



COMMONWEALTH OF MASSACHUSETTS  
 EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
 DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 Metropolitan Boston – Northeast Regional Office

ARGEO PAUL CELLUCCI  
 Governor

JANE SWIFT  
 Lieutenant Governor

BOB DURAND  
 Secretary

LAUREN LISS  
 Commissioner

## FINAL AIR QUALITY OPERATING PERMIT

Issued by the Massachusetts Department of Environmental Protection ("The Department") pursuant to its authority under M.G.L. c. 111, §142B and §142D, 310 CMR 7.00 et seq., and in accordance with the provisions of 310 CMR 7.00: Appendix C

**ISSUED TO ["the Permittee"]:**

Exxon Company, U.S.A.  
 800 Bell  
 Houston, Texas 77002

**INFORMATION RELIED UPON:**

Application No. MBR-95-OPP-038  
 Transmittal No. 108060

**FACILITY LOCATION:**

Exxon Marketing Terminal  
 52 Beacham Street  
 Everett, Massachusetts 02149

**FACILITY IDENTIFYING NUMBERS:**

SSEIS ID No. 1190484  
 FMF FAC No. 26041  
 FMF RO No. 161931

**NATURE OF BUSINESS:**

Petroleum Fuel Storage and Distribution

**RESPONSIBLE OFFICIAL:**

Name: John D. Biavaschi  
 Title: Field Distribution Manager

**FACILITY CONTACT PERSON:**

Name: Robert B. Pierce  
 Title: Terminal Superintendent  
 Phone: 617.381.2802

**This operating permit shall expire on \_\_\_\_\_.**  
 For the Department of Environmental Protection, Bureau of Waste Prevention

\_\_\_\_\_  
 William P. Gaughan  
 Regional Director

\_\_\_\_\_  
 Date

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## SPECIAL CONDITIONS FOR OPERATING PERMIT

### 1. PERMITTED ACTIVITIES

In accordance with the provisions of 310 CMR 7.00: Appendix C and applicable rules and regulations, the permittee is authorized to operate air emission units as shown in Sections 2 and 3. The units described in Section 2 are subject to the terms and conditions shown in Sections 4, 5, and 6 and to other terms and conditions as specified in this permit.

### 2. EMISSION UNIT IDENTIFICATION

The following emission units (Table 1) are subject to and regulated by this operating permit:

Table 1 +			
EU#	DESCRIPTION OF EMISSION UNIT	EU DESIGN CAPACITY	POLLUTION CONTROL DEVICE (PCD)
EU1	Internal Floating Roof Tank-138	1,286,040 gallons	Internal floating roof PCD-6
EU2	Internal Floating Roof Tank-141	2,302,020 gallons	Internal floating roof PCD-7
EU3	Internal Floating Roof Tank-142	2,177,700 gallons	Internal floating roof PCD-8
EU4	Internal Floating Roof Tank-143	2,359,140 gallons	Internal floating roof PCD-9
EU5	Internal Floating Roof Tank-144	2,988,720 gallons	Internal floating roof PCD-10
EU6	Internal Floating Roof Tank-149	1,589,700 gallons	Internal floating roof PCD-13
EU7	Internal Floating Roof Tank-171	3,921,120 gallons	Internal floating roof PCD-14
EU8	Internal Floating Roof Tank-172	6,176,100 gallons	Internal floating roof PCD-15
EU9	Internal Floating Roof Tank-180	809,844 gallons	Internal floating roof PCD-18
EU10	Internal Floating Roof Tank-181	817,740 gallons	Internal floating roof PCD-19
EU11	Truck Loading Rack	3,200 gpm	Vapor Recovery Unit PCD-35
EU12	Product Distribution System <sup>1</sup>	NA	None

+ Legend to Abbreviated Terms within Table 1:

EU# = Emission Unit Number  
gpm = gallons per minute  
NA = not applicable

1 Fugitive emissions can result from loading product into tankers and marine vessels; leaks from fittings, flanges, pumps; and miscellaneous small sources and activities that result in minor emissions.

