JJJ. “Room” means an enclosed or semi-enclosed living space within a residential dwelling or a child-occupied facility.

KKK. “Supervisor” means an individual designated by a contractor or certified firm to be responsible for the direction and conduct of lead-based paint abatement activities and to prepare occupant protection plans and abatement reports.

LLL. “Target housing”, as the term applies to abatement activities, means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children age 6 years or under resides or is expected to reside in such housing for the elderly or persons with disabilities) or any zero-bedroom dwelling.

MMM. "Target housing" as the term applies to renovations, means any housing constructed before 1978, except housing for the elderly or persons with disabilities (unless any one or more children under the age of 6 years resides or is expected to reside in that housing for the elderly or persons with disabilities) or any zero-bedroom dwelling.

NNN. "Training curriculum" means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

OOO. "Training hour" means at least 50 minutes of actual learning, including, but not limited to time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on experience.

PPP. "Training manager" means the individual responsible for administering a training program and monitoring the performance of principal instructors and guest instructors.

QQQ. "Vertical containment" means a vertical barrier consisting of plastic sheeting or other impermeable material over scaffolding or a rigid frame, or an equivalent system of containing the work area. Vertical containment is required for some exterior renovations but it may be used on any renovation.

RRR. "Visual inspection for clearance testing" means the visual examination of a residential dwelling or a child-occupied facility following an abatement or renovation to determine whether or not the abatement or renovation has been successfully completed.

SSS. "Visual inspection for risk assessment" means the visual examination of a residential dwelling or a child-occupied facility to determine the existence of deteriorated lead-based paint or other potential sources of lead-based paint hazards.

TTT. "Wet disposable cleaning cloth" means a commercially available, pre-moistened, white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or counter tops.

UUU. "Wet mopping system" means a device with the following characteristics: A long handle, a mop head designed to be used with disposable absorbent cleaning pads, a reservoir for cleaning solution, and a built-in mechanism for distributing or spraying the cleaning solution onto a floor, or a method of equivalent efficacy.

VVV. "Work area" means the area that the certified renovator establishes to contain the dust and debris generated by a renovation.

WWW. "Worker", as the term applies to abatements, means an individual certified as a worker to work on abatement projects.

XXX. "Worker", as the term applies to renovations, means an individual trained by a certified renovator to work on a renovation project.

Source: Miss. Code Ann. *§§ 49-17-501, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 9.3 Accreditation of Training Programs.

A. *Scope*.

(1) A training program may seek accreditation to offer lead-based paint activities courses in any of the following disciplines: inspector, risk assessor, supervisor, project designer, renovator, dust sampling technician, and abatement worker. A training program may also seek accreditation to offer refresher courses for each of the above listed disciplines.

(2) A training program shall not provide, offer, or claim to provide Commission accredited lead-based paint inspector, risk assessor, supervisor, project designer or abatement worker courses without applying for and receiving accreditation from the Commission as required under paragraph B. of this rule on or after August 31, 1998. A training program shall not provide, offer or claim to provide Commission accredited lead-based paint renovator or dust sampling technician courses without applying for and receiving accreditation from the Commission as required under paragraph B. of this rule on or after December 10, 2009.

B. *Application Process*. The following are procedures a training program shall follow to receive Commission accreditation to offer lead-based paint activities courses:

(1) A training program seeking accreditation shall submit the required accreditation fee along with the completed form prescribed by the Commission containing the following information:

(a) The training program's name, address, and telephone number.

(b) A list of courses for which it is applying for accreditation. For the purpose of this rule, courses taught in different languages and electronic learning courses are considered different courses, and each must independently meet the accreditation requirements.

(c) A statement signed by the training program manager certifying that the training program meets the requirements established in paragraph C. of this rule. If a training program uses EPA-developed model training materials, or training materials approved by a State or Indian Tribe that has been authorized by EPA, the training program manager shall include a statement certifying that, as well.

(d) A copy of the student and instructor manuals, or other materials to be used for each course.

(e) A copy of the course agenda for each course, including the time allotted to teaching each course topic.

(f) A copy of the course examination with the correct answers marked for each question.

(g) All training programs shall include in their application for accreditation the following:

(1) A description of the facilities and equipment to be used for lecture and hands-on training.

(2) A copy of the course test blueprint for each course.

(3) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.

(4) A copy of the quality control plan for each course as described in paragraph C.(9) of this rule.

(5) A list of learning objectives for each lecture, exercise, and hands-on activity.

(6) Name and documentation of qualifications of the training manager and principal instructors.

(2) If a training program meets the requirements in paragraph C. of this rule, then the Commission shall approve the application for accreditation no more than 180 days after receiving a complete application from the training program contingent upon a satisfactory on-site course audit by the Department. In the case of approval, a certificate of accreditation shall be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the Department may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The Department may also request additional materials retained by the training program, under paragraph I. of this rule. If a training program's application is disapproved, the program may reapply for accreditation at any time.

(3) A training program may apply for accreditation to offer courses or refresher courses in as many disciplines as it chooses. A training program may seek accreditation for additional courses at any time as long as the program can demonstrate that it meets the requirements of this rule.

(4) For the purposes of this rule, courses taught in different languages, and electronic learning courses are considered different courses and each must independently meet the accreditation requirements.

(5) When applying for accreditation of a course in a language other than English, a signed statement from a qualified, independent translator that they had compared the course to the English language version and found the translation to be accurate.

C. *Requirements for the Accreditation of Training Programs.* For a training program to obtain accreditation from the Commission to offer lead-based paint activities courses, the program shall meet the following requirements for each discipline for which the program is seeking accreditation:

(1) The training program shall employ a training manager who has:

(a) At least 2 years of experience, education, or training in teaching adults; or

(b) A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration or program management or a related field; or

(c) Two years of experience in managing a training program specializing in environmental hazards; and

(d) Demonstrated 2 years of experience, education, or training in the construction industry including: lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health or industrial hygiene.

(2) The training manager shall designate a qualified principal instructor for each course who has:

(a) Demonstrated experience, education, or training in teaching workers or adults; and

(b) Successfully completed the initial and prerequisite training course requirements of the EPA-accredited or EPA-authorized State or Tribal-accredited training course to be taught; and

(c) Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, remodeling, occupational safety and health, or industrial hygiene.

(3) The principal instructor shall be responsible for the organization of the course, course delivery, and oversight of the teaching of all course material. The training

manager may designate guest instructors as needed for a portion of the course to provide instruction specific to the lecture, hands-on activities, or work practice components of a course. However, the principal instructor is primarily responsible for teaching the course materials and must be present to provide instruction (or oversight of portions of the course taught by guest instructors) for the course for which he/she has been designated the principal instructor.

(4) The following documents shall be recognized by the Commission as evidence that training managers and principal instructors have the education, work experience, training requirements or demonstrated experience, specifically listed in paragraphs C.(1) and C.(2) of this rule. This documentation must be submitted with the accreditation application and retained by the training program as required by the recordkeeping requirements contained in paragraph I. of this rule. Those documents include the following:

(a) Official academic transcripts or diploma as evidence of meeting the education requirements.

(b) Resumes, letters of reference, or documentation of work experience as evidence of meeting the work experience requirements.

(c) Certificates from the train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.

(5) The training program shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed.

(6) To become accredited in the following disciplines, the training program shall provide training courses that meet the following training requirements:

(a) The inspector course shall last a minimum of 24 training hours, with a minimum of 8 hours devoted to hands-on training activities. The minimum curriculum requirements for the inspector course are contained in paragraph D.(1) of this rule.

(b) The risk assessor course shall last a minimum of 16 training hours, with a minimum of 4 hours devoted to hands-on training activities. The minimum curriculum requirements for the risk assessor course are contained in paragraph D.(2) of this rule.

(c) The supervisor course shall last a minimum of 32 training hours, with a minimum of 8 hours devoted to hands-on activities. The minimum

curriculum requirements for the supervisor course are contained in paragraph D.(3) of this rule.

(d) The project designer course shall last a minimum of 8 training hours. The minimum curriculum requirements for the project designer course are contained in paragraph D.(4) of this rule.

(e) The abatement worker course shall last a minimum of 16 training hours, with a minimum of 8 hours devoted to hands-on training activities. The minimum curriculum requirements for the abatement worker course are contained in paragraph D.(5) of this rule.

(f) The renovator course must last a minimum of 8 training hours, with a minimum of 2 hours devoted to hands-on training activities. The minimum curriculum requirements for the renovator course are contained in paragraph D.(6) of this rule.

(g) The dust sampling technician course must last a minimum of 8 training hours, with a minimum of 2 hours devoted to hands-on training activities. The minimum curriculum requirements for the dust sampling technician course are contained in paragraph D.(7) of this rule.

(h) Electronic learning and other alternative course delivery methods are permitted for the classroom portion of renovator, dust sampling technician, or lead-based paint activities courses but not the hands-on portion of these courses, or for final course tests.

(7) For each course offered, the training program shall conduct a course test at the completion of the course, and if applicable, a hands-on skills assessment. Each student must successfully complete the hands-on skills assessment and receive a passing score on the course test to pass any course.

(a) The training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in paragraph D. of this rule.

(b) The training manager is responsible for maintaining the validity and integrity of the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

(c) The course test shall be developed in accordance with the test blueprint submitted with the training accreditation application.

(8) The training program shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include:

(a) The name, a unique identification number, and address of the individual.

(b) The name of the particular course that the individual completed.

(c) Dates of course completion/test passage.

(d) The name, address, and telephone number of the training program.

(e) The printed name of the training manager, printed name of the principal instructor, and the signature of either the training manager or the principal instructor.

(f) The language in which the course was taught.

(g) For renovator and dust sampling technician course completion certificates, a photograph of the individual. The photograph must be an accurate and recognizable image of the individual. As reproduced on the certificate, the photograph must not be smaller than 1 inch square.

(9) The training manager shall develop and implement a quality control plan. The plan shall be used to maintain and improve the quality of the training program over time. This plan shall contain at least the following elements:

(a) Procedures for periodic revision of training materials and the course test to reflect innovations in the field.

(b) Procedures for the training manager's annual review of principal instructor competency.

(10) Courses offered by the training program must teach the work practice standards for conducting lead-based paint activities contained in rule 9.5. These standards must be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities they will be responsible for conducting.

(11) The training manager shall be responsible for ensuring that the training program complies at all times with all of the requirements in this rule.

(12) The training manager shall allow the Department to audit the training program to verify the contents of the application for accreditation as described in paragraph B. of this rule and to assure compliance with all requirements of the regulations regarding training.

D. *Minimum Training Curriculum Requirements*. To become accredited to offer lead-based paint courses in the specific disciplines listed below, training programs must ensure that their courses of study include, at a minimum, the following course topics.

(1) *Inspector*. Requirements (d), (e), (f), and (g) require hands-on activities as an integral component of the course.

(a) Role and responsibilities of an inspector.

(b) Background information on lead and its adverse health effects.

(c) Background information on Federal, State, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.

(d) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing.

(e) Paint, dust, and soil sampling methodologies.

(f) Clearance standards and testing, including random sampling.

(g) Preparation of the final inspection report.

(h) Recordkeeping.

(2) *Risk Assessor*. Requirements (d), (f), and (g) require hands-on activities as an integral component of the course.

(a) Role and responsibilities of a risk assessor.

(b) Collection of background information to perform a risk assessment.

(c) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food.

(d) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards.

(e) Lead hazard screen protocol.

(f) Sampling for other sources of lead exposure.

(g) Interpretation of lead-based paint and other lead sampling results, including all applicable State or Federal guidance or regulations pertaining to lead-based paint hazards.

(h) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.

(i) Preparation of a final risk assessment report.

(3) *Supervisor*. Requirements (e), (g), (h), (i), and (j) require hands-on activities as an integral component of the course.

(a) Role and responsibilities of a supervisor.

(b) Background information on lead and its adverse health effects.

(c) Background information on Federal, State, and local regulations and guidance that pertain to lead-based paint abatement.

(d) Liability and insurance issues related to lead-based paint abatement.

(e) Risk assessment and inspection report interpretation.

(f) Development and implementation of an occupant protection plan and abatement report.

(g) Lead-based paint hazard recognition and control.

(h) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.

(i) Interior dust abatement/cleanup or lead-based paint hazard control and reduction methods.

(j) Soil and exterior dust abatement or lead-based paint hazard control and reduction methods.

(k) Clearance standards and testing.

(l) Cleanup and waste disposal.

(m) Recordkeeping.

(4) *Project Designer*

(a) Role and responsibilities of a project designer.

(b) Development and implementation of an occupant protection plan for large scale abatement projects.

(c) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects.

(d) Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects.

(e) Clearance standards and testing for large scale abatement projects.

(f) Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large scale abatement projects.

(5) *Abatement Worker*. Requirements (d), (e), (f), and (g) require hands-on activities as an integral component of the course.

(a) Role and responsibilities of an abatement worker.

(b) Background information on lead and its adverse health effects.

(c) Background information on Federal, State, and local regulations and guidance that pertain to lead-based paint abatement.

(d) Lead-based paint hazard recognition and control.

(e) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.

(f) Interior dust abatement methods/cleanup or lead-based paint hazard reduction.

(g) Soil and exterior dust abatement methods or lead-based paint hazard reduction.

(6) *Renovator*. Requirements (d), (e), (f), and (g) and (h) require hands-on activities as an integral component of the course.

(a) Role and responsibilities of a renovator.

(b) Background information on lead and its adverse health effects.

(c) Background information on EPA, HUD, OSHA, and other Federal, State, and local regulations and guidance that pertains to lead-based paint and renovation activities.

(d) Procedures for using acceptable test kits to determine whether paint is lead-based paint.

(e) Procedures for collecting a paint chip sample and sending it to a laboratory recognized by EPA under Section 405(b) of TSCA.

(f) Renovation methods to minimize the creation of dust and lead-based paint hazards.

(g) Interior and exterior containment and cleanup methods.

(h) Methods to ensure that the renovation has been properly completed, including cleaning verification, and clearance testing.

(i) Waste handling and disposal.

(j) Providing on-the-job training to other workers.

(k) Record preparation.

(7) *Dust sampling technician.* Requirements (d) and (f) requires hands-on activities as an integral component of the course.

(a) Role and responsibilities of a dust sampling technician.

(b) Background information on lead and its adverse health effects.

(c) Background information on Federal, State, and local regulations and guidance that pertains to lead-based paint and renovation activities.

(d) Dust sampling methodologies.

(e) Clearance standards and testing.

(f) Report preparation.

E. *Requirements for the Accreditation of Refresher Training Programs*. A training program may seek accreditation to offer refresher courses in any of the following disciplines: inspector, risk assessor, supervisor, project designer, renovator, dust sampling technician, and abatement worker. To obtain Commission accreditation to offer refresher training, a training program must meet the following minimum requirements:

(1) Each refresher course shall review the curriculum topics of the full-length courses listed under paragraph D. of this rule, as appropriate. In addition, to become accredited to offer refresher training courses, training programs shall ensure that their courses of study include, at a minimum, the following:

(a) An overview of current safety practices relating to lead-based paint in general, as well as specific information pertaining to the appropriate discipline.

