



COMMONWEALTH OF MASSACHUSETTS
 EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 NORTHEAST REGIONAL OFFICE

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LAURIE BURT
 Commissioner

FINAL AIR QUALITY OPERATING PERMIT

(Administrative Amendment to MBR-95-OPP-029, Transmittal 108061)

Issued by the Massachusetts Department of Environmental Protection ("MassDEP") 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"]:

Irving Oil Terminals Inc.
 41 Lee Burbank Highway
 Revere, Massachusetts 02151
 Lowell, MA 01851

INFORMATION RELIED UPON:

Application No. MBR-95-OPP-029 & **MBR-95-OPP-029AA**
 Transmittal No. 108061 & **X231815**

FACILITY LOCATION:

Irving Oil Terminals Inc.
 41 Lee Burbank Highway
 Revere, Massachusetts 02151

FACILITY IDENTIFYING NUMBERS:

SSEIS ID: 1190490
 FMF FAC NO. 310463
 FMF RO NO. 269417

NATURE OF BUSINESS:

Petroleum Storage & Distribution

STANDARD INDUSTRIAL CLASSIFICATION:

5171

NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM (NAICS):

424710

RESPONSIBLE OFFICIAL:

Name: **Mr. Shawn McArdle**
 Title: Terminal Manager

FACILITY CONTACT PERSON:

Name: **Mr. Shawn McArdle**
 Title: Terminal Manager
 Phone: (781) 289-4201

This Operating Permit shall expire on October 19, 2004. (However, Irving Oil had submitted its Operating Permit Renewal Application (MBR-95-OPP-029R) on November 19, 2003. This Renewal Application is currently under review by MassDEP.)

For the Department of Environmental Protection, Bureau of Waste Prevention

This final document copy is being provided to you electronically by the Department of Environmental Protection. A signed copy of this document is on file at the DEP office listed on the letterhead.

James E. Belsky
 Permit Chief, Bureau of Waste Prevention

February 19, 2010
 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			
Emission Unit (EU)	Description of Emission Unit	EU Design Capacity	Pollution Control Device (PCD)
1	Truck Loading Rack, Distillate/Gasoline ¹	160,000 gallons gasoline/hour	PCD-1, John Zink VRS*
2	Above Ground (AG) Gasoline Storage Tank #1	2,452,800 gallon (gal)	PCD-2 Internal Floating Roof (IFR)
3	AG Gasoline Storage Tank #2	2,776,200 gal	PCD-3 IFR
4	AG Gasoline Storage Tank #5	1,222,200 gal	PCD-4 IFR
5	AG Gasoline Storage Tank #10	2,898,000 gal	PCD-5 IFR
6	AG Gasoline Storage Tank #11	1,192,800 gal	PCD-6 IFR
7	AG Gasoline Storage Tank #12	4,981,200 gal	PCD-7 IFR
8	AG Gasoline Storage Tank #14	7,236,600 gal	PCD-8 IFR
9	AG Fixed Roof Storage Tank #3, Distillates/Kerosene	3,099,600 gal	NA
10	AG Fixed Roof Storage Tank #4, Distillates/Kerosene	2,872,800 gal	NA
11	Fugitive Components+	NA	NA

1 : Gasoline or other organic liquid with true vapor pressure(VP) greater than 1.5 pounds per square inch (psia), distillates with VP less than 1.5 psia.

* : Activated Carbon Vapor Recovery System, Model HAT-2500-825-12-10-12-2-X

+ : Fugitive emissions can result from leaks from fittings, flanges, pumps etc.

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
11	Hot Water Boiler	Unit exempt from preconstruction review and approval pursuant to 310 CMR 7.02(4)(a)(7)(b)
12	Hot Water Boiler	
13	Storage Tank No. 6	Unit exempt from preconstruction review and approval pursuant to 310 CMR 7.02(4)(a)8.
14	Storage Tank No. 7	
15	Underground Storage Tank No. 22	
16	Underground Storage Tank No. 23	
17	Storage Tank No. 8	
18	Storage Tank No. 9	

* IA# - Insignificant Activity Number

4. APPLICABLE REQUIREMENTS

A. EMISSION LIMITS AND RESTRICTIONS

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

Table 3*					
EU #	Raw Material	Pollutant	Emission Limit/Standard	Applicable Regulations and/or Approval No.	Restrictions (Rate)
EU1	Gasoline ¹	VOC/HAP	10 mg of VOC/L (equates to a VOC concentration of 3800 ppm, as propane) dispensed, averaged over one hour period	310 CMR 7.24, 310 CMR 7.02, MBR-93-IND-016, MBR-95-OPP-029	Load no more than 2.5 million gallons per day Load no more than 500 million gallons per rolling twelve month period
	Distillates ²	VOC	NA	MBR-95-OPP-029	Load no more than 3.96 million gallons per day Load no more than 1,445 million gallons per twelve month rolling period
Facility - wide	Gasoline/Distillates	VOC/HAP	Single HAP emissions < 10 TPY, total HAPs < 25 TPY	MBR-95-OPP-029 MBR-93-IND-016 40 CFR 63.420	Shall not allow gasoline to be handled in a manner such that the methods, procedures, and calculations for determining 40 CFR 63.R applicability, is exceeded in any rolling 30-day period, as required in 40 CFR 63.420