### 3. IDENTIFICATION OF INSIGNIFICANT ACTIVITIES

The following have been found to be insignificant activities as provided in 310 CMR 7.00: Appendix C(5)(h):

Table 2 +			
IA#	DESCRIPTION OF CURRENT INSIGNIFICANT ACTIVITIES	REASON	
IA-1	Fixed Roof Tank-1	Exempt from preconstruction review and approval pursuant to 310 CMR 7.02(4)(a)8.	
IA-4	Fixed Roof Tank-4		
IA-5	Fixed Roof Tank-5		
IA-120	Fixed Roof Tank-120		
IA-134	Fixed Roof Tank-134		
IA-145	Fixed Roof Tank-145		
IA-147	Fixed Roof Tank-147		
IA-173	Fixed Roof Tank-173		
IA-174	Fixed Roof Tank-174		
IA-183	Fixed Roof Tank-183		
IA-187	Fixed Roof Tank-187		
IA-190	Fixed Roof Tank-190		
IA-191	Fixed Roof Tank-191		
IA-192	Fixed Roof Tank-192		
IA-197	Fixed Roof Tank-197		
IA-205	Buried Fixed Roof Tank-205		
IA-212	Buried Fixed Roof Tank-212		
IA-213	Buried Fixed Roof Tank-213		
IA-214	Buried Fixed Roof Tank-214		
IA-221	Buried Fixed Roof Tank-221		
IA-222	Fixed Roof Tank-222		
IA-223	Buried Fixed Roof Tank-223		
IA-224	Buried Fixed Roof Tank-224		
IA-2	Fixed Roof Tank-2		
IA-3	Fixed Roof Tank-3		
IA-101	Fixed Roof Tank-101		
IA-116	Fixed Roof Tank-116		
IA-135	Fixed Roof Tank-135		
IA-136	Fixed Roof Tank-136		
IA-137	Fixed Roof Tank-137		Exempt from preconstruction review and approval

<b>Table 2 +</b>		
IA#	DESCRIPTION OF CURRENT INSIGNIFICANT ACTIVITIES	REASON
		pursuant to 310 CMR 7.02(4)(a)8.
IA-140	Fixed Roof Tank-140	
IA-146	Fixed Roof Tank-146	
IA-179	Fixed Roof Tank-179	
IA-182	Fixed Roof Tank-182	
IA-184	Fixed Roof Tank-184	
IA-185	Fixed Roof Tank-185	
IA-188	Fixed Roof Tank-188	
IA-189	Fixed Roof Tank-189	
IA-207	Fixed Roof Tank-207	
IA-TBN	Fixed Roof Tank-TBN	
IA-TBN2	Fixed Roof Tank-TBN2	
IA-TBN3	Fixed Roof Tank-TBN3	
IA-TBN4	Fixed Roof Tank-TBN4	
IA-TBN5	Fixed Roof Tank-TBN5	
IA-201	Buried Fixed Roof Tank-210	
IA-ADD-1	Gasoline Additive Tank	
IA-DYE-1	Dye Tank	
IA-WASTE-1	Waste Oil Tank	
IA-UST-210	UST-201	
IA-UST-202	UST-202	
IA-UST-203	UST-203	
IA-UST-204	UST-204	
IA-UST-205	UST-205	
IA-UST-206	UST-206	
IA-UST-208	UST-208	
IA-UST-209	UST-209	
IA-UST-211	UST-211	
IA-C11	Fixed Roof Tank-11 (former Chevron)	
IA-C12	Fixed Roof Tank-12 (former Chevron)	
IA-C13	Fixed Roof Tank-13 (former Chevron)	
IA-C14	Fixed Roof Tank-14 (former Chevron)	
IA-C15	Fixed Roof Tank-15 (former Chevron)	Exempt from preconstruction review and approval pursuant to 310 CMR 7.02(4)(a)8.

Table 2 +		
IA#	DESCRIPTION OF CURRENT INSIGNIFICANT ACTIVITIES	REASON
IA-C16	Fixed Roof Tank-16 (former Chevron)	
IA-C17	Fixed Roof Tank-17 (former Chevron)	
IA-C18	Fixed Roof Tank-18 (former Chevron)	
IA-C19	Fixed Roof Tank-19 (former Chevron)	
IA-C20	Fixed Roof Tank-20 (former Chevron)	
IA-C21	Fixed Roof Tank-21 (former Chevron)	
IA-C22	Fixed Roof Tank-22 (former Chevron)	
IA-C23	Fixed Roof Tank-23 (former Chevron)	
IA-C24	Fixed Roof Tank-24 (former Chevron)	
IA-C148	Fixed Roof Tank-148 (former Chevron)	
IA-C193	Fixed Roof Tank-193 (former Chevron)	
IA-C194	Fixed Roof Tank-194 (former Chevron)	
IA-C1001	Fixed Roof Tank-1001 (former Chevron)	
IA-C1002	Fixed Roof Tank-1002 (former Chevron)	
IA-C1003	Fixed Roof Tank-1003 (former Chevron)	
IA-C1004	Fixed Roof Tank-1004 (former Chevron)	
IA-UST-1	UST-1 (motor gas)	
IA-UST-10	UST-10 (distillate)	
IA-UST-2	UST-2 (motor gas)	
IA-UST-3	UST-3 (heating oil)	