(b) Current laws and regulations relating to lead-based paint in general, as well as specific information pertaining to the appropriate discipline.

(c) Current technologies relating to lead-based paint in general, as well as specific information pertaining to the appropriate discipline.

(2) Refresher courses for inspector, risk assessor, supervisor, and abatement worker must last a minimum of 8 training hours. Refresher courses for project designer, renovator, and dust sampling technician must last a minimum of 4 training hours.

(3) For all other courses offered except for project designer, the training program must conduct a hands-on assessment and must conduct a course test at the completion of the course.

(4) A training program may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course as described in paragraph B. of this rule. If so, the Commission shall use the approval procedure described in paragraph B. of this rule. In addition, the minimum requirements contained in paragraphs C.(1) through C.(5) and C.(7) through C.(12) and E.(1) through E.(3) of this rule shall also apply.

(5) A training program seeking accreditation to offer refresher training courses only shall submit a completed application on forms provided by the Commission containing the following information:

(a) The refresher training program's name, address, and telephone number.

(b) A list of courses for which it is applying for accreditation.

(c) The name and documentation of the qualifications of the training program manager and principal instructor.

(d) A statement signed by the training program manager certifying that the refresher training program meets the minimum requirements established in paragraph C. of this rule, except for the requirements in paragraph C.(6) of this rule. If a training program uses EPA-developed model training materials, or training materials approved by a State or Indian Tribe that has been authorized by EPA to develop its refresher training course materials, the training manager shall include a statement certifying that, as well.

(e) A copy of the student and instructor manuals to be used for each course.

(f) A copy of the course agenda for each course.

(g) A copy of the course examination with the correct answers marked for each question.

(h) All refresher training programs shall include in their application for accreditation the following:

(1) A description of the facilities and equipment to be used for lecture and hands-on training.

(2) A copy of the course test blueprint for each course.

(3) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course (if applicable).

(4) A copy of the quality control plan as described in paragraph C.(9) of this rule.

(5) A list of learning objectives for each lecture, exercise, and hands-on activity.

(i) The requirements in paragraphs C.(1) through C.(5) and C.(7) through C.(12) of this rule apply to refresher training providers.

(j) If a refresher training program meets the requirements listed in this paragraph and has paid the required fee, then the Commission shall approve the application for accreditation no more than 180 days after receiving a complete application from the refresher training program contingent upon a satisfactory on-site course audit by the Department. In the case of approval, a certificate of accreditation shall be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the Commission may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The Commission may also request additional materials retained by the refresher training program under paragraph I. of this rule. If a refresher training program's application is disapproved, the program may reapply for accreditation at any time.

F. *Re-accreditation of Training Programs.*

(1) Unless re-accredited, a training program's accreditation (including refresher training accreditation) shall expire 4 years after the date of issuance. If a training

program meets the requirements of this rule, the training program shall be re-accredited.

(2) A training program seeking re-accreditation shall submit an application to the Commission no later than 180 days before its accreditation expires. If a training program does not submit its application for re-accreditation by that date, the Commission cannot guarantee that the program will be re-accredited before the end of the accreditation period.

(3) The training program's application for re-accreditation shall contain:

(a) The training program's name, address, and telephone number.

(b) A list of courses for which it is applying for re-accreditation.

(c) The name and qualifications of the training program manager.

(d) The name(s) and qualification of the principal instructor(s).

(e) A description of any changes to the training facility, equipment, or course materials since the last application was approved.

(f) A statement signed by the program manager stating:

(1) That the training program complies at all times with all requirements in paragraphs C. and E. of this rule, as applicable; and

(2) The recordkeeping and reporting requirements in paragraph I. of this rule shall be followed.

(g) Payment of appropriate fees.

(4) Upon request, the training program shall allow the Department to audit the training program to verify the contents of the application for re-accreditation as described in paragraph F.(3) of this rule and to assure compliance with all requirements of the regulations regarding training.

G. *Suspension, Revocation, and Modification of Accredited Training Programs.*

(1) The Commission may, after notice and an opportunity for hearing, suspend, revoke, or modify training program accreditation (including refresher training accreditation) if a training program, training manager, or other person with supervisory authority over the training program has:

(a) Misrepresented the contents of a training course to the Commission and/or the student population.

(b) Failed to submit required information or notifications in a timely manner.

(c) Failed to maintain required records.

(d) Falsified accreditation records, instructor qualifications, or other accreditation-related information or documentation.

(e) Failed to comply with the training standards and requirements in this rule.

(f) Failed to comply with Federal, State, or local lead-based paint statutes or regulations.

(g) Made false or misleading statements to the Commission in its application for accreditation or re-accreditation which the Commission relied upon in approving the application.

H. *Procedures for Suspension, Revocation or Modification of Training Program Accreditation.*

(1) Prior to taking action to suspend, revoke, or modify the accreditation of a training program, the Commission shall notify the affected entity in writing of the following:

(a) The legal and factual basis for the suspension, revocation, or modification.

(b) The anticipated commencement date and duration of the suspension, revocation, or modification.

(c) Actions, if any, which the affected entity may take to avoid suspension, revocation, or modification, or to receive accreditation in the future.

(d) The opportunity and method for requesting a hearing prior to final Commission action to suspend, revoke or modify accreditation.

(e) Any additional information, as appropriate, which the Commission may provide.

(2) If a hearing is requested by the accredited training program, all proceedings and hearings before the Commission shall be conducted in accordance with Sections 49-17-31 through 49-17-41, Mississippi Code of 1972.

I. *Training Program Recordkeeping Requirements.*

(1) Accredited training programs shall maintain, and make available to the Commission or the Department upon request, the following records:

(a) All documents specified in paragraphs C.(4), E.(5), and F.(3) of this rule that demonstrate the qualifications listed in paragraphs C.(1) and C.(2) of this rule of the training manager and principal instructors.

(b) Current curriculum/course materials and documents reflecting any changes made to these materials.

(c) The course test blueprint.

(d) Information regarding how the hands-on assessment is conducted including, but not limited to:

(1) Who conducts the assessment.

(2) How the skills are graded.

(3) What facilities are used.

(4) The pass/fail rate.

(e) The quality control plan as described in paragraph C.(9) of this rule.

(f) Results of the student's hands-on skills assessments and course tests, and a record of each student's course completion certificate.

(g) Any other material not listed above in paragraphs I.(1)(a) through I.(1)(f) of this rule that was submitted to the Commission as part of the program's application for accreditation.

(h) For renovator refresher and dust sampling technician refresher courses, a copy of each trainee's prior course completion certificate showing that each trainee was eligible to take the refresher course.

(i) For course modules delivered in an electronic format, a record of each student's log-ins, launches, progress, and completion, and a copy of the electronic learning completion certificate for each student.

(2) The training program shall retain these records at the address specified on the training program accreditation application (or as modified in accordance with paragraph I.(3) of this rule) for a minimum of 5 years and 6 months.

(3) The training program shall notify the Commission in writing within 30 days of changing the address specified on its training program accreditation application or transferring the records from that address.

J. *Amendment of Accreditation.*

(1) A training program must amend its accreditation application within 90 days of the date that a change occurs to the information that was submitted in the program's most recent application. If the training program fails to amend its accreditation application within 90 days of the date the change occurs, the program may not provide lead-based paint activities training until its accreditation application is amended.

(2) The training program must specify in their amended application what changes have occurred to the information that was submitted in their most recent accreditation or re-accreditation application.

(3) If the amendment includes a new training program manager or any new or additional principal instructor(s), the training provider is not permitted to provide training under the new training manager or offer courses taught by any new principal instructor(s) until the Department approves the amendment.

K. *Training Course Notification.*

(1) Not less than ten (10) days prior to the first day of an anticipated training course, training course providers must provide written notification to the Department, on forms developed by the Department, of the following:

(a) Notification type (original, update, cancellation);

(b) The course discipline; and type (initial/refresher);

(c) Training program name, address, and telephone number;

(d) Date and time of the training course;

(e) Exact location of the site of the training course (if the location is different from the principal location of the training provider, a vicinity map, sketch or detailed written directions showing the training site location shall be included in the notification, unless a vicinity map has previously been submitted for the specific location);

(f) Information about the language to be used in the training course;

(g) The name of the principal instructor; and

(h) A copy of the training course agenda. If the agenda is identical to an agenda which has previously been submitted, an additional copy of the agenda is not required with the notification.

(2) Failure to provide re-notification of changes in the time or location of the training course or any other information listed on the original notification within two (2) working days prior to the first day of the pending training course may lead to rejection of any certificate of training issued by the training provider in support of individual accreditation in Mississippi.

(3) Within seven (7) calendar days after completion of a training course, the training course provider must provide the Department with a written roster containing the following:

(a) The name of the course indicating the discipline and whether the course is an initial or refresher training course;

(b) The names of all course applicants;

(c) For each participant, whether the participant passed or failed the examination;

(d) The date, time and location of the training course;

(e) For each participant, the training certificate number;

~~(f)~~ The name of the principal instructor;

(g) The name, address and phone number of the training provider; and

(h) For renovator or dust sampling technician courses only, a digital photograph of each participant.

(4) Failure to submit a roster may result in the rejection of any certificate of training submitted to the Department in support of an application for accreditation.

L. *Non-English Language Courses.* The following shall apply to all courses taught in non-English languages:

(1) Training courses shall be taught in the language in which all participating students are fluent;

(2) Written materials, including examinations, must be correctly translated into the language in which all participating students are fluent; and

(3) Interpreters may not be used to teach or instruct training courses.

M. *Type and Duration of Certificates*

Unless the Commission revokes or suspends a certificate, an initial certification of training providers shall be valid for one year. Training providers may obtain a renewal of their certificates annually. To maintain certification, training providers must be reaccredited every four (4) years.

N. *Reciprocity*

Any training provider which has been issued a certificate of accreditation in another state or a tribe which has certification, educational, and experience requirements equal to or greater than those of this State, and which grants equal accreditation privileges to training providers accredited in this State, may be issued an equivalent accreditation in this State upon terms and conditions determined by the Department.

Source: Miss. Code Ann. *§§ 49-17-501, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 9.4 Certification of Individuals and Firms Engaged in Lead-Based Paint Activities: Target Housing and Child-Occupied Facilities.

A. *Certification of Individuals.*

(1) Individuals seeking certification by the Commission to engage in lead-based paint activities must either:

(a) Submit to the Commission an application demonstrating that they meet the requirements established in paragraphs B. thru H. of this Rule for the particular discipline for which certification is sought; or

(b) Submit to the Commission an application with a copy of a valid lead-based paint activities certification from a State or Tribal program that has been authorized by EPA and has established accreditation and certification reciprocity agreements with the State of Mississippi covering the certification being requested.

(2) Following the submission of an application provided by the Department demonstrating that all the requirements of this rule have been met, and the required fee, the Commission shall certify an applicant as an inspector, risk assessor, supervisor, project designer, renovator, dust sampling technician, or abatement worker, as appropriate.

(3) Upon receiving certification by the Commission, individuals conducting lead-based paint activities shall comply with the work practice standards for performing the appropriate lead-based paint activities as established in Rule 9.5.

(4) Individuals receiving certification by the Commission must have their current Mississippi certification certificate with them at the work site.

(5) Beginning on the date of adoption, it shall be a violation of these regulations for an individual to conduct any of the lead-based paint activities described in Rule 9.5 if that individual has not been certified by the Commission pursuant to this rule to do so.

B. *Inspector.*

(1) To become certified as an inspector, an individual must:

(a) Have a high school diploma or its equivalent;

(b) Successfully complete an accredited training program for lead-based paint inspectors;

(c) Pass the EPA approved inspector certification exam offered by the Commission; and

(d) Demonstrate to the satisfaction of the Commission that the applicant is familiar with and capable of complying with all applicable federal and state laws and regulations.

(e) The inspector certification exam must be passed with a minimum score of 70% within six (6) months of receiving the course completion certificate. During this six (6) months, the certification exam can be taken no more than three (3) times. If an individual does not pass the certification exam and receive a certificate within the six (6) month period after receiving their course completion certificate, the individual must retake the course from an accredited training program before reapplying for certification from the Commission.

C. *Risk Assessor.*

(1) To become certified as a risk assessor an individual must:

(a) (1) Be a registered professional engineer or a licensed architect; or

(2) Have a bachelor's degree in a profession related to engineering, health or environmental science and one (1) year of experience in a related field, as determined by the Commission (e.g., lead, asbestos, or environmental remediation work); or

(3) Have an associate's degree and two (2) years of experience in a related field, as determined by the Commission (e.g., lead, asbestos, or environmental remediation work); or

(4) Have a high school diploma or equivalent and three (3) years of experience in a related field, as determined by the Commission (e.g., lead, asbestos, or environmental remediation work);

(b) Successfully complete an accredited training program for lead-based paint risk assessors and lead-based paint inspectors;

(c) Pass the EPA approved risk assessor certification exam offered by the Commission;

(d) Demonstrate to the satisfaction of the Commission that the applicant is familiar with and capable of complying with all applicable federal and state laws and regulations; and

(e) The risk assessor certification exam must be passed with a minimum score of 70% within six (6) months of receiving the course completion certificate. During this six (6) months, the certification exam can be taken no more than three (3) times. If an individual does not pass the certification exam and receive a certificate within the six (6) month period after receiving their course completion certificate, the individual must retake the course from an accredited training program before reapplying for certification from the Commission.

D. *Supervisor*.

(1) To become certified as a supervisor, an individual must:

(a) Have a high school diploma or its equivalent and one (1) year of experience as a certified lead-based paint abatement worker or two (2) years of experience in a related field, as determined by the Commission (e.g., lead, asbestos, or environmental remediation work) or in the building trades;

(b) Successfully complete an accredited training program for lead-based paint supervisors;

(c) Pass the EPA approved supervisor certification exam offered by the Commission; and

(d) Demonstrate to the satisfaction of the Commission that the applicant is familiar with and capable of complying with all applicable federal and state laws and regulations;

(e) The supervisor certification exam must be passed with a minimum score of 70% within six (6) months of receiving the course completion certificate. During this six (6) months, the certification exam can be taken no more than three (3) times. If an individual does not pass the certification exam and receive a certificate within the six (6) month period after receiving their course completion certificate, the individual must retake the course from an accredited training program before reapplying for certification from the Commission.

E. *Project Designer.*

(1) To become certified as a project designer an individual must:

(a) (1) Be a registered professional engineer or a licensed architect; or

(2) Have a bachelor's degree in engineering, architecture or a profession related to engineering or architecture and one (1) year of experience in building design or a related field, as determined by the Commission; or

(3) Have an associate's degree and two (2) years of experience in building design or a related field, as determined by the Commission; or

(4) Have a high school diploma or equivalent and three (3) years of experience in building design or a related field, as determined by the Commission.

