



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
SOUTHEAST REGIONAL OFFICE  
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## FINAL AIR QUALITY OPERATING PERMIT

(Replacement page date: 6/19/08)

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.

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

University of Massachusetts  
285 Old Westport Road  
North Dartmouth, Massachusetts 02747-2300

### INFORMATION RELIED UPON:

Application No. 4V95201 and 4M07046  
Transmittal No. 107081 and W160686

### FACILITY LOCATION:

University of Massachusetts – Dartmouth Campus  
285 Old Westport Road  
North Dartmouth, Massachusetts 02747-2300

### FACILITY IDENTIFYING NUMBERS:

SSEIS ID: 0091  
FMF FAC NO. 130017  
FMF RO NO. 54261  
SIC Code: 8221

### NATURE OF BUSINESS:

Public University

### FACILITY CONTACT PERSON:

Name: Mr. David Ferguson  
Title: Director of Facilities & Physical Plant  
Phone: (508) 999-8171

### RESPONSIBLE OFFICIAL:

Name: Mr. David Ferguson  
Title: Director of Facilities & Physical Plant

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**This operating permit shall expire on June 26, 2007 (renewal application submitted).**

For the Department of Environmental Protection, Bureau of Waste Prevention

(Replacement page dated 6/19/08)  
Regional Director

(Operating Permit signed 6/26/02)  
Date

This information is available in alternate format by calling our ADA Coordinator at (617) 574-6872.

DEP on the World Wide Web: <http://Mass.Gov/dep>

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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:

<b>Table 1</b>			
<b>Emission Unit (EU)</b>	<b>Description of Emission Unit</b>	<b>EU Design Capacity</b>	<b>Pollution Control Device (PCD)</b>
EU-1	Boiler No. 1 Cleaver Brooks Model No. CR-428-200 (to Stack No. 1)	8,366,130 Btu/hr	None
EU-2	Boiler No. 2 Bigelow Model No. KS-21 (to Stack No. 1)	36,250,000 Btu/hr	None
EU-3	Boiler No. 3 Bigelow Model No. KS-21 (to Stack No. 1)	36,250,000 Btu/hr	None
EU-4	Boiler No. 4 Bigelow Model No. KS-21 (to Stack No. 1)	36,250,000 Btu/hr	None
EU-5	Athletic Center Boiler No. 5 Cleaver Brooks Model No. CB-700-250-015 (to Stack No. 2)	10,206,000 Btu/hr	Low NO <sub>x</sub> burner & flue gas recirculation
EU-6	Athletic Center Boiler No. 6 Cleaver Brooks Model No. CB-700-250-015 (to Stack No. 3)	10,206,000 Btu/hr	Low NO <sub>x</sub> burner & flue gas recirculation

**3. IDENTIFICATION OF INSIGNIFICANT 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 Table 1, and exempt and insignificant activities as described in 310 CMR 7.00: Appendix C(5)(h) and (i). The units described in Table 1 are subject to the terms and conditions as specified in this permit. Emissions from exempt and insignificant activities shall be included in the total facility emissions for the emission-based portion of the fee calculation described in 310 CMR 4.00 and this permit.

<b>Table 2</b>		
<b>IA</b>	<b>Description of Current Insignificant Activities</b>	<b>Reason</b>
	A list of insignificant activities, determined in accordance with the criteria contained in 310 CMR 7.00: Appendix C(5)(h) and (i), is contained in the Operating Permit Application and is incorporated herein by reference. A current list of insignificant activities shall be kept at the University of Massachusetts-Dartmouth and at the Southeast Regional Office of the Department.	310 CMR 7.00, Appendix C(5)(h) and (i)