+ Legend to Abbreviated Terms within Table 2:

IA# = Insignificant Activity Number  
UST = underground storage tank

#### 4. APPLICABLE REQUIREMENTS

##### A. EMISSION LIMITS AND RESTRICTIONS

The permittee is subject to the emission limits/restrictions contained in Table 3 below:

<b>Table 3</b>				
<b>EU#</b>	<b>FUEL/RAW MATERIAL</b>	<b>POLLUTANT</b>	<b>EMISSION LIMIT/STANDARD<sup>1</sup></b>	<b>APPLICABLE REGULATION AND/OR (APPROVAL NO.)</b>
EU11	OL <sup>1</sup> (Pv > 1.5 psia)	VOC/HAP	10 mg/L dispensed (0.6% measured as propane)	310 CMR 7.02 310 CMR 7.24 MBR-90-IND-183 40 CFR 63 R
			Load no more than 1,226 million gallons of gasoline per twelve month rolling period	
			Load no more than 3.36 million gallons of gasoline per day	
EU1, EU2, EU3, EU4, EU5, EU6, EU7, EU8, EU9, EU10			Shall not allow gasoline to be handled in a manner that would result in vapor releases to the atmosphere for extended periods of time as provided in 40 CFR 63.424 and incorporated herein by reference.	40 CFR 63 R 310 CMR 7.24
EU12				

**Table 3 Key:**

- EU# = Emission Unit Number
- Pv = Vapor Pressure in pounds per square inch, actual (psia)
- OL<sup>1</sup> = Organic Liquid with Pv greater than 1.5 psia (typically gasoline)
- VOC = Volatile Organic Compounds
- HAP = Hazardous Air Pollutant(s)
- mg/L = milligrams per liter of gasoline pumped
- > = greater than
- NA = not applicable

**Table 3 Notes:**

- 1 Compliance with emission limit(s)/standard(s) shall be based on a one-hour averaging time.

**B. COMPLIANCE DEMONSTRATION**

The Permittee is subject to the monitoring/testing, record keeping, and reporting requirements as contained in Tables 4, 5, & 6 below and 310 CMR 7.00 Appendix C(9) & (10):

<b>Table 4</b>	
EU#	MONITORING/TESTING REQUIREMENTS
EU11	<p>Operate and maintain a certified continuous emissions monitoring system (CEMS) servicing the activated carbon vapor recovery system (ACVRS) as provided in 40 CFR 63.427. The CEMS shall operate and be maintained as a compliance instrument and is therefore required to comply with the Quality Assurance (QA) requirements contained in the CFR 40 CFR Part 60, Appendix F. The CEMS shall be utilized to demonstrate compliance with the 10 mg/L emission limitation on a continuous basis, averaged over a one hour period as referenced in 40 CFR 63.427 and Final Approval MBR-90-IND-183. The CEMS shall include a chart recorder, or the digital equivalent, which will record the VOC outlet concentration along with its corresponding date and time on a continuous basis as provided in Final Approval MBR-90-IND-183.</p> <p>Perform CEMS quarterly performance audits, where the calendar second quarter audit must be a relative accuracy test audit (RATA), as referenced in Final Approval MBR-90-IND-183.</p> <p>Perform calibration drift assessment daily as provided in 40 CFR Part 60, Appendix F and Final Approval MBR-90-IND-183.</p> <p>Conduct emission testing on the activated carbon vapor recovery system (ACVRS) if and when the Department deems it necessary as referenced in Final Approval MBR-90-IND-183.</p> <p>Ensure that each gasoline cargo tank truck loading at the facility has demonstrated that it meets the annual certification test requirements as provided in 310 CMR 7.24(4) and 40 CFR 63.422(c).</p> <p>Monitor equipment data such that compliance with Sections 63.10(d) &amp; (e), and 40 CFR 63.428(g) can be demonstrated.</p> <p>Monitor gasoline throughput as specified in Final Approval MBR-90-IND-183.</p>
EU12	<p>Perform a monthly leak inspection of all gasoline equipment in service utilizing sight, sound, and smell as acceptable detection methods during the loading of a gasoline cargo tank as provided in 40 CFR 63.424(a).</p>
EU1, EU2, EU3, EU4, EU5, EU6, EU7, EU8, EU9, EU10	<p>Perform tests when subject to a New Source Performance Standard (NSPS) as provided in 40 CFR 63.</p> <p>Monitor the Reid Vapor Pressure (RVP) for gasoline sold or supplied by obtaining fuel samples and performing the appropriate tests necessary to demonstrate compliance with the requirements as provided in 310 CMR 7.24(5).</p> <p>Perform the aforementioned inspections of internal floating roof tanks and associated control equipment according to 40 CFR 60.113(b) as provided in 40 CFR 63.425 and 310 CMR 7.24(1)(d)(6) &amp; (7).</p>