* Key to terms:

- 1 - Gasoline or any organic liquid with a true vapor pressure greater than or equal to 1.5 pounds per square inch (psi)
- 2 - Any organic liquid with a true vapor pressure less than 1.5 pounds per square inch (psi)
- VOC Volatile Organic Compounds
- HAP Hazardous Air Pollutants
- mg/L milligrams per liter
- EU# Emission unit number
- < Less than
- TPY Tons per year
- ppm Parts per million

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):

Table 4	
EU#	MONITORING/TESTING REQUIREMENTS
1	<p>Operate and maintain a certified continuous emissions monitoring system (CEMS) servicing the activated carbon vapor recovery system (VRS) as provided in MBR-93-IND-016. 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 and the CEMS shall include a chart recorder, which will record the VOC outlet concentration along with its corresponding date and time on a continuous basis as provided in Final Approval MBR-93-IND-016 and incorporated into this Operating Permit.</p> <p>Perform quarterly performance audits and the calendar second quarter audit must be a relative accuracy test audit (RATA) or relative accuracy audit (RAA) as referenced in Final Approval MBR-93-IND-016.</p> <p>Perform calibration drift assessment daily as provided in 40 CFR Part 60, Appendix F and Final Approval MBR-93-IND-016 and incorporated herein by reference.</p> <p>Conduct emission testing on the VRS if and when the Department deems it necessary as provided in 310 CMR 7.13 and referenced in Final Approval MBR-93-IND-016.</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).</p> <p>Monitor daily and 12-month rolling period gasoline and distillate throughput according to the limits in Table 3, as proposed in Application MBR-95-OPP-29 and specified in this Operating Permit.</p>
2,3,4,5, 6,7,8	<p>Monitor the Reid Vapor Pressure (RVP) for gasoline sold or supplied as provided in 310 CMR 7.24(5) and upon request by the Department, provide a sample or samples of gasoline in accordance with the methods listed in 310 CMR 7.24(5)(b)2.</p> <p>If the Department verifies a violation of the eight hour carbon monoxide National Ambient Air Quality Standard within the oxygenated gasoline control area, as specified in 310 CMR 7.24(7)(a)(2), then Irving Oil Terminals Inc. shall be subject to the monitoring and testing requirements set forth in 310 CMR 7.24(7).</p> <p>Perform inspections of internal floating roof tanks and associated control equipment as provided in 310 CMR 7.24(1)(d)(5), (6) & (7), incorporated herein by reference. This includes the inspection of covers and seals whenever the tanks are emptied for nonoperational reasons or once every five years for double seal tanks and once every ten years for single seal tanks, whichever is sooner.</p> <p>Monitor total monthly gasoline throughput for all floating roof tanks, according to the limits in Table 3, as proposed in Application MBR-95-OPP-29 and specified in this Operating Permit.</p> <p>Obtain a gasoline sample from each tank on a monthly basis and through analysis, develop a vapor profile which illustrates the actual content of Hazardous Air Pollutants (HAP) handled at the facility, as required in Amendment to Final Approval MBR-93-IND-016. Based on this data, Irving Oil Terminals Inc. shall monitor its gasoline throughput and control it accordingly as a means through which it can credibly demonstrate that the HAP emission limits specified in Table No. 3 above, are not exceeded.</p>
Facility -Wide	<p>Monitor operations such that none of the methods, procedures, and calculations for determining 40 CFR 63.R applicability, is exceeded in any rolling 30-day period, as required in 40 CFR 63.420.</p>