**Key to terms:**

IA = insignificant activity

#### 4. APPLICABLE REQUIREMENTS

##### A. EMISSION LIMITS AND RESTRICTIONS

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

<b>Table 3</b>					
Emission Unit (EU)	Fuel	Pollutant	Emission Limit/Standard	Applicable Regulations and/or Approval No.	Restrictions (Rate)
EU-1 EU-2 EU-3 EU-4	No. 6 fuel oil	S in fuel	0.55 lb S/MMBtu	310 CMR 7.05(1)(f)1	N/A
	No. 6 fuel oil & natural gas	PM	0.10 lb/MMBtu (heat input, HHV)	SM-73-013-CO	
NO <sub>x</sub>		N/A	310 CMR 7.19(6) (annual tuning)		
EU-5 EU-6	Natural gas	N/A	N/A	4B99024	<u>The 2 boilers combined:</u> ≤ 3,000,000 ft <sup>3</sup> of natural gas per month; and, ≤ 9,625,000 ft <sup>3</sup> of natural gas per 12-month rolling period
		NO <sub>x</sub>	0.071 lb/MMBtu	4B99024	N/A
		CO	0.150 lb/MMBtu	4B99024	N/A
		VOC	0.016 lb/MMBtu	4B99024	N/A
		PM	0.10 lb/MMBtu (heat input, HHV)	310 CMR 7.02(8)	N/A
		SO <sub>2</sub> /PM	N/A	40 CFR Part 60, Subpart Dc	N/A
		Opacity	No visible emissions	4B99024	N/A
Facility-Wide	No. 6 fuel oil/natural gas	Smoke	Not to equal or exceed No. 1 of the Chart for a period or aggregate period in excess of 6 minutes during any one hour, at no time during the 6 minutes ≥ No. 2 of the Chart	310 CMR 7.06(1)(a)	N/A
		Opacity	< 20%, except 20% to ≤ 40% for ≤ 2 minutes during any 1 hour	310 CMR 7.06(1)(b)	N/A

**Table 3 Key to terms:**

S = fuel sulfur content

S in fuel = sulfur in fuel

Btu = British thermal units

MMBtu = million British thermal units

HHV = higher heating value.

HHV = higher heating value

Chart = The Ringlemann Scale for grading the density of smoke, as published by the U.S. Bureau of Mines Information Circular No. 8333, or any smoke inspection guide approved by the Department.

**B. COMPLIANCE DEMONSTRATION**

The Permittee is subject to the monitoring, testing, record keeping, and reporting requirements as contained in Tables 4, 5, and 6 below and 310 CMR 7.00 Appendix C (9) and (10), as well as applicable requirements contained in Table 3:

<b>Table 4</b>	
<b>Emission Unit (EU)</b>	<b>Monitoring/Testing Requirements</b>
EU-2 EU-3 EU-4	<p>As required by 310 CMR 7.19(6)(a), the boilers shall be tuned annually following the procedure outlined in 310 CMR 7.19(6)(a)1 through 12, and incorporated herein by reference.</p> <p>In accordance with 310 CMR 7.19(6)(b)2.g., verify at least once per month that the settings determined during the annual tune-up have not changed.</p>
Facility-Wide	<p>Emissions compliance testing (stack testing) to be conducted in accordance with 310 CMR 7.13, 310 CMR 7.19(13)(c), and 40 CFR Part 60 utilizing the following methods:</p> <ul style="list-style-type: none"> <li>• PM - Methods 1 through 5</li> <li>• NO<sub>x</sub> - Method 7E</li> <li>• CO - Method 10</li> <li>• SO<sub>2</sub> - Method 6C</li> <li>• O<sub>2</sub> - Method 3A</li> <li>• Opacity – Method 9</li> <li>• Any other testing if and when requested by the Department or U.S. EPA</li> </ul>
	<p>In accordance with 310 CMR 7.04(4)(a), inspect and maintain each fuel utilization facility in accordance with the appropriate manufacturer's recommendations, and test for efficient operation at least once in each calendar year. The results of said inspection, maintenance and testing, and the date upon which it was performed shall be recorded and posted conspicuously on or near the permitted facility.</p>
	<p>In accordance with 310 CMR 7.13(1), any person owning, leasing, operating, or controlling a facility for which the Department has determined that stack testing is necessary to ascertain compliance with the Department's regulations shall cause such stack testing:</p> <p>(a) to be conducted by a person knowledgeable in stack testing,</p> <p>(b) to be conducted in accordance with procedures contained in a test protocol which has been approved by the Department,</p> <p>(c) to be in the presence of a representative of the Department when such is deemed necessary, and</p> <p>(d) to be summarized and submitted to the Department with analyses and report within such time as agreed to in the approved test protocol.</p>
	<p>Compliance shall be demonstrated with 310 CMR 7.05(1)(a)1 by obtaining and maintaining a shipping receipt from the fuel oil supplier for each shipment of oil delivered. The shipping receipt must certify that the shipment complies with the American Society for Testing and Materials (ASTM) specifications for residual fuel oil. The Department may require testing of the residual fuel oil if the shipping receipt does not clearly demonstrate compliance.</p>