Note: Source for all 40 CFR 63 R references; 59 FR 64318, Dec. 14, 1994, unless otherwise noted.

<b>Table 5</b>	
EU#	RECORD KEEPING REQUIREMENTS
EU11	Maintain copies of the CEMS operating records as referenced in Final Approval MBR-90-IND-183.
	Maintain records of all quarterly performance audits as referenced in Final Approval MBR-90-IND-183.
	Maintain a copy of the stack test report as referenced in Final Approval MBR-90-IND-183.
	Maintain records of all daily calibration and drift assessments as referenced in Final Approval MBR-90-IND-183.
	Maintain a control system maintenance log as referenced in Final Approval MBR-90-IND-183. This log shall record all routine maintenance, and emergency repairs and shut downs of the carbon adsorption system, and all testing of, screening of, and replacement of the activated carbon.
	Maintain adequate gasoline cargo tank truck vapor tightness test records to demonstrate compliance with 310 CMR 7.24(4) and 40 CFR 63.422(c).
	Maintain control equipment data such that compliance with Sections 63.10(d) & (e), and 40 CFR 63.428(g) can be demonstrated.
	Maintain gasoline throughput data as specified in Final Approval MBR-90-IND-183.
	Maintain records of all replacements or additions of components performed on the loading rack for a minimum of 5 years as referenced in Final Approval MBR-90-IND-183.
EU12	Maintain adequate records of all monthly leak inspections as provided in 40 CFR 63.424(a).
	Maintain a log book to contain a list, summary, description or diagram(s) showing the location of all equipment in gasoline service. The log book must be signed by the owner or operator at the completion of each inspection as provided in 40 CFR 63.424 and 63.428.
EU1, EU2, EU3, EU4, EU5, EU6, EU7, EU8, EU9, EU10	Maintain all records and documentation on site to demonstrate compliance with 310 CMR 7.24(7)(d)2, 3, and 4 in a centralized location as provided in 310 CMR 7.24(7)(d).
	Maintain records of fuel samples and Reid Vapor Pressure (RVP) test results such that the Department may perform an audit to determine compliance with the requirements in 310 CMR 7.24(5).
	Maintain records for gasoline storage vessels as required in 40 CFR 60.115(b), where applicable, and provided in 40 CFR 63.428.
	Maintain records of all testing results associated with a NSPS as provided in 40 CFR 63.
Facility-Wide	In accordance with 310 CMR 7.00: Appendix C(10)(b), maintain records of all monitoring data and supporting information required by this operating permit on site for five (5) years from the date of the monitoring sample, measurement, report or initial operating permit application.

Note: Source for all 40 CFR 63 R references; 59 FR 64318, Dec. 14, 1994, unless otherwise noted.

