

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
NOTICE OF PUBLIC HEARING

PUBLIC NOTICE START DATE: November 18, 2016

DEADLINE FOR COMMENTS: December 21, 2016

Pursuant to Miss. Code Ann. Sec. 49-17-30, the Mississippi Department of Environmental Quality will hold a public hearing to receive comments regarding the proposed Title V Permit fee for September 1, 2017 through August 31, 2018 to be established by Order of the Mississippi Commission on Environmental Quality (Commission). The public hearing will be held on Wednesday, December 21, 2016, at 1:30 p.m. in Room 104A at the Mississippi Department of Environmental Quality, 515 E. Amite St., Jackson, Mississippi.

Miss. Code Ann. Sec. 49-17-30 provides that under Title V of the Federal Clean Air Act, the owner and/or operator of any stationary source of regulated air pollutants shall pay the Department of Environmental Quality (DEQ) an annual permit fee. The Commission is charged by law to establish the permit fee in an amount sufficient to cover the cost of the Title V Permit Program. Miss. Code Ann. Sec. 49-17-16 established an Advisory Council to conduct an independent study of the cost of the Title V Permit Program.

On Thursday, November 10, 2016, the Commission received the recommendation and report of the Advisory Council. The Advisory Council recommended to the Commission that the Title V Permit fee be set at \$47.00 per ton of regulated air pollutants with a minimum fee of \$250 for September 1, 2017 through August 31, 2018. The staff of the DEQ also reported to the Commission that based upon the estimated cost of the program, the current estimate of reportable air emissions and projected fiscal year 2017 fund balance, the Title V Permit fee of \$47.00 per ton with a \$250 minimum would be adequate. The Commission authorized the staff to proceed to notice of public hearing with the fee as proposed by the Advisory Council.

Copies of information relative to the fee development process will be available for public review through Wednesday, December 21, 2016, at the Freedom of Information Office of the Mississippi Department of Environmental Quality, 515 E. Amite St, Jackson, Mississippi or may be obtained by contacting Mr. Lorenzo Boddie, Public Records Administrator at (601) 961-5171 or by writing to the Mississippi Department of Environmental Quality, P.O. Box 2261, Jackson, Mississippi 39225. For persons with internet access, the information may be found on the DEQ website at <http://www.deq.state.ms.us> under Programs/Air/New Information. Questions regarding the fee development process may be directed to Ms. Melissa Fortenberry at (601) 961-5171.

Written statements regarding this proposed action will also be made a part of the record to be considered by the Commission if delivered at the public hearing or by 5:00 p.m. on Wednesday, December 21, 2016, to the attention of Ms. Melissa Fortenberry at the Mississippi Department of Environmental Quality, Office of Pollution Control, Air Division, 515 E. Amite St., Jackson, Mississippi 39201 or P.O. Box 2261, Jackson, Mississippi 39225 (for mail only). The only matter under consideration is the setting of the Title V Permit fee. To assure clarity and conciseness of the hearing record, both written and oral comments should be restricted to this matter.



MISSISSIPPI DEPARTMENT OF
ENVIRONMENTAL QUALITY

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

State Fiscal Year 2018

DRAFT REPORT

TABLE OF CONTENTS

I. EXECUTIVE SUMMARY	3
A. REVIEW OF TITLE V PERMIT FEE RATES, BILLABLE TONS, AND REVENUE	3
B. FEE RECOMMENDATION.....	4
II. FISCAL YEAR 2018 WORKPLANS.....	5
A. PERMITTING	5
B. COMPLIANCE AND ENFORCEMENT	6
C. AIR PLANNING.....	7
D. EPA’S FINAL RULE FOR 111(d)	8
E. FEE INVENTORY AND CALCULATIONS.....	9
F. AIR TOXICS	9
G. AIR EMISSIONS INVENTORY.....	11
H. SMALL BUSINESS TECHNICAL ASSISTANCE PROGRAM.....	13
III. FISCAL YEAR 2018 STAFFING NEEDS.....	14
IV. FISCAL YEAR 2018 REQUESTED EXPENDITURES	15

I. EXECUTIVE SUMMARY

The Mississippi Department of Environmental Quality (MDEQ) prepares an annual report for the Title V Advisory Council which contains the Title V permit fee recommendation for the next fee period. This report includes an explanation and documentation supporting the fee recommendation. MDEQ conducted a review of the Title V fund balance, the Title V work plan, estimated revenues, projected expenditures, and estimated air emission tonnage, and prepared a report to establish the Title V permit fee recommendation for Fiscal Year 2017.

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

The following is a review of Title V permit 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	104,671 (est.)	\$4,923,218 (est.)