In accordance with 310 CMR 7.00, Appendix C(10)(b), the permittee shall maintain onsite the following records for 5 years from the date of generation, and these records shall be readily available to the Department and/or U.S. EPA personnel.

<b>Table 5</b>	
<b>Emission Unit (EU)</b>	<b>Record Keeping Requirements</b>
EU-2 EU-3 EU-4	<p>In accordance with 310 CMR 7.19(6)(b)2, maintain records of the boilers' annual tune-up to include:</p> <ul style="list-style-type: none"> <li>(a) date of tune-up,</li> <li>(b) person(s) conducting the tune-up,</li> <li>(c) O<sub>2</sub>/CO (for natural gas) or O<sub>2</sub>/smoke spot (for oil) correlations obtained during tune-up,</li> <li>(d) boiler/burner manufacturers' recommended set-points,</li> <li>(e) final boiler set-points as a result of tune-up,</li> <li>(f) normal boiler/burner maintenance records, and</li> <li>(g) at least once per month verification that the settings determined during tune-up have not changed.</li> </ul>
EU-5 EU-6	<p>In accordance with Approval No. 4B99024, a recordkeeping system shall be established on site. All records shall be maintained up-to-date such that year-to-date information is readily available for Department examination. Recordkeeping shall, at a minimum, include:</p> <ul style="list-style-type: none"> <li>(a) A fuel usage log which shall consist of standard bills for fuel usage.</li> <li>(b) A record of routine maintenance activities including, at a minimum, the type or a description of the maintenance performed and the date and time the work was completed.</li> <li>(c) A record of all malfunctions including, at a minimum, the date and time the malfunction occurred, a description of the malfunction and the corrective action taken, the date and time the corrective actions were initiated, and the date and time corrective actions were completed and the facility returned to compliance.</li> </ul> <p>In accordance with 40 CFR Part 60, Subpart Dc, the owner or operator of each affected facility shall record and maintain records of the amounts of fuel combusted each day.</p> <p>In accordance with Approval No. 4B99024, records shall be maintained verifying compliance with fuel burning usage limits specified in Table 3.</p>

**Table 5 (continued)**

Emission Unit (EU)	Record Keeping Requirements
Facility-Wide	<p>Maintain records of all monitoring data and supporting information on-site for a period of at least 5 years from the date of the monitoring sample to include at a minimum, all calibration and maintenance records and copies of all reports required by the Operating Permit, and any other information required to interpret the monitoring data. Records required to be maintained shall include:</p> <ul style="list-style-type: none"> <li>(a) The date, place as defined in the permit, and time of sampling or measurements.</li> <li>(b) The date(s) analyses were performed.</li> <li>(c) The company or entity that performed the analyses.</li> <li>(d) The analytical techniques or methods used.</li> <li>(e) The results of such analyses.</li> <li>(f) The operating conditions as existing at the time of sampling or measurement.</li> </ul> <p>These records shall be readily available to the Department and/or U.S. EPA personnel.</p>
	<p>The results of the annual inspection of the fuel utilization facility conducted in accordance with 310 CMR 7.04(4)(a) shall certify that the facility has been inspected and maintained in accordance with manufacturer's recommendations and tested for efficient operation at least once in each calendar year, and shall be posted conspicuously on or near the facility indicating the date on which the inspection was performed.</p>
	<p>Maintain records of the fuel oil purchase receipts necessary in order to demonstrate compliance with the fuel sulfur content requirements as provided in 310 CMR 7.05(1)(a)1.</p>
	<p>Maintain records of facility operations such that information may be reported as required for compliance with 310 CMR 7.12. Keep copies of all information supplied to the Department pursuant to 310 CMR 7.12 on-site for 5 years after the date the report is submitted.</p>