<b>Table 6</b>	
EU#	REPORTING REQUIREMENTS
EU11	<p>Submit quarterly all performance audit results to this Regional Office, including the annual relative accuracy test audit (RATA) report, if needed, as referenced in Final Approval MBR-90-IND-183.</p> <p>In the event of any ACVRS malfunction which does not allow the ACVRS to maintain the BACT emission limitation of 10 mg/L of gasoline dispensed averaged over a one hour period, cease operation of the associated gasoline loading rack until such time as the carbon adsorption system is again operating in accordance with Final Approval MBR-90-IND-183. Immediately report to this Regional Office by FAX at 978.661.7615 and subsequently in writing at the above address within seven days of said occurrence as referenced in Final Approval MBR-90-IND-183.</p>
Facility-Wide	<p>Submit to this Regional Office all facility data and reports, as required by 40 CFR 63 Subpart R, Final Approval MBR-90-IND-183, and this Operating Permit, when applicable.</p> <p>Submit Emission Compliance Testing reports in accordance with 310 CMR 7.13(d) when applicable.</p> <p>Upon the Department's request, any record relevant to the operating permit or to the emissions of any air contaminant from the facility shall be submitted to the Department within 30 days of the request or longer, if approved by the Department, as required by 310 CMR 7.00 Appendix C(10)(a).</p> <p>Submit a Source Registration/Emission Statement form to the Department on an annual basis as required by 310 CMR 7.12.</p> <p>Submit no less often than every six months, the results of any required monitoring and a certification that the facility is maintaining the required records to assure the facility is in compliance with the applicable requirements designated in the permit as required in 310 CMR 7.00 Appendix C(10)(c).</p>

Note: Source for all 40 CFR 63 R references; 59 FR 64318, Dec. 14, 1994, unless otherwise noted.

**C. GENERAL APPLICABLE REQUIREMENTS**

The Permittee shall comply with all generally applicable requirements contained in 310 CMR 7.00 et. seq. and 310 CMR 8.00 et. seq., when subject.

**D. REQUIREMENTS NOT CURRENTLY APPLICABLE**

The Permittee is currently not subject to the following requirements:

<b>Table 7</b>	
REGULATION	DESCRIPTION
310 CMR 7.16	Reduction of Single Occupant Commuter Vehicle Use
40 CFR 82	Protection of Stratospheric Ozone

## 5. SPECIAL TERMS AND CONDITIONS

The Permittee is subject to the following special provisions that are not contained in Table 3, 4, 5 and 6:

1. That Exxon, as required by Regulation 310 CMR 7.24(2)d, shall transfer organic material with a vapor pressure of 1.5 psia or greater under actual storage conditions into tank trucks which are in compliance with 310 CMR 7.24(4) as referenced in Final Approval MBR-90-IND-183.
2. Exxon shall, as required in Final Approval MBR-90-IND-183, adhere to the following: 1) a hydrocarbon concentration that is potentially greater than an "equivalent" 7 mg/l emission rate will initiate a visible alarm at the facility; 2) a hydrocarbon concentration level that is potentially greater than the 10 mg/l emission limitation will initiate a shutdown of the facility's loading rack. The hydrocarbon concentration levels are averaged over a one hour period for all gasoline loading rack product transfers.
3. That the minimum "continuous" CEMS real time data recovery shall be obtained for at least 90% of the hours per quarter during which the facility is operating as referenced in Final Approval MBR-90-IND-183.
4. Exxon shall make an initial attempt at repair when a leak is detected as soon as possible, but no later than 5 calendar days after the leak is detected. Repair or replacement of leaking equipment shall be completed within 15 calendar days after detection of each leak, except as provided in paragraph (d) of 40 CFR 63.424 that states: "delay of repair of leaking equipment will be allowed upon a demonstration to the Administrator that repair within 15 days is not feasible. The owner or operator shall provide [to EPA and the Department] the reason(s) a delay is needed and the date by which each repair is expected to be completed."
5. Any net VOC emissions increase at the subject facility occurring over a period of 5 consecutive calendar years which equates to 25 or more tons of VOC shall become subject to Nonattainment Review, as per the requirements of 310 CMR 7.00 Appendix A.

## 6. ALTERNATIVE OPERATING SCENARIOS

None proposed by permittee.

## 7. EMISSIONS TRADING

### (a) Intra-facility emission trading

The facility did not request intra-facility emissions trading in its operating permit application.

Pursuant to 310 CMR 7.00: Appendix C(7)(b), emission trades, provided for in this permit, may be implemented provided the permittee notifies The United States Environmental Protection Agency (EPA) and the Department at least fifteen (15) days in advance of the proposed changes and the permittee provides the information required in 310 CMR 7.00: Appendix C(7)(b)3.

