



MISSISSIPPI DEPARTMENT OF
ENVIRONMENTAL QUALITY

State Fiscal Year 2024

**Title V Program
Resource Needs and Fee Recommendation**

FINAL REPORT

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I. EXECUTIVE SUMMARY

Title V of the federal Clean Air Act requires affected sources to pay an annual fee to cover the costs of implementing the Title V program. Mississippi law and Mississippi Department of Environmental Quality (MDEQ) regulations require the Commission on Environmental Quality to set the annual fee schedule after receiving the recommendation of the Title V Advisory Council, if provided timely. MDEQ prepares an annual report on behalf of the Title V Advisory Council, which contains the Title V program fee recommendation for the upcoming fee period. The report outlines the work MDEQ plans to complete during the fiscal year and includes associated staffing and budget needs to support the fee recommendation. MDEQ conducted a review of the Title V workplan, the estimated fund balance, the projected revenues and expenditures, and the anticipated quantity of air emissions from affected sources and prepared the report to establish the Title V program fee recommendation for State Fiscal Year 2024.

A. REVIEW OF TITLE V PROGRAM FEE RATES, BILLABLE TONS, AND REVENUE

The following is a historical review of Title V program fee rates, billable tons, and revenues:

Title V Program Review				
Fiscal Year	Rate Per Ton	Projected Billable Tons	Year End Actual Billable Tons	Actual Revenue*
1996	\$16	262,951	237,408	\$3,743,477
1997	\$16	246,468	215,340	\$3,339,391
1998	\$16	224,405	215,352	\$2,998,762
1999	\$22	217,817	214,421	\$3,928,800
2000	\$20	199,057	195,000	\$3,838,643
2001	\$20	199,596	191,182	\$3,635,281
2002	\$21	204,596	197,445	\$4,146,355
2003	\$25	212,897	189,035	\$5,023,148
2004	\$31	189,035	194,466	\$5,683,128
2005	\$31	172,054	172,836	\$5,044,002
2006	\$31	178,400	174,446	\$5,109,747
2007	\$31	178,400	174,325	\$4,746,492
2008	\$31	162,451	157,299	\$4,876,274
2009	\$36	162,451	147,782	\$6,461,552
2010	\$36	137,702	137,362	\$5,021,071
2011	\$36	125,298	123,830	\$4,457,888
2012	\$36	128,619	130,352	\$4,692,685
2013	\$36	128,960	131,987	\$4,751,519
2014	\$41	126,966	126,966	\$4,516,343
2015	\$41	120,100	121,606	\$4,985,849
2016	\$41	112,358	113,323	\$4,646,223
2017	\$47	104,671	106,132	\$4,988,215
2018	\$47	92,639	93,783	\$4,407,792
2019	\$47	84,496	84,586	\$3,975,553
2020	\$47	91,578	93,068	\$4,374,179
2021	\$47	87,598	88,624	\$4,165,308
2022	\$46	87,509	88,089	\$4,052,116
2023	\$46	92,000	92,000(Est)	4,234,651(Est)

*Actual revenue is not the product of the rate per ton times projected billable tons. Amounts may also include collection of fees owed from previous years and penalties/late payments.

B. FEE RECOMMENDATION

Calculation of Fee Requirement

Estimated FY2023 Fund Balance	\$1,995,109
Projected SFY2024 Revenue	4,268,937
Projected SFY2024 Interest Income	\$25,000
Estimated SFY2024 Available Funds	\$6,289,046
Estimated SFY2024 Expenditures	\$4,510,577
Estimated SFY2024 Fund Balance	\$1,778,469
Emissions-Based Fee per Ton	\$37/ton

The system for calculating the annual Title V program fee was revised via a Title V regulation amendment on February 24, 2022. The new fee system became effective on September 1, 2022. The fee system now has an emissions-based component and a source complexity component which will be assessed to every facility. Therefore, the annual fee schedule must establish mechanisms for calculating both components of the fee.

The recommended Title V program fee schedule for SFY 2024 is as follows:

It is recommended that the emissions-based portion of the fee be set at \$37 per ton of regulated air pollutants, with no individual pollutant emissions cap, and a minimum assessed to each affected facility based on the tiered structure shown below. For the purpose of calculating this portion of the fee, it is recommended that carbon monoxide, greenhouse gases, and pollutants solely regulated under Section 112(r) of the CAA or as Class I or II substances under Title VI of the CAA continue to be excluded from the definition of regulated air pollutants for the purpose of calculating Title V program fees.