<b>Table 6</b>	
<b>Emission Unit (EU)</b>	<b>Reporting Requirements<sup>(1)</sup></b>
EU-2 EU-3 EU-4	In accordance with 310 CMR 7.19(13)(d)9, submit compliance records within ten (10) days of written request by the Department or U.S. EPA.
EU-5 EU-6	Comply with reporting requirements of 40 CFR Part 60, Subparts A and Dc.
Facility- Wide	In accordance with 310 CMR 7.12, submit annually information pertinent to the nature and amounts of emissions on forms provided by the Department, and in addition, ensure that the facility is available for inspection by Department and/or U.S.EPA personnel at any reasonable time.
	In accordance with 310 CMR 7.00, Appendix C(10)(c), report a summary of all monitoring data and related supporting information to the Department every six months (January 30 and July 30) of each calendar year.
	All notifications and reporting required in accordance with Section No. 25 of this Operating Permit shall be sent directly to:  <div style="text-align: center;">           Department of Environmental Protection            Bureau of Waste Prevention            Southeast Regional Office            20 Riverside Drive            Lakeville, MA 02347             ATTN: Gerald A. Monte, Chief            Compliance &amp; Enforcement Section             Telephone: (508) 946-2825            Fax: (508) 947-6557         </div>
	In accordance with 310 CMR 7.13(1) and 7.13(2), the permittee, if determined by the Department that stack testing is necessary to ascertain compliance with the Department's regulations shall cause such stack testing to be summarized and submitted to the Department as prescribed in the agreed-to test protocol.
	In accordance with 310 CMR 7.00, Appendix C(10)(a), the permittee, upon the Department's request shall transmit any record relevant to the Operating Permit within 30 days of the request by the Department or within a longer time period if approved in writing by the Department. The record shall be transmitted on paper, on computer disk, or electronically at the discretion of the Department.

**Note:**

1. The annual Source Registration/Emission Statement shall be submitted to the DEP Office specified in the instructions. **All other reports, including both 6-month summary reports, are to be submitted to the Southeast Regional Office address, as specified on the letterhead of this Operating Permit.**

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 shall comply with any applicable requirements that become effective during the permit term.

<b>Table 7</b>	
Regulation	Description
310 CMR 7.07	Open Burning
42 USC 7401, §112	Hazardous Air Pollutants
42 USC 7401, §112(r)(7)	Accidental Release Prevention Requirements: Risk Management under the Clean Air Act §112(r)
310 CMR 7.25	Consumer and Commercial Products

**5. SPECIAL TERMS AND CONDITIONS**

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

- (a) The University of Massachusetts-Dartmouth has indicated that it is subject to, and is working toward complying with the requirements of 310 CMR 7.16, U Reduction of Single Occupant Commuter Vehicle Use, through the measures and timelines identified in the Compliance Schedule included herein in Section 8.
- (b) In accordance with Approval No. SM-73-013-CO, EU-1, EU-2, EU-3, and EU-4 shall continue to emit through a single stack having the following parameters:
 

Stack Height	150 feet
Stack Exit Diameter	96 inches
Stack Material	Refractory Brick
- (c) In accordance with Approval No. 4B99024, EU-5 and EU-6 shall continue to emit through individual single stacks, each having the following parameters:
 

Stack Height	26.5 feet
Stack Exit Diameter	22 inches
Stack Material	Steel
- (d) The University of Massachusetts-Dartmouth is subject to, and has stated in its Operating permit application, Transmittal No. 107081, that it is in compliance with the requirements of 40 CFR 82, Protection of Stratospheric Ozone. These requirements are applicable to this facility and the U.S. Environmental Protection Agency enforces these requirements.