(b) Successfully complete an accredited training program for lead-based paint project designers and lead-based paint supervisors; and

(c) Demonstrate to the satisfaction of the Commission that the applicant is familiar with and capable of complying with all applicable federal and state laws and regulations.

F. *Worker.*

(1) To become certified as an abatement worker an individual must:

(a) Successfully complete an accredited training program for lead-based paint abatement workers; and

(b) Demonstrate to the satisfaction of the Commission that the applicant is familiar with and capable of complying with all applicable federal and state laws and regulations.

(2) An individual working on renovation projects as a worker does not have to be certified but must be trained by a certified renovator to perform the required renovation work duties.

G. *Renovator*.

(1) To become certified as a renovator, an individual must:

(a) Have a high school diploma or its equivalent and one (1) year of experience as a certified lead-based paint abatement worker or two (2) years of experience in a related field, as determined by the Commission (e.g., lead, asbestos, or environmental remediation work) or in the building trades;

(b) Successfully complete an accredited training program for lead-based paint renovators;

(c) Demonstrate to the satisfaction of the Commission that the applicant is familiar with and capable of complying with all applicable federal and state laws and regulations;

(d) Individuals who have successfully completed an accredited abatement worker or supervisor course, or individuals who successfully completed an EPA, HUD, or EPA/HUD model renovation training course before October 4, 2011 may take an accredited refresher renovator training course in lieu of the initial renovator training course to become a certified renovator.

(2) Renovator responsibilities. Certified renovators are responsible for ensuring compliance with paragraph F.(2) of Rule 9.5 at all renovations to which they are assigned. A certified renovator must:

(a) Perform all of the tasks described in paragraph F.(2)(b) of Rule 9.5 and must either perform or direct workers who perform all of the tasks described in paragraph F.(2)(a) of Rule 9.5;

(b) Provide training to workers on the work practices required by F.(2)(a) of Rule 9.5 that they will be using in performing their assigned tasks;

(c) Be physically present at the work site when the signs required by paragraph F.(2)(a)(1) of Rule 9.5 are posted, while the work area containment required by paragraph F.(2)(a)(2) of Rule 9.5 is being established, and while the work area cleaning required by paragraph F.(2)(a)(5) of Rule 9.5 is performed;

(d) Regularly direct work being performed by other individuals to ensure that the work practices are being followed, including maintaining the integrity of the containment barriers and ensuring that dust or debris does not spread beyond the work area;

(e) Be available, either on-site or by telephone, at all times that renovations are being conducted;

(f) When requested by the party contracting for renovation services, use an acceptable test kit to determine whether components to be affected by the renovation contain lead-based paint;

(g) Have with them at the work site their current Mississippi renovator certification certificate; and

(h) Prepare the records required by paragraphs F.(3)(b)(1) and (6) of Rule 9.5.

H. *Dust Sampling Technician.*

(1) To become certified as a dust sampling technician an individual must:

(a) Have a high school diploma or its equivalent;

(b) Successfully complete an accredited training program for lead-based paint dust sampling technicians; and

(c) Demonstrate to the satisfaction of the Commission that the applicant is familiar with and capable of complying with all applicable federal and state laws and regulations.

(d) Individuals who have successfully completed an accredited lead-based paint inspector or risk assessor course before October 4, 2011, may take an accredited refresher dust sampling technician course in lieu of the initial training to become a certified dust sampling technician. Individuals who are currently certified as lead-based paint inspectors or risk assessors may act as certified dust sampling technicians without further training.

(2) Dust sampling technician responsibilities. When performing optional dust clearance sampling under paragraph F.(2)(c) of Rule 9.5, a certified dust sampling technician must:

(a) Collect dust samples in accordance with paragraph E.(8) of Rule 9.5,

(b) Send the collected samples to a laboratory recognized by EPA under TSCA Section 405(b), and

(c) Compare the results to the clearance levels in accordance with paragraph A.(4) of Rule 9.5.

(d) Have with them at the work site a copy of their current Mississippi dust sampling technician certification certificate.

I. *Documents.*

(1) The following documents shall be recognized by the Commission as evidence of meeting the requirements listed in paragraphs B. thru F. of this Rule.

(a) Official academic transcripts or diploma, as evidence of meeting the education requirements.

(b) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.

J. *Certification Based on Prior Training.*

(1) Any individual who received risk assessor, inspector, project designer, supervisor, or worker lead based paint activity training between October 1, 1990, and August 31, 1998, shall be eligible for certification by the Commission under the alternative procedures contained in this paragraph. Individuals who have received lead-based paint activities training at an EPA-authorized State or Tribal accredited training program shall also be eligible for certification by the Commission under the following alternative procedures.

(a) Applicants for certification as an inspector, risk assessor, or supervisor shall:

(1) Show proof that the applicant has successfully completed training for the appropriate discipline.

(2) Show proof that the applicant meets or exceeds the education and/or experience requirements in paragraphs B. thru D. of this rule for the appropriate discipline.

(3) Successfully complete an accredited refresher training course for the appropriate discipline.

(4) Pass a certification exam administered by the Commission for the appropriate discipline.

(b) Applicants for certification as an abatement worker or project designer shall:

(1) Show proof that the applicant has successfully completed training for the appropriate discipline,

(2) Show proof that the applicant meets the education and/or experience requirements in paragraph E. or F. of this rule as applicable; and

(3) Successfully complete an accredited refresher training course for the appropriate discipline.

(2) Individuals shall have until February 1, 1999, to apply to the Commission for certification under the above procedures. After that date, all individuals wishing to obtain certification must do so through the procedures described in paragraphs A. thru H. of this rule, according to the discipline for which certification is sought.

K. *Re-Certification.*

(1) To maintain certification in the project designer, inspector, risk assessor, renovator, dust sampling technician, supervisor and abatement worker disciplines, the certified individual shall apply to and be re-certified by the Commission in that discipline every three (3) years.

(2) An individual shall be re-certified if the individual successfully completes the appropriate accredited refresher training course and submits the appropriate refresher course completion certificate, the appropriate application and fee.

L. *Certification of Firms.*

(1) Beginning on the date of adoption, all firms which perform or offer to perform any of the lead-based paint activities described in Rule 9.5 must be certified by the Commission.

(2) A firm seeking certification shall submit to the Commission: a completed application provided by the Department; a letter attesting that the firm shall only employ appropriately certified employees to conduct lead-based paint activities, and that the firm and its employees shall follow the work practice standards in Rule 9.5 for conducting lead-based paint activities; and the required fee.

(3) After receiving the firm's application, letter requesting certification, and the required certification fee, the Commission shall have 90 days to approve or disapprove the firm's request for certification. Within that time, the Commission

shall respond with either a certificate of approval or a letter describing the reasons for disapproval.

(4) The firm shall maintain all records pursuant to the requirements in Rule 9.5.

(5) To maintain their certification, firms must renew their certification license annually by submitting the required application and renewal fee.

(6) A firm must amend its certification within 90 days of the date a change occurs to the information included in the firm's most recent certification application. To amend a certification, a firm must submit a completed "Application for Firms" signed by an authorized agent of the firm, noting on the form that it is submitted as an amendment and indicating the information that has changed. The firm must also pay the correct amount of fees.

(7) Firm responsibilities. Firms performing renovations must ensure that:

(a) All individuals performing renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with paragraph G.(2) of this rule.

(b) A certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in paragraph G.(2) of this rule.

(c) All renovations performed by the firm are performed in accordance with the work practice standards in paragraph F.(2) of Rule 9.5.

(d) The pre-renovation education requirements of paragraph F.(4) of Rule 9.5 have been performed. Requires distribution of pamphlet Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools.

(e) The recordkeeping requirements of paragraph F.(3) of Rule 9.5 are met.

M. *Suspension, Revocation, and Modification of Certifications of Individuals Engaged in Lead-Based Paint Activities.*

(1) The Commission may, after notice and opportunity for hearing, suspend or revoke or modify an individual's certification if an individual has:

(a) Obtained training documentation through fraudulent means.

(b) Gained admission to and completed an accredited training program through misrepresentation of admission requirements.

(c) Obtained certification through misrepresentation of certification requirements or related documents dealing with education, training, professional registration, or experience.

(d) Performed work requiring certification at a job site without having proof of certification.

(e) Permitted the duplication or use of the individual's own certificate by another.

(f) Performed work for which certification is required, but for which appropriate certification has not been received.

(g) Failed to comply with the appropriate work practice standards for lead-based paint activities at Rule 9.5.

(h) Failed to comply with Federal, State, or local lead-based paint statutes or regulations.

N. *Suspension, Revocation, and Modification of Certifications of Firms Engaged in Lead-Based Paint Activities.*

(1) The Commission may, after notice and opportunity for hearing, suspend, revoke, or modify a firm's certification if a firm has:

(a) Performed work requiring certification at a job site with individuals who are not certified.

(b) Failed to comply with the work practice standards established in Rule 9.5.

(c) Misrepresented facts in its letter of application for certification to the Commission.

(d) Failed to maintain required records.

(e) Failed to comply with Federal, State, or local lead-based paint statutes or regulations.

O. *Procedures for Suspension, Revocation, or Modification of the Certification of Individuals or Firms.*

(1) If the Commission decides to suspend, revoke, or modify the certification of any individual or firm, it shall notify the affected entity in writing of the following:

(a) The legal and factual basis for the suspension, revocation, or modification.

(b) The commencement date and duration of the suspension, revocation, or modification.

(c) Actions, if any, which the individual or affected entity may take to avoid suspension, revocation, or modification or to receive certification in the future.

(d) The opportunity and method for requesting a hearing prior to final Commission action to suspend, revoke, or modify certification.

(e) Any additional information, as appropriate, which Commission may provide.

(2) If a hearing is requested by the certified individual or firm, all proceedings and hearings before the Commission shall be conducted in accordance with Sections 49-17-31 through 49-17-41, Mississippi Code of 1972.

P. *Type and Duration of Certificates*

(1) Certification of Individuals (Inspectors, Risk Assessors, Project Designers, Supervisors, Renovators, Dust Sampling Technicians and Abatement Workers).

Unless the Commission revokes or suspends a certificate, an initial certificate shall remain in effect during the period of time training is effective, but not to exceed one (1) year after the date of issuance. To maintain certification in a particular discipline an individual must comply with the following requirements:

(a) Each certificate must be renewed annually during the period of required training.

(b) Refresher training must be successfully completed in each discipline every three (3) years following successful completion of the initial training course.

(2) Certification of Firms

Unless the Commission revokes or suspends a certificate, the initial certificate shall remain in effect for a period of one (1) year. To maintain certification, the certification license must be renewed annually.

Q. *Reciprocity*

Any person who has been issued a certificate in another state or a tribe which has certification, educational, and experience requirements equal to or greater than those of this State, and which grants equal certification privileges to persons certified in this State,

may be issued a certificate in this State upon terms and conditions determined by the Department.

Source: Miss. Code Ann. *§§ 49-17-501, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 9.5 Work Practice Standards for Conducting Lead-Based Paint Activities.

A. *Effective Date, Applicability, and Terms.*

(1) Beginning on the date of adoption all lead-based paint abatement and renovation activities shall be performed pursuant to the work practice standards contained in this rule.

(2) When performing any lead-based paint activity described by the certified individual as an inspection, lead-hazard screen, risk assessment, renovation, or abatement, a certified individual must perform that activity in compliance with the appropriate requirements below.

(3) Documented methodologies that are appropriate for this rule are found in the following: The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing; the EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, Lead-Contaminated Soil; the EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 7474-R-95-001); 40 CFR Part 745, Lead; Requirements for Lead-Based Paint activities in Target Housing and Child-occupied Facilities: Final Rule (Federal Register, Volume 61, Number 169, Thursday, August 29, 1996); EPA Lead; Renovation, Repair, and Painting Program: Final Rule (Federal Register, Volume 73, Number 78, April 22, 2008); and other equivalent methods and guidelines.

(4) Clearance levels appropriate for the purposes of this rule may be found in the EPA January 2001 rules (40 CFR 745; Identification of Dangerous Levels of Lead, Final Rule) at 745.227(e)(8)(viii).

B. *Inspection.*

(1) An inspection shall be conducted only by a person certified by the Commission as an inspector or risk assessor and, if conducted, must be conducted according to the procedures in this paragraph.

(2) When conducting an inspection, the following locations shall be selected according to documented methodologies and tested for the presence of lead-based paint:

(a) In a residential dwelling and child-occupied facility, each component with a distinct painting history and each exterior component with a distinct

painting history shall be tested for lead-based paint, except those components that the inspector or risk assessor determines to have been replaced after 1978, or to not contain lead-based paint; and

(b) In a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area, except those components that the inspector or risk assessor determines to have been replaced after 1978, or to not contain lead-based paint.

(3) Paint shall be sampled in the following manner:

(a) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies which incorporate adequate quality control procedures; and/or

(b) All collected paint chip samples shall be analyzed according to paragraph G. of this rule to determine if they contain detectable levels of lead that can be quantified numerically.

(4) The certified inspector or risk assessor shall prepare an inspection report which shall include the following information:

(a) Date of each inspection.

(b) Address of building.

(c) Date of construction.

(d) Apartment numbers (if applicable).

(e) Name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility.

(f) Name, signature, and certification number of each certified inspector and/or risk assessor conducting testing.

(g) Name, address, and telephone number of the certified firm employing each inspector and/or risk assessor, if applicable.

(h) Each testing method and device and/or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of an x-ray fluorescence (XRF) device.

(i) Specific locations of each painted component tested for the presence of lead-based paint.

(j) The results of the inspection expressed in terms appropriate to the sampling method used.

C. *Lead Hazard Screen.*

(1) A lead hazard screen shall be conducted only by a person certified by the Commission as a risk assessor.

(2) If conducted, a lead hazard screen shall be conducted as follows:

(a) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age 6 years and under shall be collected.

(b) A visual inspection of the residential dwelling or child-occupied facility shall be conducted to:

(1) Determine if any deteriorated paint is present, and

(2) Locate at least two dust sampling locations.

(c) If deteriorated paint is present, each surface with deteriorated paint, which is determined, using documented methodologies, to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead.

(d) In residential dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways, or stairwells where one or more children, age 6 or under, are most likely to come in contact with dust.

(e) In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples required in paragraph C.(2)(d) of this Rule, the risk assessor shall also collect composite dust samples from common areas where one or more children, age 6 and under, are most likely to come into contact with dust.

(3) Dust samples shall be collected and analyzed in the following manner:

(a) All dust samples shall be taken using documented methodologies that incorporate adequate quality control procedures.

(b) All collected dust samples shall be analyzed according to paragraph G. of this rule to determine if they contain detectable levels of lead that can be quantified numerically.

(4) Paint shall be sampled in the following manner:

(a) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies which incorporate adequate quality control procedures; and/or

(b) All collected paint chip samples shall be analyzed according to paragraph G. of this Rule to determine if they contain detectable levels of lead that can be quantified numerically.

