

**SUMMARY:** EPA is approving revisions to the Mississippi State Implementation Plan (SIP) to allow the State of Mississippi to issue Federally enforceable state operating permits (FESOP). On January 26, 1994, the State of Mississippi through the Mississippi Department of Environmental Quality (MDEQ) submitted a SIP revision fulfilling the requirements necessary for a state FESOP program to become Federally enforceable. In order to extend the Federal enforceability of Mississippi's FESOP program to hazardous air pollutants (HAP), EPA is also approving Mississippi's FESOP program pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA) so that the State may issue FESOP for HAP.

**DATES:** This final rule will be effective July 3, 1995 unless adverse or critical comments are received by June 1, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments should be addressed to Scott Miller, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

Mississippi Department of Environmental Quality, Bureau of Air Quality Control, Air Quality Division, Post Office Box 10385, Jackson, Mississippi 39285

**FOR FURTHER INFORMATION CONTACT:** Carla Pierce, Title V, Regional Program Manager, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347-2864.

**SUPPLEMENTARY INFORMATION:** On January 26, 1994, the State of Mississippi through the MDEQ submitted a SIP revision designed to make certain permits issued under Mississippi's existing minor source operating permit program Federally enforceable pursuant to EPA requirements as specified in a **Federal**

**Register** notice, "Requirements for the preparation, adoption, and submittal of implementation plans; air quality, new source review; final rules," (see 54 FR 22274, June 28, 1989). The State will continue to issue permits which are not Federally enforceable under its existing minor source operating permit rules as it has done in the past. The SIP revision which is the subject of today's rulemaking adds additional requirements to the State's current minor source operating permit program which allows the State to issue FESOP. This voluntary SIP revision allows EPA and citizens under the CAA to enforce terms and conditions of Mississippi's FESOP program. Operating permits that are issued under the State's FESOP program that is approved into the State SIP and under section 112(l) will provide federally enforceable limits to an air pollution source's potential to emit. Limiting of a source's potential to emit through federally enforceable operating permits can affect a source's applicability to federal regulations such as title V operating permits, New Source Review (NSR) preconstruction permits, Prevention of Significant Deterioration (PSD) preconstruction permits for criteria pollutants and federal air toxics requirements mandated under section 112 of the CAA.

In the aforementioned June 28, 1989, **Federal Register** notice, EPA listed five criteria necessary to make a State's minor source operating permit program Federally enforceable and, therefore, approvable into the SIP. This revision satisfies the five criteria for Federal enforceability of the State's FESOP program.

The first criteria for a state's operating permit program to become Federally enforceable is that the permit program that the state wishes to be Federally enforceable must be approved into the SIP. On January 26, 1994, the State of Mississippi submitted through MDEQ a SIP revision designed to meet the five criteria for Federal enforceability. Today's action will approve these regulations into the Mississippi SIP, thereby, meeting the first criteria for Federal enforceability.

The second criteria for a state's operating permit program to become Federally enforceable is that the regulations approved into the SIP impose a legal obligation that operating permit holders adhere to the terms and limitations of such permits. Mississippi's regulations meet this criteria in Regulation APC-S-2, Section II of the State regulations by requiring the following:

In addition to the requirements contained herein, no permit shall be issued unless the

applicant has complied with applicable requirements including \* \* \* and additional relevant Rules and Regulations promulgated by the Commission and/or Permit Board.

Hence, the second criteria for Federal enforceability is met.

The third criteria necessary for a state's operating permit program to be Federally enforceable is that the state operating permit program require that all emissions limitations, controls, and other requirements imposed by such permits will be at least as stringent as any other applicable limitations and requirements contained in the SIP or enforceable under the SIP, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise "Federally enforceable" (e.g. standards established under sections 111 and 112 of the Act). Mississippi satisfies this criteria in two regulations included in the State's SIP submittal. APC-S-2, Section II.B.5 requires that all permits to construct or operate shall specify in their application the air emission rate for each air pollutant subject to regulation under the Federal Clean Air Act that can be reasonably expected to be emitted from a facility. In addition, Regulation APC-S-2, Section VI.E.4 provides that the granting of a permit shall not relieve an air pollution source of the responsibility to comply with other applicable requirements of the permitting regulation or other applicable regulations or law. Taken together, these two regulations satisfy the third criteria for Federal enforceability.

The fourth criteria for a state's operating permit program to become Federally enforceable is that limitations, controls, and requirements in the operating permits are quantifiable, and otherwise enforceable as a practical matter. While a determination of what is practically enforceable will generally differ based on process type and emissions, the State has included several regulations designed to ensure that permit limitations are enforceable as a practical matter. APC-S-2, Section VII.B.2 requires that when performing stack tests to determine compliance with an applicable regulation that the results be expressed in units consistent with the emission standard of the applicable regulation for which the source is attempting to show compliance. In addition, this regulation requires that the stack test demonstration be reported in "units of mass per time" of the applicable regulation. Regulation APC-S-2, Section XI, provides that MDEQ may require in any permit the installation of