## **6. ALTERNATIVE OPERATING SCENARIOS**

The Permittee did not request alternative operating scenarios in its operating permit application.

## **7. EMISSIONS TRADING**

### (a) Intra-facility emission trading

The permittee 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

The permittee did not request inter-facility emissions trading in its operating permit application

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**

(i) The University of Massachusetts-Dartmouth is not in compliance with the "Rideshare" Regulation, Reduction of Single Occupant Commuter Vehicle Use (310 CMR 7.16). Applicable educational facilities are required to file Base Reports and, annually thereafter, Update Reports; identify how employees and students commute to the facility; implement, promote, evaluate and maintain drive-alone trip reduction incentives required by the regulation; and keep Rideshare Program records for at least three years. To date, the University of Massachusetts-Dartmouth has submitted only incomplete 1995 and 1996 Rideshare Program Reports to the Department. In the *1995 Rideshare Program Update Report*, which served as the facility's base report (in subsequent filing years, the Department created separate Base Report and Update Reports), the University of Massachusetts-Dartmouth:

(a) failed to provide any of the information required in Sections D, E and O;

(b) failed to provide any information regarding the facility's survey, as required in Section F; and,

(c) stated it would provide transit passes on site, establish bicycle incentives, negotiate with bus providers for improved service, implement an annual carpool matching program and establish preferential parking; however, the date for implementation was November 15, 1996,

a year after the submittal of the Rideshare Report. The Rideshare regulation (310 CMR 7.16(1)) requires employers to “expeditiously” implement the required trip reduction incentives. The Department does not consider a one-year timeline to implement the trip reduction incentives to be expeditious. The facility also failed to implement the required trip reduction incentives by this date, as indicated by the *1996 Rideshare Program Update Report* which established a new deadline to implement the incentives (see below).

- (d) failed to implement a vanpool program, as required by 310 CMR 7.16(1)(f). Facilities employing 1000 or more applicable employees are required to implement a vanpool program.

In the *1996 Rideshare Program Update Report*, the University of Massachusetts-Dartmouth:

- (a) failed to obtain commute data on all its applicable employees and students;
- (b) stated it would provide transit passes on site, establish bicycle incentives, negotiate with bus providers for improved service, implement an annual carpool matching program and establish preferential parking; however, the date for implementation was November 15, 1997, a year after the submittal of the Rideshare Report. The Rideshare regulation (310 CMR 7.16(1)) requires employers to “expeditiously” implement the required trip reduction incentives. The Department does not consider a one-year timeline to implement the trip reduction incentives to be expeditious.
- (c) failed to implement a vanpool program, as required by 310 CMR 7.16(1)(f). Facilities employing 1000 or more applicable employees are required to implement a vanpool program.

Furthermore, the University of Massachusetts-Dartmouth did not submit a *1997 Applicability Statement and Compliance Certification*, a *1998 Rideshare Program Educational Facility Update Report*, a *1999 Rideshare Program Update Report - Educational Facilities*, or a *2000 Rideshare Program Update Report – Educational Facilities* to the Department.

To address these violations, on June 30, 2000 the University of Massachusetts-Dartmouth entered into a Clean State Administrative Consent Order (ACO-B0-00-E008) with the Department and agreed to develop and implement a rideshare program by December 30, 2002. On or before that date, the University of Massachusetts-Dartmouth shall submit to DEP a letter that explains in detail the facility’s implementation and promotion of the trip reduction incentives required by 7.16(1) as well as the facility’s procedures for evaluating employee use of the trip reduction incentives required by 7.16(1).

- (ii) In accordance with the terms of the Administrative Consent Order, the University of Massachusetts-Dartmouth shall report quarterly on progress made to fully implement the Rideshare Program in accordance with the protocols established in the Clean State Program.
- (iii) In addition, the University of Massachusetts-Dartmouth must submit a *2003 Rideshare Program Update Report* on November 15, 2003. The facility shall obtain data on the ways employees and students commute to the facility for the 2003 reporting year. Upon receipt of the University of Massachusetts-Dartmouth’s *2003 Rideshare Program Update Report* the Department will determine if the information is complete and complies with the applicable requirements contained in the Rideshare regulation, 310 CMR 7.16.