(5) The risk assessor shall prepare a lead hazard screen report, which shall include the following information:

(a) The information required in a risk assessment report as specified in paragraph D. of this rule, including paragraphs D.(11)(a) through D.(11)(n), and excluding paragraphs D.(11)(o) through D.(11)(r) of this rule. Additionally, any background information collected pursuant to paragraph C.(2)(a) of this rule shall be included in the risk assessment report; and

(b) Recommendations, if warranted, for a follow-up risk assessment, and as appropriate, any further actions.

D. *Risk Assessment.*

(1) A risk assessment shall be conducted only by a person certified by the Commission as a risk assessor and, if conducted, must be conducted according to the procedures in this paragraph.

(2) A visual inspection for risk assessment of the residential dwelling or child-occupied facility shall be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and other potential lead-based paint hazards.

(3) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age 6 years and under shall be collected.

(4) Each surface with deteriorated paint, which is determined, using documented methodologies, to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead. Each other surface determined, using documented methodologies, to be a potential lead-based paint hazard and having a distinct painting history, shall also be tested for the presence of lead.

(5) In residential dwellings, dust samples (either composite or single-surface samples) from the window and floor shall be collected in all living areas where one or more children, age 6 and under, are most likely to come into contact with dust.

(6) For multi-family dwelling and child-occupied facilities, the samples required in paragraph D.(4) of this rule shall be taken. In addition, window and floor dust samples (either composite or single-surface samples) shall be collected in the following locations:

(a) Common areas adjacent to the sampled residential dwelling or child-occupied facility; and

(b) Other common areas in the building where the risk assessor determines that one or more children, age 6 or under, are likely to come into contact with dust.

(7) For child-occupied facilities, window and floor dust samples (either composite or single-surface samples) shall be collected in each room, hallway, or stairwell utilized by one or more children, age 6 and under, and in other common areas in the child-occupied facility where the risk assessor determines one or more children, age 6 or under, are likely to come into contact with dust.

(8) Soil samples shall be collected and analyzed for lead concentrations in the following locations:

(a) Exterior play areas where bare soil is present; and

(b) Drip line/foundation areas where bare soil is present; and

(c) The rest of the yard (i.e., non-play areas) where bare soil is present.

(9) Any paint, dust, or soil sampling or testing shall be conducted using documented methodologies that incorporate adequate quality control procedures.

(10) Any collected paint chip, dust, or soil samples shall be analyzed according to paragraph G. of this Rule to determine if they contain detectable levels of lead that can be quantified numerically.

(11) The certified risk assessor shall prepare a risk assessment report which shall include the following information:

(a) Date of assessment.

(b) Address of each building.

(c) Date of construction of buildings.

(d) Apartment number (if applicable).

(e) Name, address, and telephone number of each owner of each building.

(f) Name, signature, and certification of the certified risk assessor conducting the assessment.

(g) Name, address and telephone number of the certified firm employing each certified risk assessor if applicable.

(h) Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples.

(i) Results of the visual inspection.

(j) Testing method and sampling procedure for paint analysis employed.

(k) Specific locations of each painted component tested for the presence of lead.

(l) All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device.

(m) All results of laboratory analysis on collected paint, soil, and dust samples.

(n) Any other sampling results.

(o) Any background information collected pursuant to paragraph D.(3) of this Rule.

(p) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint-related hazards.

(q) A description of the location, type, severity of identified lead-based paint hazards and any other potential lead hazards.

(r) A description of interim controls and/or abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

E. *Abatement.*

(1) An abatement shall be conducted only by an individual certified by the Commission, and if conducted, shall be conducted according to the procedures in this paragraph.

(2) A certified supervisor is required for each abatement project and shall be onsite during all work site preparation and during the post-abatement cleanup and clearance of work areas. At all other times when abatement activities are being conducted, the certified supervisor shall be onsite or available by telephone, pager or answering service, and able to be present at the work site in no more than 2 hours.

(3) The certified supervisor and the certified firm employing that supervisor shall: (1) ensure that all abatement activities are conducted according to the requirements of this rule and all other Federal, State, and local requirements, and (2) maintain all certificates for all firms, supervisors and workers who are employed in connection with the abatement project at the abatement project site. All such certificates shall be made available to Department personnel during abatement project inspections.

(4) Notification of the commencement of lead-based paint abatement activities in a residential dwelling or child-occupied facility or as a result of a Federal, State, or local order shall be given to the Department prior to the commencement of abatement activities as required in paragraph J. of this rule.

(5) A written occupant protection plan shall be developed for all abatement projects and shall be prepared according to the following procedures:

(a) The occupant protection plan shall be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.

(b) A certified supervisor or project designer shall prepare the occupant protection plan.

(6) The work practices listed below shall be restricted during an abatement as follows:

(a) Open-flame burning or torching of lead-based paint is prohibited;

(b) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with High Efficiency Particulate Air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;

(c) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than 2 square feet in any one room, hallway or stairwell or totaling no more than 20 square feet on exterior surfaces; and

(d) Operating a heat gun on lead-based paint is permitted only at temperatures below 1100 degrees Fahrenheit.

(7) If conducted, soil abatement shall be conducted in one of the following ways:

(a) If soil is removed, the lead-contaminated soil shall be replaced with soil that is not lead-contaminated; or

(b) If soil is not removed, the lead-contaminated soil shall be permanently covered, as defined in these regulations.

(8) The following post-abatement clearance procedures shall be performed only by a certified inspector or risk assessor:

(a) Following an abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures.

(b) Following the visual inspection and any post-abatement cleanup required by paragraph E.(8)(a) of this Rule, clearance sampling for lead-contaminated dust shall be conducted by employing single-surface sampling or composite sampling techniques.

(c) Dust samples for clearance purposes shall be taken using documented methodologies that incorporate adequate quality control procedures.

(d) Dust samples for clearance purposes shall be taken a minimum of 1 hour after completion of final post-abatement cleanup activities.

(e) The following post-abatement clearance activities shall be conducted as appropriate based upon the extent or manner of abatement activities conducted in or to the residential dwelling or child-occupied facility:

(1) After conducting an abatement with containment between abated and unabated areas, one dust sample shall be taken from one window (if available) and one dust sample shall be taken from the floor of no less than four rooms, hallways or stairwells within the containment area. In addition, one dust sample shall be taken from

the floor outside the containment area. If there are less than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells shall be sampled.

(2) After conducting an abatement with no containment, two dust samples shall be taken from no less than four rooms, hallways or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one window (if available) and one dust sample shall be taken from the floor of each room, hallway or stairwell selected. If there are less than four rooms, hallways or stairwells within the residential dwelling or child-occupied facility then all rooms, hallways or stairwells shall be sampled.

(3) Following an exterior paint abatement, a visual inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be cleaned of visible dust and debris. In addition, a visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated. If paint chips are present, they must be removed from the site and properly disposed of, according to all applicable Federal, State and local requirements.

(f) The rooms, hallways or stairwells selected for sampling shall be selected according to documented methodologies.

(g) The certified inspector or risk assessor shall compare the residual lead level (as determined by the laboratory analysis) from each dust sample with applicable clearance levels for lead in dust on floors and windows. If the residual lead levels in a dust sample exceed the clearance levels, all the components represented by the failed sample shall be recleaned and retested until clearance levels are met.

(9) In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:

(a) The certified individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.

(b) A sufficient number of residential dwellings are selected for dust sampling to provide a 95 percent level of confidence that no more than 5 percent or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels.

(c) The randomly selected residential dwellings shall be sampled and evaluated for clearance according to the procedures found in paragraph E.(8) of this Rule.

(10) An abatement report shall be prepared by a certified supervisor or project designer. The abatement report shall include the following information:

(a) Start and completion dates of abatement.

(b) The name and address of each certified firm conducting the abatement and the name of each supervisor assigned to the abatement project.

(c) The occupant protection plan prepared pursuant to paragraph E.(5) of this Rule.

(d) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing.

(e) The results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses.

(f) A detailed written description of the abatement, including abatement methods used, locations of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.

F. *Renovation*

(1) Applicability

(a) This rule applies to all renovations performed for compensation in target housing and child-occupied facilities, except for the following:

(1) Renovations in target housing or child-occupied facilities in which a written determination has been made by a certified inspector or risk assessor that the components affected by the renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams/per square centimeter (mg/cm^2) or 0.5% by weight, where the firm performing the renovation has obtained a copy of the determination.

(2) Renovations in target housing or child-occupied facilities in which a certified renovator, using an EPA recognized test kit and following the kit manufacturer's instructions, has tested each component affected by the renovation or has collected a paint chip

sample from each painted component affected by the renovation and a laboratory recognized by EPA pursuant to Section 405(b) of TSCA as being capable of performing analyses for lead compounds in paint chip samples has determined that the components are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 mg/cm^2 or 0.5% by weight. If the components make up an integrated whole, such as the individual stair treads and risers of a single staircase, the renovator is required to test only one of the individual components, unless the individual components appear to have been repainted or refinished separately.

(3) Persons who perform lead-based paint activities within residential dwellings that they own and occupy are exempt from the regulations unless the residential dwelling is occupied by a person or persons other than the owner or owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level as determined by the United States Department of Health and Human Services; Centers for Disease Control and Prevention.

(b) The information distribution requirements in paragraph F.(4) of this rule do not apply to emergency renovations, which are renovation activities that were not planned but result from a sudden, unexpected event (such as non-routine failures of equipment) that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage. Interim controls performed in response to an elevated blood lead level in a resident child are also emergency renovations. Emergency renovations other than interim controls are also exempt from the warning sign, containment, waste handling, training, and certification requirements in paragraph F.(2) of this rule, L. of Rule 9.4, and G. of Rule 9.4 to the extent necessary to respond to the emergency. Emergency renovations are not exempt from the cleaning requirements of paragraph F.(2)(a)(5) of this Rule, which must be performed by certified renovators or individuals trained in accordance with paragraph G.(2) of Rule 9.4, the cleaning verification requirements of paragraph F.(2)(b) of this rule, which must be performed by certified renovators, and recordkeeping requirements of paragraph F.(3)(b)(6) of this rule.

(2) Work practice standards listed below shall be followed.

(a) Standards for renovation activities. Renovations must be performed by certified firms using certified renovators as required in paragraph L.(7)(a) of Rule 9.4 The responsibilities of certified firms are set forth in paragraph L.(7) of Rule 9.4 The responsibilities of certified renovators are set forth in paragraph G.(2) of Rule 9.4.

(1) Occupant protection. Firms must post signs clearly defining the work area warning occupants and other persons not involved in renovation activities to remain outside of the work areas. To the extent practicable, these signs must be in the primary language of the occupants. These signs must be posted before beginning the renovation and must remain in place and readable until the renovation and the post-renovation cleaning verification has been completed. If warning signs have been posted in accordance with 24 CFR 35.1345(b)(2) or 29 CFR 1926.62(m), additional signs are not required by this rule.

(2) Containing the work area. Before beginning the renovation, the firm must isolate the work area so that no dust or debris leaves the work area while the renovation is being performed. In addition, the firm must maintain the integrity of the containment by ensuring that any plastic or other impermeable materials are not torn or displaced, and taking any other steps necessary to ensure that no dust or debris leaves the work area while the renovation is being performed. The firm must also ensure that containment is installed in such a manner that it does not interfere with occupant and worker egress in an emergency.

(i) Interior renovations. The firm must:

(A) Remove all objects from the work area, including furniture, rugs, and window coverings, or cover them with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.

(B) Close and cover all ducts opening in the work area with taped down plastic sheeting or other impermeable material.

(C) Close windows and doors in the work area. Doors must be covered with plastic sheeting or other impermeable material. Doors used as an entrance to the work area must be covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

(D) Cover the floor surface, including installed carpet, with taped down plastic sheeting or other impermeable material in the work area 6 feet beyond the perimeter of surfaces undergoing

renovation or a sufficient distance to contain the dust, whichever is greater. Floor containment measures may stop at the edge of the vertical barrier when using a vertical containment system consisting of impermeable barriers that extend from the floor to the ceiling and are tightly sealed at joints with the floor, ceiling and walls.

(E) Use precautions to ensure that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving the work area.

(ii) Exterior renovations. The firm must:

(A) Close all doors and windows within 20 feet of the renovation. On multi-story buildings, close all doors and windows within 20 feet of the renovation on the same floor as the renovation, and close all doors and windows on all floors below that are the same horizontal distance from the renovation.

(B) Ensure that doors within the work area that will be used while the job is being performed are covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

(C) Cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering. Ground containment measures may stop at the edge of the vertical barrier when using a vertical containment system.

(D) If the renovation will affect surfaces within 10 feet of the property line, the renovation firm must erect vertical containment or equivalent extra precautions in containing the work area to ensure that dust and debris from the renovation does not contaminate adjacent buildings or migrate to adjacent properties. Vertical containment or equivalent extra

precautions in containing work area may also be necessary in other situations in order to prevent contamination of other buildings, other areas of the property, or adjacent buildings or properties.

(3) Prohibited and restricted practices. The work practices listed below are prohibited or restricted during a renovation as follows:

(i) Open-flame burning or torching of painted surfaces is prohibited;

(ii) The use of machines designed to remove paint or other surface coatings through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sandblasting, is prohibited on painted surfaces unless such machines have shrouds or containment systems and are equipped with a HEPA vacuum attachment to collect dust and debris at the point of generation. Machines must be operated so that no visible dust or release of air occurs outside the shroud or containment system.

(iii) Operating a heat gun on painted surfaces is permitted only at temperatures below 1100 degrees Fahrenheit.

(4) Waste from renovations

(i) Waste from renovation activities must be contained to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal. If a chute is used to remove waste from the work area, it must be covered.

(ii) At the conclusion of each work day and at the conclusion of the renovation, waste that has been collected from renovation activities must be stored under containment, in an enclosure or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris.

(iii) When the firm transports waste from renovation activities, the firm must contain the waste to prevent release of dust and debris.

(5) Cleaning the work area. After the renovation has been completed, the firm must clean the work area until no dust, debris or residue remains.

(i) Interior and exterior renovations. The firm must:

(A) Collect all paint chips and debris and, without dispersing any of it, seal this material in a heavy-duty bag.

(B) Remove the protective sheeting. Mist the sheeting before folding it, fold the dirty side inward, and either tape shut to seal or seal in heavy-duty bags. Sheeting used to isolate contaminated rooms from non-contaminated rooms must remain in place until after the cleaning and removal of other sheeting. Dispose of the sheeting as waste.

(ii) Additional cleaning for interior renovation. The firm must clean all objects and surfaces in the work area and within 2 feet of the work area in the following manner, cleaning from higher to lower:

(A) Walls. Clean walls starting at the ceiling and working down to the floor by either vacuuming with a HEPA vacuum or wiping with a damp cloth.

(B) Remaining surfaces. Thoroughly vacuum all remaining surfaces and objects in the work area, including furniture and fixtures, with a HEPA vacuum. The HEPA vacuum must be equipped with a beater bar when vacuuming carpets and rugs.