Tiered Minimum Fee	
<u>Emissions (tons)</u> Upper boundary is based on % of TV threshold (i.e. 10%, 50%, 100%)	<u>Minimum Fee (\$)</u> Based on current fee rate at % of TV threshold
0-10	\$370
>10-50	\$1,850
>50	\$3,700

It is recommended that the source complexity portion of the fee, also referred to as a maintenance fee, be assessed based on the tiered structure shown below with “applicable standards” limited to the federal air regulations found in 40 CFR Parts 60, 61, 63, and 68 excluding Subparts A.

Tiered Maintenance Fee	
Number of Applicable Standards	Maintenance Fee
0-2	\$1,500
3-5	\$4,000
>5	\$10,000

It is also recommended that no maximum fee per facility be established.

We believe this recommended fee schedule, when combined with the estimated SFY 2023 fund balance, will adequately fund the Title V program in SFY 2024.

II. STATE FISCAL YEAR 2024 WORKPLANS

State Fiscal Year 2024 workplans were developed for Title V functional areas to include Permitting, Compliance and Enforcement, Air Planning, Fee Inventory and Calculations, Air Toxics, Air Emissions Inventory, and Small Business Environmental Assistance. Work in these functional areas is provided by the Air Division, Environmental Permits Division (EPD), Field Services Division, and Environmental Compliance and Enforcement Division (ECED) of the Office of Pollution Control. Additionally, the Office of Community Engagement assists small businesses as authorized by the Title V program.

A. PERMITTING

For SFY2024, approximately 250 active sources are expected to be subject to the requirements of Title V of the Federal Clean Air Act, which requires an operating permit to be issued to certain types of facilities. Title V operating permits are issued for new and existing major sources, while synthetic minor operating permits (SMOP) are issued to existing major sources that take restrictions to reduce potential emissions below the Title V applicability thresholds. Frequently, changes at these sources require the permits to be modified. Modifications to Title V operating permits are classified as either significant modifications, minor modifications, 502(b)(10) changes, or administrative amendments. Environmental Permits Division (EPD) activities include source identification, pre-application meetings, application reviews, permit drafting, and public participation efforts for the issuance and modification of all Title V operating permits and initial issuance of SMOPs. The table below projects the Title V program workload for state fiscal year 2024 based on the number of sources and historical trends within the program.

Permitting review work continues to increase due to numerous changes in EPA interpretations and guidance requiring additional permitting actions; court rulings impacting regulations and permit conditions; new and modified EPA regulations requiring evaluation and subsequent permit modifications; and complex modification requests necessitating lengthier reviews. The permitting staff continues to devote more resources to community outreach, as EPA conducts more training and provides more tools to engage the general public in discussions about air issues and the Title V permitting process in their communities. EPA is also planning a targeted review of at least six Title V permitting actions as part of a nation-wide goal to provide more oversight of the Title V program. This will likely require increased staff time to resolve EPA and public comments. Additionally, many internal initiatives are being taken to improve and streamline permitting efforts, including the following: developing consistent permit templates and permit requirements, simplifying data entry related to emissions inventory and air program applicability, and developing consistent training related to regulatory review of Title V sources.

Estimated SFY2024 Title V Activities

	Received During Year	Completed During Year
Title V First Time Permits	3	4
SMOP First Time Permits	13	13
Title V Renewals	34	39
Significant Modifications	9	5
Minor Modifications	12	8
502(b)(10) Modifications	57	57
Administrative Amendments	8	5

B. COMPLIANCE AND ENFORCEMENT

The Environmental Compliance and Enforcement Division (ECED) places significant focus on the approximately 250 active Title V sources in the State. ECED activities associated with Title V facilities include compliance assurance inspections and document reviews, complaint investigations, enforcement actions, database updates and maintenance, general assistance, and outreach activities.

In order to ensure compliance with all regulatory and permit requirements, ECED plans compliance assurance inspections at 50% of Title V facilities every year. However, inspections only make up a portion of ECED's Title V compliance assurance activities. Most Title V facilities must submit Semi-Annual Monitoring Reports (SMR), Annual Compliance Certifications (ACC), and stack test reports for review. The table below is a breakdown of anticipated compliance-related tasks associated with the current universe of Title V facilities.