- (iv) Upon achieving compliance with the terms and conditions of this compliance schedule, this compliance schedule shall be terminated.
- (v) The University of Massachusetts-Dartmouth's failure to comply with this compliance schedule shall be a violation of 310 CMR 7.16 and 310 CMR 7.00: Appendix C.
- (vi) Nothing in this compliance schedule shall be construed or operated as relieving the University of Massachusetts-Dartmouth or any other person of the necessity of complying with all applicable federal, state or local laws and regulations, including but not limited to 310 CMR 7.16, and with the June 30, 2002 Clean State Administrative Consent Order.

## **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**

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."

The Department will submit an "Operating Permit Reporting Kit" to the Permittee which contains instructions and the Annual Compliance Report and Certification and the Semi-Annual Monitoring Summary Report and Certification.

#### (a) Annual Compliance Report and Certification

The Responsible Official shall certify, annually for the calendar year, that the facility is in compliance with the requirements of this permit. The report shall be postmarked or delivered by January 30 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) Semi-Annual Monitoring Summary Report and Certification

The Responsible Official shall certify, semi-annually on the calendar year, that the facility is in compliance with the requirements of this permit. The report shall be postmarked or delivered by January 30 and July 30 to the Department. The report shall be submitted in compliance with submission requirements below.

The compliance certification and report shall describe:

- (i) the terms and conditions of the permit that are the basis of the certification;
- (ii) the current compliance status 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;
- (iv) whether there were any deviations during the reporting period;
- (v) if there were any outstanding deviations at the time of reporting, and the Corrective Action Plan to remedy such deviation;
- (vi) whether deviations in the reporting period were previously reported;
- (vii) if there were any outstanding deviations at the time of reporting, the proposed date of return to compliance;
- (viii) if the deviations in the reporting period have returned to compliance and the date of such return to compliance; and,
- (ix) any additional information required by the Department to determine the compliance status of the source.

## **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)(h) Table 6 for wood fuel, 7.02(8)(i), 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.

## **25. PERMIT DEVIATION**

Deviations are instances where any permit condition is violated and not 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. Any reporting requirements listed in Table 6 of this Operating Permit shall supersede the following deviation reporting requirements, if applicable.

The Permittee shall report to the Department's Regional Bureau of Waste Prevention the following deviations from permit requirements, by telephone or fax, within three (3) days of discovery of such deviation:

- Unpermitted pollutant releases, excess emissions or opacity exceedances measured directly by CEMS/COMS, by EPA reference methods or by other credible evidence, which are ten percent (10%) or more above the emission limit.

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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.

- Exceedances of parameter limits established by your Operating Permit or other approvals, where the parameter limit is identified by the permit or approval as surrogate for an emission limit.
- Exceedances of permit limitations directly correlated to excess emissions.
- Failure to capture valid emissions or opacity monitoring data or to maintain monitoring equipment as required by statutes, regulations, your Operating Permit, or other approvals.
- Failure to perform QA/QC measures as required by your Operating Permit or other approvals for instruments that directly monitor compliance.

For all other deviations, three (3) day notification is waived and is satisfied by the documentation required in the subsequent Semi-Annual Monitoring Summary and Certification. Instructions and forms for reporting deviations are found in Massachusetts Department of Environmental Protection Bureau of Waste Prevention Air Operating Permit Reporting Kit, which is included with the Operating Permit. This report shall include the deviation, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and corrective actions or preventive measures taken.

Deviations that were reported by telephone or fax within three (3) days of discovery, such deviations shall also be submitted in writing to the regional Bureau of Waste Prevention within ten (10) days of discovery. For deviations which do not require three (3) day verbal notification, follow-up reporting requirements are satisfied by the documentation required in the aforementioned Semi-Annual Monitoring Summary and Certification.

## **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.