(C) Wipe all remaining surfaces and objects in the work area, except for carpeted or upholstered surfaces, with a damp cloth. Mop uncarpeted floors thoroughly, using a mopping method that keeps the wash water separate from the rinse water, such as the 2-bucket mopping method, or using a wet mopping system.

(b) Standards for post-renovation cleaning verification.

(1) Interiors.

(i) A certified renovator must perform a visual inspection to determine whether dust, debris or residue is still present. If dust, debris or residue is present, these conditions must be

removed by re-cleaning and another visual inspection must be performed.

(ii) After a successful visual inspection, a certified renovator must:

(A) Verify that each windowsill in the working area has been adequately cleaned, using the following procedure:

(a) Wipe the windowsill with a wet disposable cleaning cloth that is damp to the touch. If the cloth matches or is lighter than the cleaning verification card, the windowsill has been adequately cleaned.

(b) If the cloth does not match and is darker than the cleaning verification card, re-clean the windowsill as directed in paragraphs F.(2)(a)(5)(ii)(B) and (a)(5)(ii)(C) of this Rule, then either use a new cloth or fold the used cloth in such a way that an unused surface is exposed, and wipe the surface again. If the cloth matches or is lighter than the cleaning verification card, that windowsill has been adequately cleaned.

(c) If the cloth does not match and is darker than the cleaning verification card, wait for 1 hour or until the surface has dried completely, whichever is longer.

(d) After waiting for the windowsill to dry, wipe the windowsill with a dry disposable cleaning cloth. After this wipe, the windowsill has been adequately cleaned.

(B) Wipe uncarpeted floors and countertops within the work area with a wet disposable cleaning cloth. Floors must be wiped using an application device with a long handle and a head to which the cloth is attached. The cloth must remain damp at all times while it is being used to wipe the surface for post-renovation cleaning verification. If the surface within the work area is greater than 40 square feet, the surface within the work area must be divided

into roughly equal sections that are each less than 40 square feet. Wipe each such section separately with a new wet disposable cleaning cloth. If the cloth used to wipe each section of the surface within the work area matches the cleaning verification card, the surface has been adequately cleaned.

(a) If the cloth used to wipe a particular section does not match the cleaning verification card, re-clean that section of the surface as directed in paragraphs F.(2)(a)(5)(ii)(B) and (a)(5)(ii)(C) of this rule, then use a new wet disposal cleaning cloth to wipe that section again. If the cloth matches the cleaning verification card, that section of the surface has been adequately cleaned.

(b) If the cloth used to wipe a particular surface section does not match the cleaning verification card after the surface has been re-cleaned, wait for one hour or until the entire surface within the work area has dried completely, whichever is longer.

(c) After waiting for the entire surface within the work area to dry, wipe each section of the surface that has not yet achieved post-renovation cleaning verification with a dry disposable cleaning cloth. After this wipe, that section of the surface has been adequately cleaned.

(iii) When the work area passes the post-renovation cleaning verification, remove the warning signs.

(2) Exteriors. A certified renovator must perform a visual inspection to determine whether dust, debris or residue is still present on surfaces in and below the work area, including windowsills and the ground. If dust, debris or residue is present, these conditions must be eliminated and another visual inspection must be performed. When the area passes the visual inspection, remove the warning signs.

(c) Optional dust clearance testing. Cleaning verification need not be performed if the contract between the renovation firm and the person contracting for the renovation requires:

(1) The renovation firm to perform dust clearance sampling at the conclusion of a renovation covered by this subpart.

(2) The dust clearance samples are required to be collected by a certified inspector, risk assessor or dust sampling technician.

(3) The renovation firm is required to re-clean the work area until the dust clearance sample results are below the clearance standards in paragraph A.4. of this rule.

(d) Activities conducted after post-renovation cleaning verification. Activities that do not disturb paint, such as applying paint to walls that have already been prepared, are not regulated by this subpart if they are conducted after post-renovation cleaning verification has been performed.

(3) Recordkeeping and reporting requirements.

(a) Firms performing renovations must retain and, if requested, make available to the Commission all records necessary to demonstrate compliance with this subpart for a period of 3 years following completion of the renovation.

(b) Records that must be retained pursuant to paragraph F.(3)(a) of this rule shall include (where applicable):

(1) Records or reports certifying that a determination had been made that lead-based paint was not present on the components affected by the renovation as described in paragraph F.(1)(a)(1) of this rule. These records or reports include:

(i) Reports prepared by a certified inspector or certified risk assessor.

(ii) Records prepared by a certified renovator after using EPA-recognized test kits, including an identification of the manufacturer and model of any test kits used, a description of the components that were tested including their locations, and the results of each test kit used.

(iii) Records prepared by a certified renovator after collecting paint chip samples, including a description of the components that were tested including their locations, the name and address of the NLLAP-recognized entity performing the analysis, and the results for each sample.

(2) Signed and dated acknowledgments of receipt as described in paragraphs F.(4)(a)(1)(i), (a)(2)(i), (b)(1)(i), (c)(1)(i)(A) and (c)(1)(ii)(A) of this rule.

(3) Certificates of attempted delivery as described in paragraphs F.(4)(a)(2)(i) and (c)(1)(ii)(A) of this rule.

(4) Certificates of mailing as described in paragraphs F.(4)(a)(1)(ii), (a)(2)(ii), (b)(1)(ii), (c)(1)(i)(B) and (c)(I)(ii)(B) of this rule.

(5) Records of notification activities performed regarding common area renovations, as described in paragraphs F.(4)(b)(3) and (4) of this rule, and renovations in child-occupied facilities, as described in paragraph F.(4)(c)(2) of this rule.

(6) Documentation of compliance with the requirements of paragraph F.(2) of this rule, including documentation that a certified renovator was assigned to the project, that the certified renovator provided on-the-job training for workers used on the project, that the certified renovator performed or directed workers who performed all of the tasks described in paragraph F.(2)(a). of this rule, and that the certified renovator performed the post-renovation cleaning verification described in paragraph F.(2)(b). of this rule. If the renovation firm was unable to comply with all of the requirements of this rule due to an emergency as defined in paragraph F.(1)(c) of this rule, the firm must document the nature of the emergency and the provisions of the rule that were not followed. This documentation must include a copy of the certified renovator's training certificate, a copy of the renovator's Mississippi renovator certification certificate, and a certification by the certified renovator assigned to the project that:

(i) Training was provided to workers (topics must be identified for each worker).

(ii) Warning signs were posted at the entrances to the work area.

(iii) If test kits were used, that the specified brand of kits was used at the specified locations and that the results were as specified.

(iv) If paint chip samples were collected, that the samples were collected at the specified locations, that the specified NLLAP-recognized laboratory analyzed the samples, and that the results were as specified.

(v) The work area was contained by:

(A) Removing or covering all objects in the work area (interiors).

(B) Closing and covering all HVAC ducts in the work area (interiors).

(C) Closing all windows in the work area (interiors) or closing all windows in and within 20 feet of the work area (exteriors).

(D) Closing and sealing all doors in the work area (interiors) or closing and sealing all doors in and within 20 feet of the work area (exteriors).

(E) Covering doors in the work area that were being used to allow passage but prevent spread of dust.

(F) Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area 6 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater (interiors) or covering the ground with plastic sheeting or other disposable impermeable material anchored to the building extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering, weighted down by heavy objects (exteriors).

(G) Installing (if necessary) vertical containment to prevent migration of dust and debris to adjacent property (exteriors).

(vi) Waste was contained on-site and while being transported off site.

(vii) The work area was properly cleaned after the renovation by:

(A) Picking up all chips and debris, misting protective sheeting, folding it dirty side inward, and taping it for removal.

(B) Cleaning the work area surfaces and objects using a HEPA vacuum and/or wet cloths or mops (interiors).

(viii) The certified renovator performed the post-renovation cleaning verification (the results of which must be briefly described, including the number of wet and dry cloths used).

(c) When the final invoice for the renovation is delivered or within 30 days of the completion of the renovation, whichever is earlier, the renovation firm must provide information pertaining to compliance with this rule as follows:

(1) In a regulated structure:

(i) The owner of the building; and, if different,

(ii) An adult occupant of the residential dwelling, if the renovation took place within a residential dwelling, or an adult representative of the child-occupied facility, if the renovation took place within a child-occupied facility.

(2) When performing renovations in common areas of multi-unit target housing, renovation firms must post the information required by this rule or instructions on how interested occupants can obtain a copy of this information. This information must be posted in areas where it is likely to be seen by the occupants of all of the affected units.

(3) The information required to be provided by paragraph F.(3)(c) of this rule may be provided by completing the sample form titled "Sample Renovation Recordkeeping Checklist" or a similar form containing the test kit information and the training and work practice compliance information required by paragraph F.(3)(b)(6) of this rule.

(d) If dust clearance sampling is performed in lieu of cleaning verification as permitted by paragraph F.(2)(c) of this rule, the renovation firm must provide, when the final invoice for the renovation is delivered or within 30 days of the completion of the renovation, whichever is earlier, a copy of the dust sampling report to:

(1) The owner of the building; and, if different,

(2) An adult occupant of the residential dwelling, if the renovation took place within a residential dwelling, or an adult representative of the child-occupied facility, if the renovation took place in a child-occupied facility.

(3) When performing renovations in common areas of multi-unit target housing, renovation firms must post these dust sampling reports or information on how interested occupants of the housing being renovated can obtain a copy of the report. This information must be posted by the occupants of all of the affected units.

(4) Information distribution requirements.

(a) Renovations in dwelling units. No more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the firm performing the renovation must:

(1) Provide the owner of the unit with the pamphlet Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools, and comply with one of the following:

(i) Obtain, from the owner, a written acknowledgement that the owner has received the pamphlet.

(ii) Obtain a certificate of mailing at least 7 days prior to the renovation.

(2) In addition to the requirements in paragraph F.(4)(a)(1) of this rule, if the owner does not occupy the dwelling unit, provide an adult occupant of the unit with the pamphlet, and comply with one of the following:

(i) Obtain, from the adult occupant, a written acknowledgement that the occupant received the pamphlet; or certify in writing that a pamphlet has been delivered to the dwelling and that the renovator has been unsuccessful in obtaining a written acknowledgement from an adult occupant. Such certification must include the address of the unit undergoing renovation, the date and method of delivery of the pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgement (e.g., occupant refuses to sign, no adult occupant available), the signature of the renovator, and the date of signature.

(ii) Obtain a certificate of mailing at least 7 days prior to the renovation.

(b) Renovations in common areas. No more than 60 days before beginning renovation activities in common areas of multi-unit target housing, the firm performing the renovation must:

(1) Provide the owner with the pamphlet Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools, and comply with one of the following:

(i) Obtain, from the owner, a written acknowledgement that the owner has received the pamphlet.

(ii) Obtain a certificate of mailing at least 7 days prior to the renovation.

(2) Comply with one of the following:

(i) Notify in writing, or ensure written notification of, each affected unit and make the pamphlet available upon request prior to the start of renovation. Such notification shall be accomplished by distributing written notice to each affected unit. The notice shall describe the general nature and locations of the planned renovation activities; the expected starting and ending dates; and a statement of how the occupant can obtain the pamphlet, and a copy of the records required by paragraphs F.(3)(c) and F.(3)(d) of this rule, at no charge to the occupants, from the firm performing the renovation, or

(ii) While the renovation is ongoing, post informational signs describing the general nature and locations of the renovation and the anticipated completion date. These signs must be posted in areas where they are likely to be seen by the occupants of all the affected units. The signs must be accompanied by a posted copy of the pamphlet or information on how interested occupants can review a copy of the pamphlet or obtain a copy from the renovation firm at no cost to occupants. The signs must also include information on how interested occupants can review a copy of the records required by paragraphs F.(3)(c) and F.(3)(d) of this rule or obtain a copy from the renovation firm at no cost to the occupants.

(3) Prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended renovation activities and to provide the pamphlet.

(4) If the scope, locations, or expected starting and ending dates of the planned renovation activities change after the initial notification, and the firm provided written initial notification to each affected unit, the firm performing the renovation must provide further written notification to the owners and occupants providing revised information on the ongoing planned activities. This subsequent notification must be provided before the firm performing the renovation initiates work beyond that which was described in the original notice.

(c) Renovations in child-occupied facilities. No more than 60 days before beginning renovation activities in any child-occupied facility, the firm performing the renovation must:

(1) Provide the owner of the building with the pamphlet Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools, and comply with one of the following:

(i) Obtain, from the owner, a written acknowledgement that the owner has received the pamphlet.

(ii) Obtain a certificate of mailing at least 7 days prior to the renovation.

(2) If the operator of a child-occupied facility is not the owner of the building, provide an adult representative of the child-occupied facility with the pamphlet, and comply with one of the following:

(i) Obtain, from the adult representative, a written acknowledgment that the adult representative has received the pamphlet; or certify in writing that a pamphlet has been delivered to the facility and that the firm performing the renovation has been unsuccessful in obtaining a written acknowledgement from an adult representative. Such certification must include the address of the child-occupied facility undergoing renovation, the date and method of delivery of the pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgment (e.g., representative refuses to sign), the signature of a representative of the firm performing the renovation, and the date of signature.

(ii) Obtain a certificate of mailing at least 7 days prior to the renovation.

(3) Provide the parents and guardians of children using the child-occupied facility with the pamphlet and information describing the general nature and locations of the renovation and the anticipated completion date and information on how interested parents or guardians of children frequenting the child-occupied facility can review a copy of the records required by paragraphs F.(3)(c) and F.(3)(d) of this rule or obtain a copy from the renovation firm at no cost to the occupants by complying with one of the following:

(i) Mail or hand-deliver the pamphlet and the renovation information to each parent or guardian of a child using the child-occupied facility; or

(ii) While the renovation is ongoing, post informational signs describing the general nature and locations of the renovation and the anticipated completion date. These signs must be posted in areas where they can be seen by the parents or guardians of children frequenting the child-occupied facility can review a copy of the pamphlet or obtain a copy from the renovation firm at no cost to the parents or guardians. The signs must also include information on how interested parents or guardians of children frequenting the child-occupied facility can review a copy of the records required by paragraphs F.(3)(c) and F.(3)(d) of this rule or obtain a copy from the renovation firm at no cost to the parents or guardians.

(4) The renovation firm must prepare, sign, and date a statement describing the steps performed to notify all parents and guardians of the intended renovation activities and to provide the pamphlet.

(d) Written acknowledgment. The written acknowledgements required by paragraphs F.(4)(a)(1)(i), (a)(2)(i), (b)(1)(i), (c)(1)(i)(A), and (c)(1)(ii)(A) of this rule must:

(1) Include a statement recording the owner or occupant's name and acknowledging receipt of the pamphlet prior to the start of renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of signature.

(2) Be either a separate sheet or part of any written contract or service agreement for the renovation.

(3) Be written in the same language as the text of the contract or agreement for the renovation or, in the case of non-owner occupied target housing, in the same language as the lease or rental agreement or the pamphlet.