ECED is responsible for transmitting facilities' air program data to EPA's ICIS-Air database. Responsibilities include:

- Quality assurance of air program data in EPA's ICIS-Air database. This is accomplished by running quality assurance reports, working closely with EPD to reconcile any discrepancies identified, and keeping management up-to-date to ensure complete entry of reliable air program data into EPA's ICIS-Air.
- Ensuring the timeliness of data transmitted from MDEQ's enSite database to EPA's ICIS-Air database. MDEQ's Standard Operating Procedures require data to be entered into EPA's system within five (5) days of receipt of complete data from EPD or ECED.
- Participation in programmatic meetings, conferences, and calls as needed to support air program data in MDEQ's enSite database and EPA's ICIS-Air.

Estimated SFY2024 Title V Activities

Inspection of Title V Facilities	127
SMR Reviews	500
ACC Reviews	250
Stack Test Reviews	550

C. AIR PLANNING AND REGULATION DEVELOPMENT

The Department of Environmental Quality is responsible for the development and adoption of state regulations to incorporate the requirements of the Clean Air Act (CAA). This is accomplished through the state's rulemaking process in conjunction with federal approval of state plans and programs. A federally approved State Implementation Plan (SIP) is required to demonstrate the state's ability to attain and maintain National Ambient Air Quality Standards (NAAQS). A revision to the SIP is necessary when a new or revised NAAQS is established or when federal regulations designed to protect the NAAQS are amended. Section 111(d) of the CAA requires states to submit plans for approval that establish and provide for the implementation and enforcement of standards of performance for existing sources of air pollution not otherwise regulated. Other CAA requirements are implemented through various agreements and approvals from EPA.

Air planning efforts also include the annual resource evaluation and fee setting for the Title V program, in addition to any review necessary to evaluate whether the fee system remains both adequate and equitable. Finally, it is the Air Division's responsibility to provide the Environmental Permits Division and the Environmental Compliance and Enforcement Division with information and training regarding new and revised air regulations and other requirements and to communicate information obtained from Regional and National meetings and calls regarding permitting and compliance issues.

Estimated SFY2024 Title V Activities

Major SIP Revisions	Continue to work on air quality issues such as the Regional Haze rules, SO ₂ Data Requirements Rule verification, the revised ozone and fine particulates NAAQS, and ozone transport.
Minor SIP Revisions	Make amendments and revisions to air regulations to include updates to NSPS, NESHAP, Title V, PSD and new source nonattainment review regulations.
Planning Work	SO ₂ Data Requirements Rule verification, the revised ozone and fine particulates NAAQS, ozone transport rules, Air Emissions Reporting Rule revisions, emission guidelines for existing municipal solid waste landfills and existing facilities in the oil and natural gas sector, and implementation of the Title V program fee system changes.
111(d) State Plan Development	Continue the development of state plans, including new regulation language, to implement the emission guidelines for existing municipal solid waste landfills and facilities in the oil and gas sector and submit to EPA for approval.
Outreach	Anticipate outreach and collaboration for future emission guidelines to replace the withdrawn emission guidelines for existing electric utility generating units (EGUs) and the upcoming emission guidelines for existing oil and natural gas sector facilities.

D. FEE INVENTORY AND CALCULATIONS

Title V facilities are required to pay an annual fee to cover the cost of the Title V program. The new fee system, implemented for the first time this year, will have two parts: an emissions-based portion and a source complexity, or maintenance fee, portion. Facilities elect to have the emissions-based portion of the fee calculated based on either actual or allowable emissions. If actual emissions are chosen, the facility must submit an annual report to MDEQ documenting the actual emissions emitted from the facility during the previous calendar year. This report is referred to as the Annual Emissions Reporting Form (AERF). The maintenance fee portion is based on the number of air regulations to which the facility is subject and will be verified by the facility on the AERF. The Air Program Development Branch reviews all AERFs, including the supporting documentation and/or calculations on which the actual emissions are based, and assesses each Title V facility the appropriate fee. The Branch also maintains the Title V program fee inventory, which is updated each time a permitting action occurs.

Estimated SFY2024 Title V Activities

Title V Emissions Inventory Updates	48
Annual Emission Reporting Form Reviews	250
Title V Invoices Processed	250

E. AIR TOXICS

Thousands of facilities are regulated for air pollutants known as hazardous air pollutants (HAP) because these air pollutants may cause acute or chronic health conditions. HAP emissions are primarily controlled or reduced through regulations that are called Maximum Achievable Control Technology (MACT) standards. Impacted facilities generally must install additional control equipment or change process equipment and materials to reduce HAP emissions. These standards or emission limitations are based upon the application of best-demonstrated emission control technology.