Any intra-facility change that does not qualify pursuant to 310 CMR 7.00: Appendix C(7)(b)2. is required to be submitted to the Department pursuant to 310 CMR 7.00: Appendix B.

(b) Inter-facility emission trading

All increases in emissions due to emission trading, must be authorized under the applicable requirements of 310 CMR 7.00: Appendix B (the "Emissions Trading Program") and the 42 U.S.C. §7401 et seq. (the "Act"), and provided for in this permit.

## **8. COMPLIANCE SCHEDULE**

The permittee has indicated that the facility is in compliance and shall remain in compliance with the applicable requirements contained in Sections 4 and 5.

In addition, the permittee shall comply with any applicable requirements that become effective during the permit term.

## **GENERAL CONDITIONS FOR OPERATING PERMIT**

### **9. FEES**

The Permittee has paid the permit application processing fee and shall pay the annual compliance fee in accordance with the fee schedule pursuant to 310 CMR 4.00.

### **10. COMPLIANCE CERTIFICATION**

#### (a) Compliance Report

The Responsible Official shall certify, annually from the date of issuance, that the facility is in compliance with the requirements of this permit. The report shall be submitted to the Department and to the Regional Administrator, U.S. Environmental Protection Agency - New England Region. The report shall be submitted in compliance with the submission requirements below.

The compliance certification report shall describe:

- (i) the terms and conditions of the permit that are the basis of the certification;
- (ii) the current compliance status and whether compliance was continuous or intermittent during the reporting period;
- (iii) the methods used for determining compliance, including a description of the monitoring, record keeping, and reporting requirements and test methods; and
- (iv) any additional information required by the Department to determine the compliance status of the source.

#### (b) Certification

All documents submitted to the Department shall contain certification by the responsible official of truth, accuracy, and completeness. Such certification shall be in compliance with 310 CMR 7.01(2) and contain the following language:

"I certify that I have personally examined the foregoing and am familiar with the information contained in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment."

### **11. NONCOMPLIANCE**

Any noncompliance with a permit condition constitutes a violation of 310 CMR 7.00: Appendix C and the Clean Air Act and is grounds for enforcement action, for permit termination or revocation; or for denial of an operating permit renewal application by the Department and/or EPA. Noncompliance may also be grounds for assessment of administrative or civil penalties under M.G.L. c.21A, §16 and 310 CMR 5.00 and civil penalties under M.G.L. c.111, §142A and 142B. This permit does not relieve the Permittee from the obligation to comply with any other provisions of 310 CMR 7.00 or the Act, or to obtain any other necessary authorizations from other governmental agencies, or

to comply with all other applicable Federal, State, or Local rules and regulations, not addressed in this permit.

**12. PERMIT SHIELD**

- (a) This facility has a permit shield provided that it operates in compliance with the terms and conditions of this permit. Compliance with the terms and conditions of this permit shall be deemed compliance with all applicable requirements specifically identified in Sections 4, 5, 6, and 7, for the emission units as described in the Permittee's application and as identified in this permit.

Where there is a conflict between the terms and conditions of this permit and any earlier permit, the terms and conditions of this permit control.

- (b) The Department has determined that the Permittee is not currently subject to the requirements listed in Section 4, Table 7.
- (c) Nothing in this permit shall alter or affect the following:
- (i) the liability of the source for any violation of applicable requirements prior to or at the time of permit issuance.
  - (ii) the applicable requirements of the Acid Rain Program, consistent with 42 U.S.C. §7401, §408(a); or
  - (iii) the ability of EPA to obtain information under 42 U.S.C. §7401, §114 or §303 of the Act.

**13. ENFORCEMENT**

The following regulations found at 310 CMR 7.02(8) Table 1A, 7.02(14), 7.04(9), 7.05(8), 7.09 (odor), 7.10 (noise), 7.18(1)(b), 7.21, 7.22 and any condition(s) designated as "state only" are not federally enforceable because they are not required under the Act or under any of its applicable requirements. These regulations and conditions are not enforceable by the EPA. Citizens may seek equitable or declaratory relief to enforce these regulations and conditions pursuant to Massachusetts General Law Chapter 214, Section 7A

All other terms and conditions contained in this permit, including any provisions designed to limit a facility's potential to emit, are enforceable by the Department, EPA and citizens as defined under the Act.