G. *Collection and Laboratory Analysis of Samples.* Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in this rule shall be:

(1) Collected by persons certified by the Commission as an inspector, risk assessor, or dust sampling technician; and

(2) Analyzed by a laboratory recognized by EPA pursuant to Section 405(b) of TSCA as being capable of performing analyses for lead compounds in paint chip, dust, or soil samples.

H. *Composite Dust Sampling.* Composite dust sampling may only be conducted in the situations specified in paragraphs C. through E. of this rule. If such sampling is conducted, the following conditions shall apply:

(1) Composite dust samples shall consist of at least two subsamples;

(2) Every component that is being tested shall be included in the sampling; and

(3) Composite dust samples shall not consist of subsamples from more than one type of component.

I. *Recordkeeping.* All reports or plans required in this rule shall be maintained by the certified firm or individual who prepared the report for a minimum of 3 years. The certified firm or individual also shall provide copies of these reports to the building owner who contracted for its services and the occupant of the building.

J. *Project Notifications.*

(1) General Provision. The Department shall be notified in writing on a form provided by the Department of any lead-based paint abatement or renovation activity in target housing or child-occupied facility no less than six (6) working days prior to commencement of the activity. Abatement or renovation notifications involving one or more units at the same address may be submitted on a single notification form; however, only one address per each notification form submitted to the Department. The Department notification form must be filled out completely and properly. Blanks which do not apply shall be marked “N/A”. The designation of “N/A” will not be accepted for references requiring identification of the work site, building description, building owner, abatement and renovation companies, and individuals required to be identified on the notification form. An original signature is required of the certified firm’s owner

or an authorized agent of the firm on each notification form. A copied signature is not acceptable. The notification shall be considered invalid if it does not contain an original signature.

(2) Responsibility. It is the responsibility of the certified firm's owner or an authorized agent of the firm to notify the Department under this rule.

(3) Timeliness of Notification. Written notifications of lead-based paint abatement or renovation activity must be hand delivered, express mailed, or postmarked at least six (6) working days (not calendar days) before the start of lead-based paint abatement or renovation. Notifications must be delivered by United States Postal Service, commercial delivery, or by hand delivery. Telephone facsimile (FAX) is not permitted. The start date is considered to be the date when lead-based paint abatement or renovation begins.

(4) Start-Date Change to Later Date. When lead-based paint abatement or renovation activity will begin later than the date contained in the notice, the certified firm's owner or an authorized agent of the firm shall:

(a) Notify the Department of the changed start date by telephone as soon as possible but prior to the original start date. An amended notification is required in writing immediately following the foregoing notification; and

(b) Provide the Department with a written notice of the new start date as soon as possible, but no later than the original start date. Delivery of the updated notice by the United States Postal Service, commercial delivery service, hand delivery, or electronically is acceptable.

(5) Start-Date Change to Earlier Date. When lead-based paint abatement or renovation will begin on a date earlier than the date contained in the notice, the certified firm's owner or an authorized agent of the firm shall provide the Department with a written notice of the new start date at least six working days before the start of work.

(6) Start-Date/Stop-Date (completion date) requirement. In no event shall lead-based paint abatement or renovation activity, as covered by this rule, begin or be completed on a date other than the date contained in the written notice. Amendments to start date changes are to be submitted as required in J.(4) and J.(5) of this rule. An amendment is required for any stop dates which change by more than one work day for each week (seven calendar day period) for which the project has been scheduled and notification submitted. The certified firm shall provide schedule changes to the Department no less than 24 hours prior to the change or completion of the project. Emergency notification can be confirmed with the Department telephonically and followed up in writing.

(7) Provision for Emergency. In the event lead-based paint abatement or renovation activity is required due to an unexpected or unplanned lead-based paint incident, notification shall be made as soon as practicable, but not later than the following work day after the occurrence of the incident. Initial notification can be made by telephone, followed by formal notification on the Department's notification form. Emergencies shall be documented to the extent that the need for the emergency is evident. An emergency lead-based paint abatement or renovation activity means a lead-based paint abatement or renovation activity that was not planned, but results from a sudden, unexpected event which if not immediately attended to, presents a public health or safety hazard, and is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes activities necessitated by non-routine failures of equipment. This term does not include immediate abatement or renovation work solely from a lack of adequate planning for foreseeable lead-based paint abatement activity.

(8) Lead-based Paint Abatement Notification Fees. The certified firm's owner or an authorized agent of the firm shall remit to the Department a fee that is based on each individual and separate residential dwelling or multi-family dwelling or child-occupied facility at the same address to be abated or renovated as listed in this paragraph. Current fees are listed on the Department's schedule of fees for lead-based paint activities.

K. *Lead-Based Paint Activities Requirements.*

Lead-based paint activities, as defined in these regulations, shall only be conducted according to the procedures and work practice standards contained in this rule. No individual or firm may offer to perform or perform any lead-based paint activity as defined in these regulations, unless certified to perform that activity according to the procedures in Rule 9.4.

Source: Miss. Code Ann. *§§ 49-17-501, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 9.6 Compliance Monitoring and Enforcement.

A. *Compliance Inspections and Investigations*

(1) The Department may inspect or investigate the practices of any person involved in lead-based paint activities in target housing or child-occupied facilities as defined in these rules.

(2) Advance notice of inspections or investigations by the Department is not required.

(3) Department representatives shall not be impeded or refused entry in the course of their official duties in accordance with these regulations by reason of any regulatory or contractual specification.

(4) All persons engaged in lead-based paint activities must have the Commission-issued certificate or required training records present at the worksite.

B. *Enforcement - Penalties, Reprimands, Suspensions, Revocation of Certificates, Proceedings and Hearings before the Commission and Appeals.*

Penalties, reprimands, suspensions and revocations of certificates shall be governed by Section 49-17-529, Mississippi Code Annotated. All proceedings and hearings before the Commission regarding violations of Section 49-17-501, et seq. Mississippi Code Annotated, or any rule or regulation, written order of the Commission, emergency order of the Executive Director or certificates issued or renewed by the Commission pursuant to Section 49-17-501, et seq., Mississippi Code Annotated and all appeals therefrom shall be conducted in accordance with Section 49-17-31 through 49-17-41, Mississippi Code Annotated.

C. *Severability.*

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

Source: Miss. Code Ann. *§§ 49-17-501, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Part 2, Chapter 10: Mississippi Commission on Environmental Quality Regulations for the Accreditation and Certification of Asbestos Abatement Personnel (Adopted December 20, 1989, Amended October 25, 1990, Last Amended November 20, 2003)

Rule 10.1 General. The Asbestos Abatement Accreditation and Certification Act, codified as Miss. Code Ann. §§37-138-1 through 37-138-31, requires that, beginning on the effective date of these regulations, all persons who perform inspections and reinspections, prepare management plans and perform as air monitors, contractors, project designers, supervisors and workers in abatement projects for the purpose of identifying, evaluating and abating the hazard of asbestos-containing material in public and private elementary and secondary school buildings and in all public and commercial buildings in this State must be accredited and certified as qualified to perform such asbestos abatement activities. These regulations provide requirements for the accreditation and certification of asbestos abatement inspectors, management planners, project designers, air monitors, contractors, supervisors and workers. These regulations do not require the performance of inspections, management plans, project designs, or asbestos projects but require utilization of personnel certified in accordance with the provisions of these regulations in the event these activities are performed in or on a school building, public building, or commercial building.

Source: Miss. Code Ann. *§§ 37-138-1, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 10.2 Definitions.

A. "Abatement" means removal, encapsulation, enclosure or repair of or an operations and maintenance program for asbestos-containing materials including responses to major fiber release episodes.

B. "Act" shall mean the Asbestos Abatement Accreditation and Certification Act.

C. "Air monitor" means a person who collects airborne samples for analysis of asbestos fibers during an abatement project including baseline, area and clearance samples.

D "Asbestos" means the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite.

E. "Asbestos-containing materials" (ACM) means any material or product which contains more than one percent (1%) asbestos.

F. "Asbestos project" means a project for the abatement of ACM in school buildings, public buildings or commercial buildings including the abatement of shingles, tiles, or felt containing ACM in the roof or exterior siding of such building except for exclusions adopted by the Commission in accordance with Section 37-138-9(a) and except for abatement of asbestos-containing resilient floor tile, sheet vinyl flooring and associated adhesives provided there is a two-working-day advance notification to the commission of the abatement of asbestos-containing floor tile, sheet vinyl flooring and associated adhesives, unless sanding, grinding, burning or sawing occurs or such abatement is otherwise considered a "response action" or would cause the material to become "friable" as both those terms are defined under 40 CFR Section 763.83.

G. "Building" means (1) any structure having two or more walls and a roof or ceiling and (2) any other structure that is totally enclosed.

H. "Certificate" means a document issued by the Commission or its designee authorizing an individual to perform certain specific activities related to the identification, evaluation or abatement of ACM in or on school buildings, public buildings and commercial buildings as described in these regulations.

I. "Commercial building" means any privately owned building, including any industrial building, in which the public is invited or allowed access and any other privately owned building so located that the conduct of any asbestos abatement activities therein could reasonably expose any person or persons to ACM hazards, except that a commercial building shall not include any residence.

J. "Commission" means the Mississippi Commission on Environmental Quality.

K. "Continuous" and "continuously current" mean, with respect to training as required herein, that applicable refresher course(s) have been successfully completed annually since the successful completion of the initial training course.

(1) For purposes of this definition, "annually" shall be construed to mean the one-year period from an applicable initial or refresher training completion date and the anniversary of that date or any shorter period.

(2) For purposes of this definition, "annually" shall be construed to be greater than a one-year period only if an individual demonstrates to the satisfaction of the Commission that

(a) a reasonable effort was made by the individual to complete applicable training within one year,

(b) failure to complete training was beyond the individual's control, and

(c) training was completed as soon as possible following the one-year anniversary.

L. "Contract for the performance of an asbestos project" shall mean an agreement, either oral or written, which is for the purpose of the performance, in whole or in part, of an asbestos project for a valuable consideration.

M. Contractor" means an individual who contracts for the performance of an asbestos project on his own behalf or on behalf of a business entity. The contractor, if acting on behalf of a business entity, must be a responsible official for the company, partnership, corporation, sole proprietorship, or other business entity performing, or offering to perform, an asbestos project.

N. "Duly authorized representative (DAR)" means a representative of a responsible official who, in accordance with corporate by-laws or policy, can legally bind the business entity and is to be held responsible for actions, standards, requirements, and prohibitions under state and federal asbestos control regulations. Notification of the designation of the DAR by the responsible official must be submitted to MDEQ in writing and must be signed by a responsible official prior to any action by the DAR and/or submission of any documentation by the DAR.

O. "Director" means the Executive Director of the Mississippi Department of Environmental Quality or his designee.

P. "EPA" means the United States Environmental Protection Agency.

Q. "Encapsulation" means the treatment of ACM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers as the encapsulant creates a membrane over the surface (bridging encapsulant) or

penetrates the material and binds its components together (penetrating encapsulant).

R. "Enclosure" means an airtight, impermeable, permanent barrier around ACM to prevent the release of asbestos fibers into the air and does not include a temporary barrier erected for the purpose of ACM removal.

S. "Friable" when referring to ACM in or on a school building, public building or commercial building, means that the material, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure, and includes previously nonfriable ACM after such previously nonfriable ACM becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

T. "Individual" means a natural person as distinguished from the State or other agency or institution thereof, any municipality, political subdivision, public or private corporation, partnership, association or other entity.

U. "Inspector" means a person employed to inspect or reinspect for the presence of ACM, collect samples for confirmation of ACM and provide written assessment of ACM.

V. "Major fiber release episode" means any uncontrolled or unintentional disturbance of friable asbestos containing building materials (ACBM), resulting in a visible emission, which involves the falling or dislodging of more than 3 square or linear feet of ACBM.

W. "Management Plan" means a plan for abatement of ACM.

X. "Management Planner" means a person employed to develop a management plan.

Y. "Minor fiber release episode" means any uncontrolled or unintentional disturbance of ACBM, resulting in a visible emission, which involves the falling or dislodging of 3 square or linear feet or less of friable ACBM.

Z. "Model Plan" means the Model Accreditation Plan for States promulgated under Title II of Toxic Substances Control Act (TSCA) (Section I of Appendix C to Title 40, Part 763, Subpart E of the Code of Federal Regulations) which is incorporated herein and adopted by reference except as otherwise noted.

AA. "Non-friable" means ACM in or on a school building, public building or commercial building which when dry, may not be crumbled, pulverized, or reduced to powder by hand pressure.

BB. "Operations and maintenance program" means a program of work practices to maintain ACM in good condition, ensure cleanup of asbestos fibers previously

released, and prevent further release by minimizing and controlling ACM disturbance or damage.

CC. "Person" means the State or other agency or institution thereof, any municipality, political subdivision, public or private corporation, individual, partnership, association or other entity, and includes any officer or governing or managing body of any municipality, political subdivision, or public or private corporation, or the United States or any officer or employee thereof.

DD. "Project designer" means a person who specifies engineering methods and work practices to be used during asbestos projects.

EE. "Public building" means any building owned by the State, counties, municipalities, institutions of higher learning, community colleges or any political subdivision.

FF. "Removal" means the taking out or the stripping of ACM from a school building, public building or commercial building.

GG. "Repair" means returning damaged ACM to an undamaged condition or to an intact state so as to prevent fiber release.

HH. "Residence" means a building other than a school building, public building or commercial building or portion of a commercial building, which is actually owned or leased and simultaneously occupied by one or more individuals as a fixed or permanent place of habitation, including but not limited to and primarily consisting of single family unit houses and apartment buildings having four or fewer dwelling units.

II. "Response action" means a method including removal, encapsulation, enclosure, and repair, and operation and maintenance, or some other method which disturbs asbestos containing materials and is intended to protect human health and the environment from friable asbestos-containing materials except for small scale, short duration projects. Includes response to major fiber release episodes as defined in Section I of the Model Plan.

JJ. "Responsible official" means:

(1) for a corporation, a responsible corporate officer. For the purposes of this section, a responsible corporate officer means: 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;

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

(3) for any other business entity: the owner or disclosed agent who can legally bind that business entity.

KK. "Routine maintenance activities" mean an asbestos project consisting of maintenance activities performed on a scheduled basis or during an emergency situation, where the abatement of ACM is necessary for conducting the scheduled or emergency maintenance activities. Such maintenance activities shall not have as any of its intended purposes the abatement of ACM. Routine maintenance activities can include, but are not limited to, the replacement of gasket materials, removal or replacement of pipes, the rebuilding of valves, or the removal of beams above ceilings.

LL. "School" means any elementary or secondary school as defined in Section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854).

MM. "School building" means:

(1) Any structure suitable for use as a classroom, including a school facility such as a laboratory, library, school eating facility, or facility used for the preparation of food.

(2) Any gymnasium or other facility which is specially designed for athletic or recreational activities or for an academic course in physical education.

(3) Any other facility used for the instruction or housing of students or for the administration of educational or research programs.

(4) Any maintenance, storage or utility facility, including any hallway, essential to the operation of any facility described in this definition of "school building" under paragraphs (1), (2) or (3).