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

B. FEE RECOMMENDATION

Calculation of Fee Requirement

Estimated FY2017 Fund Balance	\$ 846,636
Projected FY2018 Revenue	\$ 4,187,888
Projected FY2018 Interest Income	\$ 25,000
Estimated FY2018 Available Funds	\$ 5,059,524
Estimated FY2018 Expenditures	\$ 4,733,606
Estimated FY2018 Fund Balance	\$ 325,919
Fee per Ton with no Maximum Fee	\$ 47

It is recommended that the Title V permit fee be set at \$47 per ton with no maximum fee per facility.

The FY2017 fund balance will be applied to expenditures in the beginning of FY2018 before revenue is received and the estimated fund balance at the end of FY2017 is \$846,636. To achieve the estimated fund balance of \$325,919 at the end of FY2018, the Title V program will limit spending to 80% of the actual MDEQ budget shown on page 15. This fund balance is minimal and will not cover all program expenses before fee revenue is received.

II. FISCAL YEAR 2018 WORK PLANS

Fiscal Year 2018 work plans 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 Technical 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 FY2018, approximately 273 sources are expected to be operating facilities subject to the requirements of the 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 existing major sources and modifications at these sources, while SMOPs are issued to existing major sources that take restrictions to reduce potential emissions below the Title V applicability thresholds. There are different types of Title V modifications to the permits. These are classified as significant modifications, minor modifications, 502(b)(10) changes, and administrative amendments. Environmental Permitting Division (EPD) activities include issuance of Title V operating permits and first time synthetic minor operating permits (SMOP), source identification, pre-application meetings, application reviews, permit drafting, and public participation efforts. The table below projects work load for state fiscal year 2018 based on the number of sources and historical trends within the program.

Permitting review work continues to increase due to court rulings that impact regulations and permit conditions; new and modified EPA regulations that have to be implemented; and complex modification requests and consent decrees that have to be incorporated into permits. Additionally, the permitting staff is devoting more resources in community outreach as the general public become more engaged in discussion about air issues and the Title V permitting process in their communities.

Estimated FY2018 Title V Activities

	Received During Year	Completed During Year
Title V First Time Permits	3	3
SMOP First Time Permits	12	12
Title V Renewals	35	40
Significant Modifications	10	10
Minor Modifications	15	15
502(b)(10) Modifications	45	45
Administrative Amendments	15	15

B. COMPLIANCE AND ENFORCEMENT

The Environmental Compliance and Enforcement Division's (ECED) activities associated with Title V facilities include inspections, database updating, compliance assurance, complaint investigations, enforcement, general assistance, and outreach activities.

ECED places significant focus on Title V sources. Mississippi has approximately 273 operating Title V major facilities. To ensure compliance with regulatory and permit requirements, ECED generally inspects 50% of the Title V sources every year (~138 inspections). However, inspections only make up a portion of ECED's Title V compliance activities. Most Title V facilities must also submit Semi-Annual Monitoring Reports (SMR), an Annual Compliance Certification (ACC), and stack test reports for review by ECED. The table below is a breakdown of anticipated compliance-related tasks associated with the existing universe of Title V facilities.

The Data Administration Branch in ECED is responsible for the quality of data in MDEQ's State enSite system and maintaining required data in EPA's ICIS-Air database. Responsibilities include:

- Quality assurance functions for Air data in enSite and in ICIS-Air. This is accomplished by working closely with EPD and ECED to reconcile discrepancies between data in MDEQ's State system and data in ICIS-Air and running quality assurance reports for EPD and ECED management to ensure timely and complete entry of data into enSite.
- Ensuring the timeliness of data submitted to ICIS-Air. MDEQ's Standard Operating Procedures state that data is to be entered into the State system within five (5) days of receipt of complete data from the Environmental Permits Division (EPD) or the Environmental Compliance and Enforcement Division (ECED).
- Participation in programmatic meetings, conferences and calls as needed in support of Air data in enSite and ICIS-Air.

Estimated FY2018 Title V Activities

Inspection of Title V Facilities	138
SMR Reviews	552
ACC Reviews	276
Stack Test Reviews	550

C. AIR PLANNING

The Department of Environmental Quality is required by Federal law to maintain a federally approved State Implementation Plan (SIP) to attain and maintain National Ambient Air Quality Standards (NAAQS) and meet the provisions of Federal law. This includes development and adoption of new regulations, major SIP revisions, minor SIP revisions, and fee and resource determination for the entire Title V program. A major or a nonattainment SIP revision relates to attainment and/or nonattainment planning activities related to new national air quality standards such as ground-level ozone, particulate matter, lead, regional haze, and major changes to the New Source Review program. A minor SIP revision relates to amendments and revisions to air regulations including updates for NSPS, NESHAP, PSD, etc.