Table 5	
EU#	RECORD KEEPING REQUIREMENTS*
1	The copies of the CEMS operating records shall be maintained on-site and shall be made available for inspection by Department personnel upon request as required by 310 CMR Appendix C 3 (g)(12) and C(10), incorporated herein by reference.
	Maintain records of all quarterly performance audits of the CEMS as referenced in Final Approval MBR-93-IND-016 and incorporated into this Operating Permit.
	Maintain a copy of the report of the stack testing performed to demonstrate compliance with the emission limits specified in Final Approval MBR-93-IND-016 and incorporated into this Operating Permit.
	Maintain records of all daily calibration and drift assessments on-site as referenced in Final Approval MBR-93-IND-016 and incorporated into this Operating Permit.
	Maintain a control system maintenance log. This log shall record all routine maintenance and emergency repairs to the carbon adsorption system, and all testing of, screening of, and replacement of the activated carbon as referenced in Final Approval MBR-93-IND-016 and incorporated into this Operating Permit.
	Maintain adequate gasoline cargo tank truck vapor tightness test records on-site to demonstrate compliance with 310 CMR 7.24(4).
	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-93-IND-016 and incorporated into this Operating Permit.
2, 3, 4, 5, 6,7, 8,	Maintain records of daily and 12-month rolling gasoline and distillate throughput as proposed in Application MBR-95-OPP-29 and specified in this Operating Permit.
	Maintain records of fuel samples and Reid Vapor Pressure (RVP) test results, when requested, such that the Department may perform an audit to determine compliance with the requirements in 310 CMR 7.24 (5).
	If the Department verifies a violation of the eight hour carbon monoxide National Ambient Air Quality Standard within the oxygenated gasoline control area, as specified in 310 CMR 7.24(7)(a)(2), then Irving Oil Terminals Inc. shall 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), incorporated herein by reference.
	Maintain records for gasoline storage vessels as required in 310 CMR 7.24, incorporated herein by reference.
Facility-Wide	Maintain monthly throughput for all floating roof tanks, as proposed in Application MBR-95-OPP-29 and specified in this Operating Permit.
	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.

* All records shall be maintained for the most recent five year period as required in 310 CMR 7.00: Appendix C(10) (b).

Table 6	
EU#	REPORTING REQUIREMENTS
1	<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-93-IND-016.</p> <p>In the event of any VRS malfunction which does not allow the VRS to maintain the BACT emission limitation of 10 mg/l of gasoline dispensed averaged over a one hour period and /or a special condition, as found in Section 5. of this Operating Permit has occurred then Irving Oil Terminals Inc. shall immediately report to this Regional Office by FAX at (781) 932-7615 and subsequently in writing at the above address within seven days of said occurrence.</p>
Facility-Wide	<p>Submit to this Regional Office all facility operating parameters, not otherwise noted in this Operating Permit or other Approvals 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 by January 15 and July 15 for the previous six months respectively, a summary of all monitoring data and related supporting information to the Department as required by 310 CMR 7.00: Appendix C(10)(c). This data shall consist of daily and monthly loading rack gasoline and distillate throughput and monthly gasoline floating roof tank throughput and all other data required under 310 CMR 7.24 (1) (i).</p>

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:

Table 7	
REGULATION	DESCRIPTION
310 CMR 7.16:	Reduction of Single Occupant Commuter Vehicle Use
40 CFR 60 K/Ka/Kb	Standards of Performance for Storage Vessels of Petroleum Liquids
40 CFR 60 XX	Standards of Performance for Bulk Gasoline Terminals
40 CFR 63 R:	National Emission Standards for Gasoline Distribution Facilities
40 CFR 63 Y	National Emission Standards for Marine Loading Facilities
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 Tables 3, 4, 5 and 6.

1. Irving Oil Terminals Inc., as required by Regulation 310 CMR 7.24(2)(d), shall only 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) - Tank Trucks.
2. Irving Oil Terminals Inc. shall, as required in its approved Standard Operating and Maintenance Procedures (SOMP) and as required in Final Approval MBR-93-IND-016, adhere to the following: 1) a hydrocarbon concentration level of 0.26 percent (as propane), by volume, that is potentially greater than a 7 MG/L emission rate will initiate a visible alarm at the facility; 2) a hydrocarbon concentration level of 0.38 percent (as propane), by volume, 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. Irving Oil Terminals Inc. shall operate and maintain the facility's electronic interlocks to automatically prevent:
 - a) the loading of gasoline if the back pressure in the vapor recovery lines is greater than 18 inches water column gauge pressure; and
 - b) the loading of gasoline when the vapor recovery lines are not connected properly; and
- c) the loading of gasoline if any of the following shutdown conditions occur:
 1. Vacuum pump failure
 2. Vacuum pump low seal fluid flow
 3. Vacuum pump seal fluid pump failure
 4. Gasoline supply pump failure
 5. Gasoline return pump failure

6. Separator low level
 7. Separator high level
 8. Emergency shutdown
4. 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-93-IND-016.
 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

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

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, 7, and 8, 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)(a) (woodburners), 7.02(14), 7.09 (odor), 7.10, 7.18(1)(b), 7.21, and 7.22 are not federally enforceable because these regulations are not required under the Act or under any of its applicable requirements. These terms and conditions are only enforceable by the Department.

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 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 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 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 source 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 based¹ emission limitations specified in this permit as a result of an emergency². 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

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.

¹ 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.

² An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, 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.

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 is not an emergency.

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 regulations, 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.