(5) Any portico or covered exterior hallway or walkway.

(6) Any exterior portion of a mechanical system used to condition interior space.

NN. "Small-scale, short duration abatement activities" shall have the meaning as set forth in the Model Plan which is incorporated herein and adopted by reference.

OO. "Supervisor" means a person designated by a contractor to be responsible for direction of day-to-day activities of an asbestos project.

PP. "Worker" means a person who works on an asbestos project other than a project designer, contractor, air monitor, supervisor, inspector or management planner.

Source: Miss. Code Ann. *§§ 37-138-1, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 10.3 Prohibition. No persons may engage in any asbestos project in a school building, public building or commercial building as an inspector, management planner, project designer, air monitor, contractor, supervisor or worker on or after the effective date of these regulations, unless applicable initial or renewed certificates to so engage in an asbestos project have been issued to individuals by the Commission, and are currently in effect. Certificates may be issued only to individuals and not to other persons. No persons shall engage in the physical activities related to abatement of ACM in a school building, public building or commercial building except individuals who have been issued initial or renewed worker certificates that are currently in effect. A contractor shall not employ any worker, or any other individual of different certification category, on an asbestos project who does not possess a current and appropriate certificate issued by the Commission.

Source: Miss. Code Ann. *§§ 37-138-1, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 10.4 Type and Duration of Certificates.

A. The Commission shall have authority to issue certificates for inspectors, management planners, project designers, air monitors, contractors, supervisors and workers.

B. Unless the Commission revokes or suspends a certificate, an initial certificate shall remain in effect during the period of time training is effective but not to exceed one (1) year after the date of issuance. Each initial certificate may be renewed annually in accordance with these regulations. Each renewal certificate shall remain in effect during the period of time training is effective but not to exceed one (1) year after the date of certificate issuance.

C. Not less than thirty (30) days prior to the expiration date of the initial or renewal certificate, the applicant will make application for renewal of the certification in accordance with Rule 10.5 of these regulations if the applicant desires to continue certification in effect. If the applicant submits a timely and complete application in accordance with Rule 10.5 of these regulations and the Commission, through no fault of the applicant, fails to act on the application on or before the expiration date of the existing certificate, the existing certificate shall continue in effect until final action on the application is taken by the Commission.

D. The Commission may modify, revoke, or suspend any certificate issued to individuals accredited and certified in accordance with these regulations if the individual:

(1) Knowingly submits false or inaccurate information for issuance or renewal of a certificate under these regulations;

(2) Willfully fails to comply with the conditions of the certificate issued by the Commission;

(3) Violates any provision of these regulations, the Asbestos Abatement Accreditation and Certification Act, or any laws, rules, regulations, or written orders of the Commission;

(4) Performs work at a job site requiring accreditation/certification without being in physical possession of initial and current certificates;

(5) Permits the duplication or use of one's own accreditation or certification certificate by another;

(6) Performs work for which required accreditation has not been received; or

(7) Obtains accreditation from a training provider that does not have approval to offer training for the particular discipline from either EPA or an EPA-approved state program.

Source: Miss. Code Ann. *§§ 37-138-1, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 10.5 Applications.

A. No individual shall be considered for an initial or renewal certificate unless the qualification requirements of Rule 10.9 and the accreditation training requirements of Rule 10.9 for the discipline that is the subject of the application have been met and completed prior to application. Additionally, no individual shall be granted an initial or renewal certificate if the applicant fails to pay the applicable annual certificate fee(s) provided for in Rule 10.7 of these regulations simultaneously with the submission of the application as provided for in Paragraph 5 below.

B. Each application for an initial or renewal certificate shall be made on forms prepared by the Commission for this purpose and shall contain the information that the Commission deems necessary to determine whether the initial or renewal certificate should be issued in accordance with the Act.

C. Each application for an initial or renewal certificate shall be signed by the individual requesting the initial or renewal certificate. The signature shall be made under oath and shall constitute personal affirmation that the statements made in the application are true and complete.

D. Each application shall contain the applicable fee as indicated in Rule 10.7 of these regulations.

E. Individuals applying for certification in more than one category may submit multiple applications in the same transmittal. Each application so submitted shall be completed as

required above so as to be separable from the others. Provided, however, an applicant for a contractor certificate may apply for a supervisor certificate in the same application. If an individual meets all of the requirements of these regulations, including payment of both the contractor and supervisor certification fees, the individual shall be issued both a contractor certificate and a supervisor certificate.

Source: Miss. Code Ann. *§§ 37-138-1, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 10.6 Consideration of Applications and Issuance of Certificates.

A. The Commission shall review each application and supporting documents. If the application is incomplete, the Commission may return the materials submitted by the applicant and advise the applicant what additional information is necessary in order to evaluate the application.

B. If the application is approved, the Commission shall issue to the applicant the initial or renewal certificate for the discipline that is the subject of the application within thirty (30) days after receipt of the complete application.

C. The Commission may deny an application for certification if the Commission determines that the applicant (a) has not complied with all of the provisions of these regulations and with all other applicable federal, State and local statutes and regulations, or (b) submits inaccurate or falsified information in the application, or (c) submits incomplete application forms after receiving the notice from the Commission provided in Subsection 1 of this rule. The Commission shall make determinations regarding issuance or denial of the certificate based upon the information contained in the application, the applicant's compliance history, and any other pertinent information that is available to the Commission. The Commission shall not be required to conduct any investigation concerning an applicant other than information available at the offices of the Department of Environmental Quality in Jackson, Mississippi.

D. Each applicant who is issued an initial or renewal certificate shall be subject to the terms and conditions set forth and embodied in the initial or renewal certificate as the Commission deems necessary to ensure compliance with the requirements of these regulations in accordance with the Act.

Source: Miss. Code Ann. *§§ 37-138-1, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 10.7 Fees. All fees shall be submitted to the Commission by check or money order, payable to the Asbestos Accreditation and Certification Act Fund. Fees for more than one (1) discipline shall be paid by a separate check or money order for each discipline. The fees for initial and renewal certificates are as follows:

Management Planner	$200.00
Project Designer	$200.00
Inspector	$200.00

Air Monitor	$250.00
Contractor	$350.00
Supervisor	$250.00
Worker	$35.00

Source: Miss. Code Ann. *§§ 37-138-1, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 10.8 Accreditation Training Requirements.

A. Training Providers. Pursuant to Section 37-138-27 of the Mississippi Code, the Board of Trustees of State Institutions of Higher Learning designated Mississippi State University (MSU) to offer all accreditation training courses set forth in these regulations. MSU has certified in writing to the Commission that it is currently offering all such training courses. After November 1, 1990, all such training courses offered by MSU shall meet the requirements of the Model Plan, 40 CFR 763, Subpart E, Appendix C, which is incorporated herein and adopted by reference except as otherwise noted. MSU has certified in writing to the United States Environmental Protection Agency and Commission that all training courses offered by MSU meet the requirements of the Model Plan. The Commission has received such written certification by MSU and has approved the training courses offered by MSU as meeting the requirements for accreditation training under these regulations.

The only training courses offered within the geographic boundaries of the State of Mississippi that will be approved by the Commission as meeting accreditation requirements under these regulations, other than worker training courses, are those offered by MSU that are approved by the Commission in accordance with Section 37-138-7, Mississippi Code Annotated. All EPA-approved training courses offered outside of the geographic boundaries of the State of Mississippi, as well as EPA-approved worker training courses offered within the geographic boundaries of the State of Mississippi, will meet accreditation training requirements under these regulations. Each applicant who submits proof of successful completion of an applicable EPA-approved training course shall provide proof of EPA approval of such training course.

B. Initial Training. Every individual applying for an initial certificate shall have attended and successfully completed (a) the applicable MSU Commission-approved initial training course or (b) an EPA-approved initial training course offered outside the geographic boundaries of the State of Mississippi, or (c) for a worker certificate, an EPA approved worker training course offered within or outside the geographic boundaries of the State of Mississippi, for the appropriate discipline for which an initial certificate is requested within one (1) year prior to applying for said certificate. Provided however, an individual shall not be required to attend and successfully complete any additional initial training course prior to applying for an initial certificate as long as required refresher training has been successfully completed within 24 months of the initial and subsequent refresher courses completed thereafter.

C. Refresher Training.

(1) Every individual applying for a renewal certificate shall have attended and successfully completed the MSU Commission-approved refresher training course or an EPA-approved refresher training course offered outside the geographic boundaries of the State of Mississippi, or, for a worker renewal certificate, an EPA-approved worker refresher training course offered within or outside the geographic boundaries of the State of Mississippi, for the discipline for which a renewal certificate is requested within one year after the expiration date of the initial certificate or renewal certificate.

(2) If an individual fails to successfully complete the MSU Commission-approved refresher training course or an EPA-approved refresher course offered outside the geographic boundaries of the State of Mississippi, or, for a worker renewal certificate, an EPA-approved worker refresher training course offered within or outside the geographic boundaries of the State of Mississippi, for the discipline for which an application is requested within one year after the expiration date of the initial certificate or renewal certificate the individual shall complete all requirements for an initial certificate in order to receive renewal certification.

D. The Commission, acting through the Office of Pollution Control of the Department of Environmental Quality, shall have authority to monitor and audit all initial and refresher training courses offered within the geographic boundaries of the State of Mississippi.

Source: Miss. Code Ann. *§§ 37-138-1, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 10.9 Qualifications. In addition to completing the applicable EPA approved training course that meets the requirements of the Model Plan, each applicant for an initial or renewal certificate must demonstrate to the satisfaction of the Commission that the applicant is familiar with and capable of complying fully with all applicable federal and State laws and regulations and possesses the following qualifications listed below prior to submitting an application:

A. Inspectors - Education qualifications - high school diploma or Graduate Equivalent Degree (GED).

B. Management Planners - Education and professional license qualifications:

(1) Bachelor of Science degree in engineering or its equivalent from an accredited university and a current, valid license by the Mississippi Board of Registration for Professional Engineers and Land Surveyors as a registered professional engineer, or

(2) Bachelor of Science degree in architecture or its equivalent from an accredited university and a current, valid license as an architect by the Mississippi Board of Architecture.

C. Project Designer - Education and professional license qualifications:

(1) Bachelor of Science degree in engineering or its equivalent from an accredited university and a current, valid license by the Mississippi Board of Registration for Professional Engineers and Land Surveyors as a registered professional engineer, or

(2) Bachelor of Science degree in architecture or its equivalent from an accredited university and a current, valid license as an architect by the Mississippi Board of Architecture.

D. Contractor – Education Qualifications – high school diploma or GED.

The applicant for a contractor certificate must be a responsible official or DAR. *See* Definitions for responsible official and DAR, Rule 10.2.

E. Supervisor – Education Qualifications – high school diploma or GED.

F. Worker - Medical Qualifications – a written certificate, on a form provided by the Commission, by a licensed physician in accordance with State Law approving the worker applicant to work on an asbestos project, which must be submitted to the Commission with the worker applicant's application for an initial certificate. Such certificate must accompany the worker applicant's application for a renewal certificate only every three years thereafter. A chest x-ray is not required for either the initial or any renewal application.

G. Air Monitor – Education and training requirements:

(1) Have earned a high school diploma or GED;

(2) Satisfactorily complete a commission-approved training course for supervisors. A supervisor training course approved by the United States Environmental Protection Agency completed satisfactorily shall be sufficient to meet this requirement, and

(3) Satisfactorily complete a commission-approved training course for collecting and evaluating air samples. Successful completion of the National Institute for Occupational Safety & Health (NIOSH) 582 course shall be sufficient to meet this requirement.

Source: Miss. Code Ann. *§§ 37-138-1, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 10.10 Exclusion. Notwithstanding anything in these regulations to the contrary, small-scale, short duration abatement activities, as defined in Rule 10.2 (40) of these regulations, may be conducted in school buildings, public buildings and commercial buildings without utilization of

certified inspectors, management planners, project designers, supervisors, air monitors, contractors and workers.

Source: Miss. Code Ann. *§§ 37-138-1, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 10.11 Supervision of Asbestos Projects. At least one certified supervisor is required to be at the asbestos project worksite at all times while abatement activities are in progress. Certified workers must have access to a certified supervisor throughout the duration of the asbestos project. The contractor(s) and supervisor(s) for an asbestos project shall maintain all certificates for all contractors, supervisors and workers who are employed in connection with the asbestos project at the asbestos project site. The contractor(s) and/or supervisor(s) shall make available all such certificates to the Commission, acting through the Office of Pollution Control, at the time of any inspection at the asbestos project site by the Office of Pollution Control.

Source: Miss. Code Ann. *§§ 37-138-1, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 10.12 Enforcement - Penalties, Reprimands, Suspensions, Revocation of Certificates, Proceedings and Hearings Before the Commission and Appeals.

A. If the Commission decides to suspend, revoke, or modify the certification of any individual, it shall notify the affected individual in writing of the following:

   (1) The legal and factual basis for the suspension, revocation, or modification.

   (2) The commencement date and duration of the suspension, revocation, or modification.

   (3) Actions, if any, which the individual may take to avoid suspension, revocation, or modification or to receive certification in the future.

   (4) The opportunity and method for requesting a hearing prior to final Commission action to suspend, revoke, or modify certification.

   (5) Any additional information, as appropriate, which the Commission may provide.

B. In the event the Commission suspends and/or revokes a contractor's certificate, it also may order any business entity for which the individual is a responsible official or DAR to cease and desist performing asbestos abatement activities if necessary to ensure that the business entity does not then operate without appropriately certified personnel, or in violation of any emission standard, regulation, or written order of the Commission.

C. If the Commission determines that an individual has submitted false information, the Commission has the discretion to vote for lifetime revocation or denial.

D. Penalties, reprimands, suspensions and revocations of certificates shall be governed by Section 37-138-27, Mississippi Code Annotated. All proceedings and hearings before the

Commission regarding violations of Section 37-138-1, et seq., Mississippi Code Annotated, or any rule or regulation, written order of the Commission, emergency order of the Director or certificates issued or renewed by the Commission pursuant to Section 37-138-1, et seq., Mississippi Code Annotated and all appeals therefrom shall be conducted in accordance with Section 49-17-31 through 49-17-41, Mississippi Code Annotated.

Source: Miss. Code Ann. *§§ 37-138-1, et seq., 49-17-31 through 49-17-41, 49-2-1, et seq. and 49-17-1, et seq.*

Rule 10.13 Other Laws. Compliance with these regulations shall not affect or substitute for compliance with all other applicable laws and regulations concerning accreditation of asbestos abatement personnel, including but not limited to, National Emissions Standards for Hazardous Air Pollutants (NESHAPS), Occupational Safety Health Act (OSHA), and Asbestos Hazard Emergency Response Act (AHERA) requirements.

Source: Miss. Code Ann. *§§ 37-138-1, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 10.14 Severability. If any provision, section, subsection, sentence, clause or phrase of any of these regulations, or the application of same to any person or set of circumstances is for any reason challenged or held to be invalid or void, the validity of the remaining regulations and/or portions thereof or their application to other persons or sets of circumstances shall not be affected thereby.

