

SUPPORT DOCUMENT FOR

Mississippi Department of Environmental Quality's Proposed Amendments to the "Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act," 11 Mississippi Administrative Code Part 2, Chapter 6

Regarding Revisions to the Title V Program Fee System

This amendment to the State of Mississippi's "Air Emissions Operating Permit Regulations for the Purposes of Title V of the Federal Clean Air Act," 11 Miss. Admin. Code Pt. 2, Ch. 6, is to incorporate changes necessary to implement a modified fee system for the Title V program. The Mississippi Department of Environmental Quality (MDEQ) implements an Environmental Protection Agency (EPA) approved Title V program; therefore, MDEQ must meet the conditions outlined in 40 C.F.R. Part 70, State Operating Permit Programs, as required by Title V of the Clean Air Act. These federal regulations include requirements for state programs to assess and collect fees from all applicable sources in an amount sufficient to cover program costs.

Mississippi law also includes requirements for the Title V program. The law requires an independent council ("the Title V Advisory Council") be established to conduct an annual review of the Title V program to determine if the fee system is collecting sufficient funds to meet the program needs; to recommend an appropriate fee schedule for the upcoming fee year; and, if necessary, recommend changes to the existing fee system to ensure sufficient funds are collected through an equitable fee system. The results of each annual review and recommendation are forwarded to the Mississippi Commission on Environmental Quality (Commission) for their use in making decisions regarding Title V program fees. Recent reviews by the Title V Advisory Council indicate that the current fee system, established in 1993, is no longer equitable and often results in inconsistent funding since it is solely based on annual source emissions, which are widely variable. Therefore, these amendments are necessary to modernize and add stability to the fee system to ensure continued and long-term compliance with both state and federal laws and regulations.

The Title V fee system is outlined in 11 Miss. Admin. Code Pt. 2, R. 6.6. The current system requires Title V sources to pay an annual fee based on emissions of regulated air pollutants at a fee rate (i.e., \$ per ton of emissions) set by order of the Commission each year. The current system also includes a maximum emission rate per pollutant and an annual facility minimum. The modified fee system will build upon the current, emissions-based system by calculating a portion of the fee based on the number of applicable air regulations required to be included in a source's Title V permit. This additional fee, often referred to as a maintenance fee, will account for the cost of implementing, permitting, and ensuring compliance with often numerous and complex regulatory requirements that successfully reduce actual emissions from Title V sources. The addition of the maintenance fee will also add stability to the program by no longer relying solely on emissions-based funding and will likely result in a reduction of the emissions-based fee rate. This modified fee system establishes a more equitable, stable, and resilient Title V fee

system. Specific changes associated with these amendments are listed and discussed in more detail below.

- Establishment of a “maintenance fee” based on the complexity of a source, as determined by the number of applicable air regulations required to be included in the source’s Title V permit
- Removal of the 4,000 ton per pollutant maximum, which, in recent years, has rarely impacted fee assessments and only affects the largest emission sources when applicable
- Removal of the \$250 per facility minimum and replacement with a requirement for minimum fees to be established each year as part of the annual fee schedule
- Removal of outdated information no longer applicable
- Editorial changes for improved organization and clarity

Under the current Title V fee system, the annual fee schedule set by order of the Commission establishes the list of regulated air pollutants excluded from fee assessment and the emissions-based fee rate. Under the modified Title V fee system, the annual fee schedule set by order of the Commission will continue to establish the list of regulated air pollutants excluded from fee assessment and the emissions-based fee rate but will also identify the schedule for maintenance fees, facility minimums, and any pollutant or facility maximums.