Due to several new and proposed rules, along with reconsideration by EPA of some of the existing standards and rules, the Planning group will work on several issues in FY2018 including the SO₂ implementation rule, the Clean Power Plan, and the revised ozone and fine particulates NAAQS, and ozone transport.

The Air Planning group is also responsible for providing necessary training and assistance to the Environmental Permits Division and the Environmental Compliance and Enforcement Division regarding any permitting and compliance issues, and providing them information obtained from Regional and National meetings.

Estimated FY2018 Title V Activities

Major SIP Revisions	For FY2018, the Air Planning group will continue to work on air quality issues such as the Regional Haze rules, SO ₂ data requirement rule, and the revised ozone and fine particulates NAAQS, and ozone transport.
Minor SIP Revisions	For FY2018, the Air Planning group will make amendments and revisions to air regulations including updates for NSPS, NESHAP, PSD and new source nonattainment review.
Planning Work	For FY2018, the Planning group will work on the SO ₂ implementation rule, the Clean Power Plan, the revised ozone NAAQS, ozone transport, and work on making changes to the air regulations.

D. EPA'S FINAL RULE FOR 111(d)

[On February 9, 2016, the Supreme Court of the United States issued a stay of the Clean Power Plan. Development activities surrounding the Plan have ceased pending the outcome of the legal case. The following information represents expected activities should the stay be lifted during FY2018. MDEQ continues to monitor energy sector activities and participates in regional collaborations performing analyses of energy sector changes and the impacts of those changes on greenhouse gases.]

The Department of Environmental Quality is tasked with developing a state plan to limit Greenhouse Gas (GHG) emissions from existing power plants based on EPA's final Clean Power Plan rule which was developed under the authority of section 111(d) of the Clean Air Act. Based on the proposed timeline, FY2018 activities will include the development and submittal of the state plan. Due to the scope of the final rule, state plan development will involve tremendous outreach and collaboration with other state agencies, stakeholders, nongovernmental organizations, and the general public. State plan development will consist of regulation language development and would be implemented through a major State Implementation Plan (SIP) revision.

Estimated FY2018 Title V Activities

Outreach	For FY2018, the 111(d) Development Team will engage in information gathering and meetings with all affected entities.
Plan Development	For FY2018, the 111(d) Development Team will develop the state 111(d) plan including new regulation language for GHGs from existing power plants.
Major SIP Revision	For FY2018, the 111(d) Development Team will implement the State 111(d) plan through a major SIP revision.

E. FEE INVENTORY AND CALCULATIONS

Title V Facilities are required to pay an annual permit fee to cover the cost of the permit program. Facilities elect to have their fee calculated based on either their actual or allowable emissions. If actual emissions are chosen, each facility must submit an annual report to MDEQ documenting the actual emissions for the previous calendar year. This report is referred to as the Annual Emissions Reporting Form (AERF). The Air Support Branch maintains the Title V Fee inventory, which is updated each time a permitting action occurs. The Branch also reviews all annual reports, or AERFs, submitted to the Department in support of fees based on actual emissions.

Estimated FY2018 Title V Activities

Title V Emission Inventory Updates	44
Annual Emission Reporting Form Reviews	273
Title V Invoices Processed	273

F. AIR TOXICS

Many 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 in order to reduce HAP emissions to below what are very stringent emission limitations. These standards and emission limitations are based upon the application of best demonstrated technology and very high emission control efficiency.

There are numerous MACT standards that affect 174 different source categories of major HAP emission facilities and 70 source categories of smaller HAP emitting facilities called area sources. Therefore, there is a very significant number of different, and often changing HAP regulations to implement, and the universe of regulated facilities to assist and monitor for regulation compliance is quite large. The types of affected facilities range from large chemical plants and petroleum refineries to small dry cleaning facilities, gasoline stations, and small auto body repair and painting 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 an uncontrolled release. Facilities that have or use these chemicals in amounts above de minimis levels must employ appropriate process safety measures or controls, and must be prepared to mitigate the consequences should a release of one of the listed chemicals actually occur. A regulated facility's actual planning, techniques,

and procedures to prevent chemical accidents must be outlined and submitted in a Risk Management Plan (RMP) for agency review. Activities also include monitoring the ever changing regulated source population and completing compliance monitoring inspections of regulated facilities.

Estimated FY2018 Title V Activities

MACT Source Categories	174
Major Source MACT Standards	100
Area Source Categories	70
Area Source Standards	48
Plan Reviews (Anticipated)	30
Air Toxics Inspections (Anticipated)	50

G. AIR EMISSIONS INVENTORY

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

Emission 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, stacks, and controls to be added or updated. Potential emissions for criteria pollutants are tracked on each emission points and potential emissions for hazardous air pollutants (HAPs) are tracked at the facility level.