There are numerous MACT standards that are implemented and encompass 174 different source categories of major HAP emitting facilities and 70 source categories of smaller HAP emitting facilities called area sources. The regulated universe of facilities and requirements are ever changing, particularly with regulation revisions and the construction of new facilities. The types of affected facilities range from very large chemical plants and petroleum refineries to small dry-cleaning facilities, gasoline stations, and even small auto body repair shops.

Air toxic activities also include the implementation of accidental release prevention regulations. These regulations apply to facilities with certain chemicals that could be very dangerous to public health and the environment in the event of a chemical accident or uncontrolled release. Facilities with chemicals in amounts above de minimis levels must

employ process safety measures and controls, and plan for the possibility of an accidental chemical release that could endanger public safety. A regulated facility’s planning and procedures to prevent and mitigate chemical accidents must be outlined in a Risk Management Plan (RMP) that is submitted for agency review. Activities also include onsite compliance monitoring inspections of regulated facilities.

The accidental release prevention regulations have been revised multiple times in recent years. The frequent changes have resulted from evaluation of chemical accidents, court challenges, and petitions for review. The most recent revision was published in December 2019 with additional revisions proposed in August 2022. The proposed revisions intend to strengthen the existing program and add additional safeguards to further protect vulnerable communities from chemical accidents, especially those near facilities with high accident rates. The Air Program Development Branch will continue to work to identify and ensure compliance with all current applicable accidental release prevention requirements at regulated facilities.

Estimated SFY2024 Title V Activities

MACT Source Categories	174
Major Source MACT Standards	100
Area Source Categories	70
Area Source Standards	48
Risk Management Program Inspections	50

F. AIR EMISSIONS INVENTORY

An air emissions inventory is maintained to account for air emissions from all major Title V sources. This inventory accounts for both potential (or allowable) emissions and actual emissions.

Emissions Inventory Development

An inventory of potential (or allowable) emissions for sources is developed and/or updated each time a permitting action takes place. In addition to updating potential emissions, a permitting action may require emission points, Standard Classification Code (SCC) codes, stack parameters, and control devices to be added or updated. Potential emissions for six criteria pollutants are tracked on each emission point, and potential emissions for hazardous air pollutants (HAPs) are tracked at the facility level.

Mississippi is required by the Air Emissions Reporting Requirements (AERR) rule to report air emissions and emission-related information to EPA from “Type A” Title V

sources every year and from “Type B” Title V sources every three years. The pollutants required to be reported are particulate matter, sulfur dioxide, nitrogen oxides, carbon monoxide, lead, volatile organic compounds, ammonia, and HAPs. To accomplish this, a detailed reporting form is sent to facilities for reporting their actual emissions of both criteria pollutants and HAPs on an emission point level. The information from the AERR form is entered into a database and checked for accuracy. If there are questions or if information is found to be incorrect, the facility is contacted to resolve discrepancies and submit a corrected report when necessary. The data is then submitted to EPA’s Emissions Inventory System (EIS) by December 31 of each year. The information is also used and provided, as needed, for air quality analysis and planning.

During SFY2024, MDEQ will review the calendar year 2022 emissions inventory and submit to EPA and send the calendar year 2023 AERR form to the Title V sources for reporting purposes. In addition, MDEQ will respond to questions and any additional data requests from EPA as they are processing the calendar year 2021 emissions inventory.

Emissions Inventory Requests

Both the potential and actual annual emissions inventories for major sources are periodically requested and provided by MDEQ. Most of these requests are related to permit modifications at existing Title V sources or construction of new Title V sources. MDEQ uses emissions inventory data for developing major SIP revisions, air quality analyses, and permitting, while EPA uses the emissions inventories for air toxics modeling, evaluations of interstate air pollution transport, and developing and evaluating the effectiveness of MACT and other standards.

Regional Haze Development and Implementation

Mississippi is working with nine other southeastern states to address the EPA Regional Haze Rule, and other new and future air quality standards, in a more efficient and effective way through the Visibility Improvement State and Tribal Association of the Southeast (VISTAS). The VISTAS group, which includes several MDEQ staff members, is addressing the next required submittal for the Regional Haze Rule. While Mississippi does not have any designated federal Class 1 areas, the Breton Wilderness Area (Chandeleur Islands) in Louisiana and the Sipsey Wilderness Area in northern Alabama are in close proximity to Mississippi such that air emissions from sources in Mississippi could impact the visibility in those areas. Collectively it is more efficient and cost effective for the group to hire contractors to develop inventories and perform air quality modeling and analysis than for each state to do so on their own. The Southeastern States Air Resource Managers (SESARM) handle the administrative tasks for the group, with the states providing technical expertise. Over the past year, the group has been performing modeling and analysis to determine facilities and areas in the member states that may impact the visibility in Class 1 areas and developing a SIP template. The next Regional Haze SIP will be finalized and submitted in late SFY2023, but the EPA approval process and related work will continue throughout SFY2024.