A Permittee shall not claim as a defense 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.

**14. PERMIT TERM**

This permit shall expire on the date specified on the cover page of this permit, which shall not be later than the date five (5) years after the issuance of this permit.

Permit expiration terminates the Permittee's right to operate the facility's emission units, control equipment or associated equipment covered by this permit, unless a timely and complete renewal application is submitted at least 6 months before the expiration date.

**15. PERMIT RENEWAL**

Upon the Department's receipt of a complete and timely application for renewal, this facility may continue to operate subject to final action by the Department on the renewal application.

In the event the Department has not taken final action on the operating permit renewal application prior to this permit's expiration date, this permit shall remain in effect until the Department takes final action on the renewal application, provided that a timely and complete renewal application has been submitted in accordance with 310 CMR 7.00: Appendix C(13).

**16. REOPENING FOR CAUSE**

This permit may be modified, revoked, reopened, and reissued, or terminated for cause by the Department and/or EPA. The responsible official of the facility may request that the Department terminate the facility's operating permit for cause. The Department will reopen and amend this permit in accordance with the conditions and procedures under 310 CMR 7.00: Appendix C(14).

The filing of a request by the Permittee for an operating permit revision, revocation and reissuance, or termination, or a notification of a planned change or anticipated noncompliance does not stay any operating permit condition.

**17. DUTY TO PROVIDE INFORMATION**

Upon the Department's written request, the Permittee shall furnish, within a reasonable time, any information necessary for determining whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. Upon request, the Permittee shall furnish to the Department copies of records that the Permittee is required to retain by this permit.

**18. DUTY TO SUPPLEMENT**

The Permittee, upon becoming aware that any relevant facts were omitted or that incorrect information was submitted in the permit application, shall promptly submit such supplementary facts or corrected information. The Permittee shall also provide additional information as necessary to address any requirements that become applicable to the facility after the date a complete renewal application was submitted but prior to release of a draft permit.

The Permittee shall promptly, on discovery, report to the Department a material error or omission in any records, reports, plans, or other documents previously provided to the Department.

**19. TRANSFER OF OWNERSHIP OR OPERATION**

This permit is not transferable by the Permittee unless done in accordance with 310 CMR 7.00: Appendix C(8)(a). A change in ownership or operation control is considered an administrative permit amendment if no other change in the permit is necessary and provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, liability between current and new Permittee has been submitted to the Department.

**20. PROPERTY RIGHTS**

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

**21. INSPECTION AND ENTRY**

Upon presentation of credentials and other documents as may be required by law, the Permittee shall allow authorized representatives of the Department and EPA to perform the following:

- (a) enter upon the Permittee's premises where an operating permit source activity is located or emissions-related activity is conducted, or where records must be kept under the conditions of this permit;
- (b) have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, any substances or parameters for the purpose of assuring compliance with the operating permit or applicable requirements as per 310 CMR 7.00 Appendix C.(3)(g)12.

**22. PERMIT AVAILABILITY**

The Permittee shall have available at the facility at all times a copy of the materials listed under 310 CMR 7.00: Appendix C(10)(e) and shall provide a copy of the permit, including any amendments or attachments thereto, upon request by the Department or EPA.

**23. SEVERABILITY CLAUSE**

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

**24. EMERGENCY CONDITIONS**

The Permittee shall be shielded from enforcement action brought for noncompliance with technology based<sup>1</sup> emission limitations specified in this permit as a result of an emergency<sup>2</sup>. In order to use emergency as an affirmative defense to an action brought for noncompliance, the Permittee shall demonstrate the affirmative defense through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (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 as expeditiously as possible to minimize levels of emissions that exceeded the emissions standards, or other requirements in this permit; and
- (d) the Permittee submitted notice of the emergency to the Department within two (2) business days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emission, and corrective actions taken.

If an emergency episode requires immediate notification to the Division of Hazardous Waste/Emergency Response and the Emergency Response Planning Council, immediate notification to the appropriate parties should be made as required by law.

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<sup>1</sup> Technology based emission limits are those established on the basis of emission reductions achievable with various control measures or process changes (e.g., a new source performance standard) rather than those established to attain health based air quality standards.