Each year, Mississippi is required to report air emissions and emission related information from major Title V sources to EPA by the Air Emissions Reporting Rule (AERR). The pollutants that need 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 the facilities for them to report their actual emissions. Actual emissions for both criteria pollutants and HAPs are accounted for on an emission point level. EPA has increased the particulate matter reporting requirements to include filterable and condensable particulate matter along with PM10 and PM2.5 for each emission point. The information from the AERR form is entered into a database and checked to ensure that it is correct. If not, or if there are questions, then the facility is contacted to correct the report. The data will then be submitted to EPA 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 FY2018, the 2016 inventory will be submitted and the 2017 inventory reporting request will be sent to the Title V sources. The 2017 inventory will be a complete year of inventory requiring all major facilities to submit inventories; therefore, the effort in developing and sending the request will be greater.

Emissions Requests

Both the potential and annual actual emissions inventories for major sources are requested periodically, and upon request, the information queried is provided to the requesting parties. Most of the time, these requests are made for permit modifications at Title V Sources. MDEQ uses the data for major SIP revisions, air quality analysis, and in permitting, while EPA uses the emission inventories for air toxics modeling, developing MACT standards and other EPA standards.

SIP Development and Implementation

The group helps in planning and implementation of rules addressing the impact of air emissions occurring in Mississippi but impacting non-attainment areas outside of the state. Addressing these issues is a requirement called the "Good Neighbor" provision in the Clean Air Act. Generally, electric generating units and other large sources of nitrogen oxide emissions are targeted in these rules. The Cross State Air Pollution Rule

(CSAPR) is currently being implemented and Mississippi will be involved with analysis for this provision for new ozone standards in FY2018.

Estimated FY2018 Title V Activities

Emissions Inventory Updates	95
Annual Emissions Inventory Facility Submittals	100
Emissions Inventory Requests	10
SIP Inventories	1
Transport rule planning and implementation.	1

H. SMALL BUSINESS TECHNICAL 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 Assistance Program, and the Compliance Advisory Panel (CAP). Mississippi's Program provides free confidential assistance. A small business is one which has 100 or fewer employees, is not a major stationary source, and meets the federal Small Business Act's definition of a small business. Services are provided in accordance with the State Implementation Plan to include the following:

- 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 exists and is managed by the Small Business Ombudsman and contracted staff assistance.
- Title V permitting and compliance assistance is provided by contract through an approved engineering consulting firm. Onsite visits are conducted by the engineering firm, but coordinated by the Small Business Ombudsman staff.

Outreach and education projects, consisting of workshops, meetings and speaking engagements, are conducted year-round by the Small Business Ombudsman and contract staff. Workshops, held at different locations across the state, 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, we annually revisit recently amended rules 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 FY2018 Title V Activities

Technical Assistance	212
Outreach and Education	145

III. FISCAL YEAR 2018 TITLE V STAFFING NEEDS

Staffing Requirements

The following table summarizes the staffing requirements that provide the basis for personal service expenditure estimates in the Fiscal Year 2018 budget projection.

Functions	Budget Code	Number FTEs
PERMITTING	9045	16.37
COMPLIANCE AND ENFORCEMENT *	9044	13.88
AIR PLANNING	4044	7.35
AIR TOXICS	4044	4.89
AIR EMISSIONS INVENTORY	4044	4.30
FEE INVENTORY AND CALCULATIONS	4044	0.80
SMALL BUSINESS TECHNICAL ASSISTANCE PROGRAM	0044	2.00

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

IV. FISCAL YEAR 2018 REQUESTED EXPENDITURES

MDEQ is projected to spend \$4,733,606 on the Title V program by limiting expenditures to 80% of the budget during FY2018. The actual MDEQ Title V budget in dollars is shown below.

Fiscal Year 2018 Budget									
Budget Code	Salary	Fringe	Travel	Contract	Supplies	Equip	SL&G	Indirect	Total
4044	1,006,981	312,164	20,000	100,000	18,000	15,000	200,000	599,420	2,271,565
5044	3,500	1,085	1,000	1,000	2,000	1,800	3	2,083	12,470
6044	860	267	100	100	100	0	0	512	1,939
7044	2,372	735	300	100	250	0	0	1,412	5,170
9044	835,814	259,102	30,000	35,100	20,000	21,125	13,439	497,530	1,712,111
9045	916,800	284,208	15,000	100,000	25,000	27,000	5	545,738	1,913,752
TOTAL	2,766,328	857,562	66,400	236,300	65,350	64,925	213,447	1,646,695	5,917,007