Estimated SFY2024 Title V Activities

Emissions Inventory Updates	71
Annual Emissions Inventory Facility Submittals	85
Emissions Inventory Requests	10
Transport Rule Planning and Implementation	1
Air Toxics Inventory Review	1

G. SMALL BUSINESS ENVIRONMENTAL ASSISTANCE PROGRAM

Title V services performed by the Small Business Stationary Source Technical and Environmental Compliance Assistance Program are mandated under Section 507 of the Clean Air Act. Components of this program include the Small Business Ombudsman, the Small Business Environmental Assistance Program (SBEAP), and the Compliance Advisory Panel (CAP). Mississippi's Program provides free and confidential assistance. A small business is one with 100 or fewer employees, is not a major stationary source, and meets the federal Small Business Act's definition of a small business. Services include:

- Technical staff reviews regulations, determines potentially impacted sources/small businesses, develops a strategy for notification and assistance, develops compliance assistance tools, conducts training programs and works with regulatory programs on outreach activities. Technical staff also works with enforcement and other divisions to identify areas with compliance issues in order to develop compliance assistance strategies. Additional assistance is provided online and through telephone call inquiries from customers. A toll-free hotline also exists and is managed by the Small Business Ombudsman and SBEAP staff.
- Title V permitting and compliance assistance is provided by contract through an approved consultant. All onsite visits conducted by consultants are coordinated and accompanied by the SBEAP Technical Assistance Coordinator.

Outreach and education projects, consisting of workshops, meetings and speaking engagements, are conducted year-round by the Small Business Environmental Assistance Program and contract staff. Workshops, held at different locations across the state and online, target specific industries concerning existing or upcoming regulations that affect them. Outreach and education projects are performed on a continual basis and in phases.

Changes to new and existing federal and state environmental rules and regulations require that the Program disseminate information packets containing explanations of the regulations and other technical materials to any business that may be affected by a rule or regulation change. Dissemination of this information may result in the mailing of tens to several thousand notifications to potentially affected business owners. In addition, recently amended rules are revisited annually in order to ensure that small businesses remain compliant and have implemented what they learned during past workshops and training events hosted through this program.

Estimated SFY2024 Title V Activities

Technical Assistance	275
Outreach and Education	125

III. STATE FISCAL YEAR 2024 TITLE V STAFFING NEEDS

Staffing Requirements

The following table summarizes the staffing requirements, expressed as full time equivalent (FTE) positions, which provide the basis for personal service expenditure estimates in the State Fiscal Year 2024 budget projection.

Functions	Budget Code	Number FTEs
PERMITTING	9045	11.23
COMPLIANCE AND ENFORCEMENT *	9044	11.62
AIR QUALITY MANAGEMENT	4044	5.4
AIR TOXICS AND FEES	4044	3.45
EMISSIONS INVENTORY AND ATTAINMENT PLANNING	4044	4.35
SMALL BUSINESS ENVIRONMENTAL ASSISTANCE PROGRAM	0044	1.55
LEGAL	0046	0.04

* Also assisted by Field Services Budget Codes 1044, 3044, 5044, 6044, 7044.

IV. STATE FISCAL YEAR 2024 REQUESTED EXPENDITURES

MDEQ is projected to spend \$4,510,557 of the Title V program budget during SFY2024. The actual MDEQ Title V budget in dollars is shown below.

Fiscal Year 2024 Budget									
Budget Code	Salary	Fringe	Travel	Contract	Supplies	Equip	SL&G	Indirect	Total
1044	4,725	1,583	0	0	0	0	0	2,643	8,951
4044	903,649	302,722	20,000	100,000	18,000	14,000	200,000	505,470	2,063,841
5044	6,734	2,256	1,000	1,050	2,100	3,600	0	3,767	20,507
6044	435	146	100	100	100	0	0	243	1,124
7044	1,793	601	300	100	250	0	0	1,002	4,045
9044	703,583	235,700	30,000	50,000	20,000	22,616	13,500	393,560	1,468,960
9045	754,413	252,728	15,000	240,000	20,000	35,000	0	421,992	1,739,133
TOTAL	2,375,332	795,736	66,400	391,250	60,450	75,216	213,500	1,328,677	5,306,561