<sup>2</sup> An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the facility, including acts of God, which situation would require immediate corrective action to restore normal operation, and that causes the source to exceed a technology based 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 operations, operator error or decision to keep operating despite knowledge of any of these things.

**25. PERMIT DEVIATION**

The Permittee shall report to the Department's Regional Bureau of Waste Prevention all instances of deviations from permit requirements, by telephone or fax, within 3 days of discovery of such deviation. This report shall include the deviation itself, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventative measures taken.

Said permit deviation shall also be submitted in writing to the Regional Bureau of Waste Prevention within seven (7) days of documentation of the deviation by facility personnel. Deviations are instances where any permit condition is violated and has not already been reported as an emergency pursuant to section 24 of this permit. Reporting a permit deviation is not an affirmative defense for action brought for noncompliance.

**26. OPERATIONAL FLEXIBILITY**

The Permittee is allowed to make changes at the facility consistent with 42 U.S.C. §7401, §502(b)(10) not specifically prohibited by the permit, and in compliance with all applicable requirements, provided the Permittee gives the EPA and the Department written notice fifteen days prior to said change; notification is not required for exempt activities listed at 310 CMR 7.00: Appendix C(5)(i). The notice shall comply with the requirements stated at 310 CMR 7.00: Appendix C(7)(a) and will be appended to the facility's permit. The permit shield allowed for at 310 CMR 7.00: Appendix C(12) shall not apply to these changes.

**27. MODIFICATIONS**

- (a) Administrative Amendments - The Permittee may make changes at the facility which are considered administrative amendments pursuant to 310 CMR 7.00: Appendix C(8)(a)1., provided they comply with the requirements established at 310 CMR 7.00: Appendix C(8)(b).
- (b) Minor Modifications - The Permittee may make changes at the facility which are considered minor modifications pursuant to 310 CMR 7.00: Appendix C(8)(a)2., provided they comply with the requirements established at 310 CMR 7.00: Appendix C(8)(d).
- (c) Significant Modifications - The Permittee may make changes at the facility which are considered significant modifications pursuant to 310 CMR 7.00: Appendix C(8)(a)3., provided they comply with the requirements established at 310 CMR 7.00: Appendix C(8)(c).
- (d) No permit revision shall be required, under any approved economic incentives program, marketable permits program, emission trading program and other similar programs or processes, for changes that are provided in this operating permit. A revision to the permit is not required for increases in emissions that are authorized by allowances acquired pursuant to the Acid Rain Program under Title IV of the Act, provided that such increases do not require an operating permit revision under any other applicable requirement.

## **APPEAL CONDITIONS FOR OPERATING PERMIT**

This permit is an action of the Department. If you are aggrieved by this action, you may request an adjudicatory hearing within 21 days of issuance of this permit. In addition, any person who participates in any public participation process required by the Federal Clean Air Act, 42 U.S.C. §7401, §502(b)(6) or under 310 CMR 7.00: Appendix C(6), with respect to the Department's final action on operating permits governing air emissions, and who has standing to sue with respect to the matter pursuant to federal constitutional law, may initiate an adjudicatory hearing pursuant to Chapter 30A, and may obtain judicial review, pursuant to Chapter 30A, of a final decision therein.

If an adjudicatory hearing is requested, the facility must continue to comply with all existing federal and state applicable requirements to which the facility is currently subject, until a final decision is issued in the case or the appeal is withdrawn. During this period, the application shield shall remain in effect, and the facility shall not be in violation of the Act for operating without a permit.

Under 310 CMR 1.01(6)(b), the request must state clearly and concisely the facts which are the grounds for the request, and the relief sought. Additionally, the request must state why the permit is not consistent with applicable laws and regulations.

The hearing request along with a valid check payable to The Commonwealth of Massachusetts in the amount of one hundred dollars (\$100.00) must be mailed to:

The Commonwealth of Massachusetts  
Department of Environmental Protection  
P.O. Box 4062  
Boston, MA 02211

The request will be dismissed if the filing fee is not paid unless the appellant is exempt or granted a waiver as described below.

The filing fee is not required if the appellant is a city or town (or municipal agency) county, or district of the Commonwealth of Massachusetts, or a municipal housing authority.

The Department may waive the adjudicatory hearing filing fee for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file, together with the hearing request as provided above, an affidavit setting forth the facts believed to support the claim of undue financial hardship.