Source: Miss. Code Ann. *§§ 37-138-1, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 10.15 Training Course Standards. The following are the requirements for initial training courses and refresher training courses that must be successfully completed by individuals seeking certification to perform asbestos related work pursuant to these regulations.

A. Initial training

(1) Training courses required by individuals seeking certification as inspectors, management planners, project designers, contractors, supervisors, or workers and the applicable EPA-approved training courses for air monitors must meet all requirements of Section I(B) of the Model Plan which is incorporated herein and adopted by reference unless otherwise noted.

(2) Initial training courses must be discipline specific for the certification being sought.

(3) Initial training courses must be completed within a two week period.

(4) Persons enrolled in training courses shall not be required to sit through more than eight hours of actual training in any single 24 hour period.

(5) Attendance in training courses following regular work hours shall not exceed a maximum of four hours in any single session.

(6) Except for worker training, initial training courses must be taught by at least two instructors.

(7) An examination as defined in Section I(C) of the Model Plan, which is incorporated herein and adopted by reference unless otherwise noted, must be given at the conclusion of the initial training course. All examinations shall be a closed book examination and demonstration testing may also be included as part of the examination. A person seeking accreditation in a specific discipline shall pass the examination for that discipline to receive accreditation. For example, a person seeking accreditation as an inspector must pass the inspector accreditation examination under the Model Plan which is incorporated herein and adopted by reference unless otherwise noted.

B. Refresher training courses

Annual refresher training is required for reaccreditation of all disciplines. Refresher courses shall be specific to each discipline and must meet all requirements of Section I(D) of the Model Plan which is incorporated herein and adopted by reference unless otherwise noted. For each discipline, the refresher course shall review and discuss changes in federal and State regulations, developments in state-of-the-art procedures and a review of key aspects of the initial training course. Air monitors must complete the supervisor refresher course in accordance with the requirements for supervisors.

At the conclusion of the refresher training courses in all disciplines, the training provider shall administer a closed book 25 multiple-choice question exam. Applicants must pass the exam with a minimum score of 70%. The exam shall be developed by the training provider. The training provider shall make the exam available for review by the Mississippi Department of Environmental Quality.

C. Training course approval. Training course providers seeking approval of their training courses must meet the requirements of these regulations and Section I of the Model Plan which is incorporated herein and adopted by reference unless otherwise noted. Training providers shall submit the following for evaluation and approval by the Commission prior to conducting initial course.

(1) A completed application on a form provided by the Department of Environmental Quality, along with the supporting documentation. The form and supporting documentation shall include the following:

(a) Name, address, and telephone number of the training provider, and name and signature of the contact person;

(b) course title, location and the language in which the course is to be taught;

(c) a student manual and an instructor manual for each course;

(d) course agenda;

(e) a copy or description of all audio/visual materials used;

(f) a description of each hands-on training activity;

(g) a copy of a sample exam; and

(h) a sample certificate with the following information:

(1) Name and social security number of student;

(2) training course title specifying initial or refresher;

(3) inclusive dates of course and applicable examination;

(4) statement that the student completed the course and passed any examination required;

(5) unique certificate number as required;

(6) for courses covered under 40 CFR Part 763, Subpart E, Appendix C, as amended, certificate expiration date that is one year after the date the course was completed and the applicable examination passed;

(7) printed name and signature of the training course administrator and printed name of the principal instructor;

(8) name, address, and phone number of the training provider;

(9) training course location; and

(10) a statement that the person receiving the certificate has completed the requisite training for asbestos accreditation under Title II of the Toxic Substances Control Act.

(i) A list of any other states that currently approve the training course.

(2) A list of instructors and their qualifications including academic and/or field experience.

(3) Contingent approval shall be granted if the application and supporting documentation meet the criteria of this rule. Full approval shall be granted to a course with contingent approval after successful completion of an on-site audit of the course. The on-site audit shall include, but not be limited to, an evaluation of the following:

(a) Instructor effectiveness;

(b) technical accuracy;

(c) course administration; and

(d) course content.

D. Withdrawal of training course approval.

The Commission may suspend or revoke approval of any training course approved under this regulation that is determined to be in violation of these regulations and Section III(c) of the Model Plan.

Periodic training course audits may be performed by the Department of Environmental Quality to assure compliance with all requirements of the regulations regarding training.

E. Recordkeeping requirements.

(1) Approved training providers shall maintain all records required in Section I(F) of the Model Plan which is incorporated herein and adopted by reference unless otherwise noted for a minimum of 3 years.

(2) If a training provider ceases to conduct training, the training provider shall notify the approving government body (EPA or the State) so that the approving government body may take possession of the asbestos training records maintained by the training provider.

F. Training course notification.

(1) Not less than ten (10) days prior to the first day of an anticipated training course, training course providers must provide written notification to the Department of Environmental Quality, on forms developed by the Department, of the following:

(a) The course discipline;

(b) date and time of the training course;

(c) exact location of the site of the training course (if the location is different from the principal location of the training provider, a vicinity map, sketch

or detailed written directions showing the training site location shall be included in the notification, unless a vicinity map has previously been submitted (for the specific location);

(d) information about the language to be used in the training course;

(e) the name of the principal instructor; and

(f) a copy of the training course agenda. (If the agenda is identical to an agenda which has previously been submitted, an additional copy of the agenda is not required with the notification).

(2) Failure to provide re-notification of changes in the time or location of the training course or any other information listed on the original notification within two (2) working days prior to the first day of the pending training course may lead to rejection of any certificate of training issued by the training provider in support of individual accreditation in Mississippi.

(3) Within seven (7) calendar days after completion of a training course, the training course provider must provide the Department with a written roster containing the following:

(a) The name of the course indicating the discipline and whether the course is an initial or refresher training course;

(b) the names of all course participants;

(c) for each participant, whether the participant passed or failed the examination;

(d) the date, time and location of the training course;

(e) for each participant, the training certificate number;

(f) the name of the principal instructor, and

(g) the name, address and phone number of the training provider.

(4) Failure to submit a roster as required in Rule 10.15.F(3) may result in the rejection of any certificate of training submitted to the Department in support of an application for accreditation.

G. Non-english language courses. The following shall apply to all courses taught in non-English languages.

(1) Training courses shall be taught in the language in which all participating students are fluent;

(2) written materials, including examinations must be correctly translated into the language in which all participating students are fluent; and

(3) interpreters may not be used to teach or instruct training courses.

H. Instructor qualifications. Any person seeking approval as an instructor for courses covered under Section I of the Model Plan which is incorporated herein and adopted by reference unless otherwise noted shall meet the applicable requirements listed in this section.

(1) Application - Any person seeking approval as an instructor must submit a completed Training Course Instructor Application provided by the Department. The required information includes personal data, training course and topics, education history, training history, employment history, accreditation or licenses issued by other states, professional registrations, and submittals to EPA or other states.

(2) Work practice topics for each shall include:

(a) For the worker course: state-of-the-art work practices;

(b) for the contractor/supervisor course: state-of-the-art work practices, and techniques for asbestos abatement activities;

(c) for the inspector course: pre-inspection planning and review of previous inspection records, inspecting for friable and nonfriable asbestos containing materials, assessing the condition of friable asbestos containing materials, bulk sampling/documentation of asbestos in schools, recordkeeping and writing inspection reports;

(d) for the management planner course: evaluation/interpretation of survey results, hazard assessment, developing an operations and maintenance plan, recordkeeping for the management planner, and assembling and submitting the management plan;

(e) for the abatement project designer course: safety system design specifications, designing abatement solutions, budgeting/cost estimation, writing abatements specifications, preparing abatement drawings and occupied buildings; and

(f) for the air monitor course: air monitoring strategies, conducting visual inspections, and recordkeeping and report writing.

(3) Instructors for work practice topics, hands-on exercises, workshops, or field trips where required for courses covered under 40 CFR Part 763, Subpart E, Appendix C as amended, shall meet the following requirements as applicable:

(a) Worker initial and worker refresher and supervisor initial and supervisor refresher courses;

(1) the applicant shall have successfully completed the initial and subsequent refresher training course requirements for supervisor; and

(2) the applicant shall meet at least one of the following educational and asbestos work experience combinations:

(i) If the applicant does not possess either a high school diploma or equivalent, the applicant shall:

(A) have at least 1440 hours experience in a worker or supervisor capacity in a contained work area; and

(B) have at least 360 hours as an instructor in an Environmental Protection Agency-approved or Environmental Protection Agency state approved worker course.

(ii) If the applicant possesses either a high school diploma or equivalent, the applicant shall:

(A) have at least 960 hours experience in a worker, supervisory, or consulting capacity in a contained work area; or

(B) have at least 240 hours as an instructor in an Environmental Protection Agency-approved or Environmental Protection Agency state approved asbestos worker or supervisor course or other occupational safety and health or environmental courses required to meet federal and state regulations.

(iii) If the applicant possesses at least an associate degree from a regionally accredited college or university, the applicant shall:

(A) Have at least 480 hours experience in a worker, supervisory, or consulting capacity in a contained area; or

(B) have at least 120 hours as an instructor in an Environmental Protection Agency-approved or Environmental Protection Agency state approved asbestos worker or supervisor course or other occupational safety and health or environmental courses required to meet federal and state regulations.

(b) Inspector initial and refresher courses:

(1) The applicant shall have successfully completed the initial and subsequent refresher training course requirements for inspector; and

(2) the applicant shall meet at least one of the following education and asbestos work experience combinations:

(i) If the applicant possesses either a high school diploma or equivalent, the applicant shall:

(A) have documented experience, including asbestos inspections in at least one million square feet of building space in the past three years; or

(B) have at least 60 hours as an instructor in an Environmental Protection Agency-approved or Environmental Protection Agency state approved inspector course or other occupational safety and health or environmental courses required to meet federal and state regulations.

(ii) If the applicant possesses at least an associate degree from a regionally accredited college or university, the applicant shall:

(A) have documented experience, including asbestos inspections in at least 500,000 square feet of building space in the past three years; or

(B) have at least 40 hours as an instructor in an Environmental Protection Agency-approved or Environmental Protection Agency state approved

inspector course or other occupational safety and health and environmental courses required to meet federal and state regulations.

(c) Management planner initial and refresher courses:

(1) The applicant shall have successfully completed the initial and subsequent refresher training course requirements for management planner; and

(2) the applicant shall meet at least one of the following education and asbestos work experience combinations:

(i) If the applicant possesses either a high school diploma or equivalent, the applicant shall:

(A) Have documented management planning experience showing at least 25 management plans or reinspection reports written in the past three years, or documented experience as the management consultant for at least 25 asbestos projects in the past three years, or a combination of management plans and projects managed; or

(B) have at least 48 hours as an instructor in an Environmental Protection Agency-approved or Environmental Protection Agency state approved management planner course or other occupational safety and health or environmental courses required to meet federal and state regulations.

(ii) If the applicant possesses at least an associate degree from a regionally accredited college or university, the applicant shall:

(A) Have documented management planning experience showing at least 12 management plans or reinspection reports written in the past three years, or documented experience as the management consultant for at least 12 asbestos projects in the past three years, or a combination of management plans and projects managed; or

(B) have at least 32 hours as an instructor in an Environmental Protection Agency-approved or Environmental Protection Agency state approved

management planner course or other occupational safety and health or environmental courses required to meet federal and state regulations.

(d) For the project designer initial and refresher courses:

(1) The applicant shall have successfully completed the initial and subsequent refresher training course requirements for abatement project designer; and

(2) The applicant shall meet at least one of the following education and asbestos work experience combinations:

(i) If the applicant possesses either a high school diploma or equivalent, the applicant shall:

(A) Have documented asbestos abatement project design experience including the design of at least 12 asbestos projects in the past three years; or

(B) Have at least 30 hours as an instructor in an Environmental Protection Agency-approved or Environmental Protection Agency state approved abatement project designer course or other occupational safety and health and environmental courses required to meet federal and state regulations.

(ii) If the applicant possesses at least an associate degree from a regionally accredited college or university, the applicant shall:

(A) Have documented asbestos abatement project design experience, including the design of at least six asbestos projects in the past three years; or

(B) Have at least 20 hours as an instructor in an Environmental Protection Agency-approved or Environmental Protection Agency state approved abatement project designer course or other occupational safety and health and environmental courses required to meet federal and state regulations.

(e) Instructors for a Commission approved NIOSH 582 or Commission approved Air Monitoring Course shall meet the following requirements:

(1) Have a high school diploma or equivalent;

(2) Successfully complete the National Institute for Occupational Safety and Health's NIOSH 582 training course or Commission approved air monitoring course.

(f) All instructors approved under these regulations shall take a refresher training course in at least one discipline from a training provider other than their employer every other year.

(4) Instructors who will teach segments of training courses covered under 40 CFR Part 763, Subpart E, Appendix C, as amended, other than work practice topics, hands-on exercises, workshops, or field trips shall meet the following requirements:

(a) Be actively working in the field of expertise in which training is conducted; and

(b) have a minimum of a high school diploma or equivalent.

Source: *Miss. Code Ann. §§ 37-138-1, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Part 2: Air Regulations

Part 2, Chapter 11: Mississippi Commission on Environmental Quality, Regulations for Ambient Air Quality Nonattainment Areas (Adopted November 20, 2014; Amended August 27, 2015)

TABLE OF CONTENTS

Rule 11.1 General ..... Page 1

Rule 11.2 Definitions ..... Page 1

Rule 11.3 Emissions Statement ..... Page 2

Rule 11.1 General. The purpose of this regulation is to implement Section 182(a)(3)(B) of the Federal Clean Air Act which sets requirements for areas designated as nonattainment for National Ambient Air Quality Standards.

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

Rule 11.2 Definitions. The terms used in the regulations shall, unless the context otherwise requires, have the following meanings:

A. "Commission" means the Mississippi Commission on Environmental Quality.

B. "Department" means the Mississippi Department of Environmental Quality (Department).

C. "NAAQS" means National Ambient Air Quality Standards promulgated by the U.S. Environmental Protection Agency.

D. "Nonattainment area" means any area, designated by the U.S. Environmental Protection Agency, that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary national ambient air quality standard(s).

E. "Emissions Statement" means the annual emissions statement as required by Rule 11.3 of this regulation.

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

Rule 11.3 Emissions Statement.

A. The requirements of Rule 11.3.A-C of this regulation shall apply to all stationary sources of nitrogen oxides or volatile organic compounds which have the potential to emit 25 tons or more of either pollutant per calendar year and are located in area(s) designated by the U.S. Environmental Protection Agency as nonattainment for the 2008 ozone NAAQS.

B. Owners and operators of stationary sources of nitrogen oxides or volatile organic compounds shall provide the Department with a statement, in such form as the Department may prescribe, showing the actual emissions of nitrogen oxides and volatile organic compounds from that source. The statement shall contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement.

C. The Emissions Statement shall be submitted to the Department by July 1 of every year and shall show the actual emissions of the previous calendar year.

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