

## 11 MAC-Part 2-Chapter 5

### REGULATIONS FOR THE PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY

#### Rule 5.1 Purpose of this Regulation

Rule 5.1 The purpose of this regulation is to implement a program for the prevention of significant deterioration of air quality as required by 40 C.F.R. § 52.21 and 51.166. This regulation supersedes and replaces the previous adoption of Title 11, Part 2, Chapter 5, “Regulations for the Prevention of Significant Deterioration of Air Quality” “C.F.R.” refers to the Code of Federal Regulations.

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

#### Rule 5.2 Adoption of Federal Rules by Reference

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

- A. (a)(1) [Plan disapproval],
- B. (q)[Public Participation],
- C. (s)[Environmental Impact Statements],
- D. (u)[Delegation of authority],
- E. (c)(c) [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 Definition of term “Administrator”

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

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

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

- A. The phrases “the plan provided that” and “it shall also provide that” are excluded from paragraph 40 CFR 51.166(f)(2), and
- B. The term “Administrator” as it appears in 40 C.F.R. § 51.166(f) shall mean the Mississippi Environmental Quality Permit Board, except that the

term “Administrator” as it appears in subparagraphs (f)(1)(v) and (f)(4) shall continue to mean the Administrator of the USEPA.

#### Rule 5.5 Transmittal of Permit Applications to EPA Administrator

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 Applicability

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

#### Rule 5.7 Public Participation

- A. The Mississippi Department of Environmental Quality (“the Department”) shall notify all applicants within 30 days as to the completeness of the application or any deficiency in the application or information submitted. In the event of such a deficiency, the date of receipt of the application shall be the date on which the Department received all required information.
- B. Within 150 days after receipt of a complete application, the Department shall:
  - (1) Make a preliminary determination whether construction should be approved, approved with conditions or disapproved.
  - (2) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination. This requirement may be met by making these materials available at a physical location or on the Department’s website.
  - (3) Notify the public of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, the opportunity to comment at a public hearing, and the opportunity to submit written public comments. The Department will publish the public notice on its website, and

the notice will remain available on the website for the duration of the public comment period. The Department shall allow for at least 30 days for public comment. The Department must include the following on the public website for the duration of the public comment period: the public notice, the draft permit, information on how to access the administrative record for the draft permit, and information on how to request or attend a public hearing on the draft permit, if a hearing has already been scheduled. If the Department deems it appropriate, the Department may supplement the website noticing method by other noticing methods on individual permits.

(4) Send a copy of the public notice to the applicant, the Administrator of the USEPA, and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: Any other State or local air pollution control agencies; the chief executives of the city and county where the source would be located; any comprehensive regional land use planning agency; and any State, Federal Land Manager, or Indian Governing body whose lands may be affected by emissions from the source or modification.

(5) Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations.

(6) Consider all written comments submitted within a time specified in the public notice and all comments received at any public hearing in making a final decision on the approvability of the application. The Department will make all comments available for public inspection at the same physical location or on the same website where the Department made available preconstruction information relating to the proposed source or modification.

(7) Make a final determination whether construction should be approved, approved with conditions, or disapproved.

(8) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location or on the same website where the Department made available preconstruction information and public comments relating to the proposed source or modification.

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

**EPA Note:** The approval does not include incorporation by reference of the CO2 Biomass Deferral which was withdrawn by the State on October 22, 2014. On 9–26–2012, EPA approved a revision to APC–S–5 which incorporated by reference the regulations found at 40 CFR 52.21 as of March 22, 2011. This approval did not include Mississippi’s revision to IBR (at Rule APC–S–5) the term “particulate matter emissions” (as promulgated in the May 16, 2008 NSR PM2.5 Rule (at 40 CFR 51.166(b)(49)(vi)) and the PM2.5 SILs threshold and provisions (as promulgated in the October 20, 2010 PM2.5 PSD Increment-SILs–SMC Rule at 40 CFR 52.21(k)(2)). **Note:** On October 22, 2014, Mississippi withdrew the PM2.5 SILs provision from Mississippi’s May 18, 2011 SIP Submission.

On December 29, 2010, EPA approved a revision to APC–S–5 which incorporated by reference the regulations found at 40 CFR 52.21 as of September 13, 2010. *See* 75 FR 81858. That action did not incorporate by reference, into the Mississippi SIP, the administrative regulations that were amended in the Fugitive Emissions Rule (73 FR 77882) and are stayed through October 3, 2011.

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg:	JUL 16, 1990	OCT 15, 1990	55 FR 41691
1st Revision:	JUN 14, 1991	AUG 4, 1992	57 FR 34252
2nd Revision:	JAN 26, 1994	MAY 5, 1995	60 FR 22287
3rd Revision:	SEP 30, 1996	JUL 15, 1997	62 FR 37724
4th Revision:	AUG 10, 2005	JUL 10, 2006	71 FR 38773
5 <sup>th</sup> Revision:	NOV 28, 2007	DEC 20, 2010	75 FR 79300
6 <sup>th</sup> Revision:	DEC 9, 2010	DEC 29, 2010	75 FR 81858
7 <sup>th</sup> Revision:	MAY 12, 2011	SEP 26, 2012	77 FR 59095
8 <sup>th</sup> Revision:	FEB 10, 2012	MAR 5, 2015	80 FR 11890
9 <sup>th</sup> Revision:	MAY 9, 2017	FEB 21, 2020	85 FR 10070
10 <sup>th</sup> Revision:	MAY 28, 2016	AUG 8, 2017	82 FR 37015
11 <sup>th</sup> Revision:	NOV 28, 2007	SEP 16, 2020	85 FR 57707
12 <sup>th</sup> Revision:	FEB 28, 2024	OCT 31, 2024	89 FR 86751