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Chapter No. 321

12/SS01/R1053

JN / TB/EC

SENATE BILL NO. 2812

Originated in Senate *Tracy Welch* Secretary

SENATE BILL NO. 2812

AN ACT TO AMEND SECTION 49-17-30, MISSISSIPPI CODE OF 1972, TO REMOVE THE MAXIMUM ANNUAL FEE LIMITATION FOR AIR OPERATING PERMITS REQUIRED UNDER TITLE V OF THE FEDERAL CLEAN AIR ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 49-17-30, Mississippi Code of 1972, is amended as follows:

49-17-30. (1) As a condition of any air operating permit required under Title V of the federal Clean Air Act, the owner or operator of any stationary source shall pay to the Department of Environmental Quality an annual permit fee. The commission shall establish the amount of each fee to cover the costs of the Title V program as provided in Section 49-17-14.

(2) To facilitate the proper administration of the Title V program, the commission is authorized to assess and collect fees from Title V program permittees. The commission is further authorized to promulgate such rules and regulations as are necessary for the development and administration of the Title V program and the assessment and collection of Title V program fees.

(a) For purposes of fee assessment and collection, the maximum emission rate of each pollutant used in the calculation of fees shall be four thousand (4,000) tons per year per facility.

(b) For purposes of fee assessment and collection, the permit holder shall elect for actual or allowable emissions to be used in determining the annual quantity of emissions unless the commission determines by order that the method chosen by the applicant for calculating actual emissions fails to reasonably

represent actual emissions. Such order of the commission shall be subject to appeal in the manner provided in Section 49-17-41. Actual emissions shall be calculated using emission monitoring data or direct emissions measurements for the pollutant(s); mass balance calculations such as the amounts of the pollutant(s) entering and leaving process equipment and where mass balance calculations can be supported by direct measurement of process parameters, such direct measurement data shall be supplied; published emission factors such as those relating release quantities to throughput or equipment type (e.g., air emission factors); or other approaches such as engineering calculations (e.g., estimating volatilization using published mathematical formulas) or best engineering judgments where such judgments are derived from process and/or emission data which supports the estimates of maximum actual emissions.

If the commission determines that there is not sufficient information available on a facility's emissions, the determination of the fee shall be based upon the permitted allowable emissions until such time as an adequate determination of actual emissions is made.

(c) A minimum annual fee of Two Hundred Fifty Dollars (\$250.00) shall be assessed to and collected from the owner or operator of each facility that is required to hold a Title V permit. * * *

(3) (a) Prior to the date of full implementation of the Title V program in Mississippi, the fee assessed shall be Four Dollars (\$4.00) per ton of emissions of each air pollutant for which fees can be assessed under the Title V program, not to exceed Fifty Thousand Dollars (\$50,000.00) per facility.

(b) Following the date of full implementation of the Title V program in Mississippi, the fee schedule for Title V permit fees for any subsequent calendar year shall be set by order of the commission in an amount sufficient to cover the reasonable

costs of development and administration of the Title V program.

The commission's order shall follow:

(i) Receipt of the report and recommendations of the Advisory Council; and

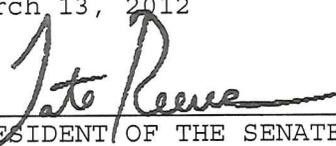
(ii) A public hearing to be held not earlier than thirty (30) days following receipt by the commission of the report and recommendations of the Advisory Council. The commission may proceed with entry of the order on fees if the Advisory Council fails to submit its report in a timely manner. The order of the commission may be appealed in the manner set forth in Section 49-17-41. The determination of the fee shall be by order of the commission and shall not be considered the promulgation of a regulation by the commission. The record of the public hearing shall be included in the record upon which the order is based and shall become a part of the appellate records for all appeals taken from the order of the commission establishing or modifying Title V permit fees. Any undisputed amount due from an appellant must be paid according to the appellant's payment schedule during the pendency of the appeal.

(4) Any person required to pay the Title V permit fee set forth under this chapter who disagrees with the calculation or applicability of the person's fee may petition the commission in writing for a hearing in accordance with Section 49-17-35. Such hearing shall be in accordance with Section 49-17-33. Any disputed portion of the fee for which a hearing has been requested will not incur any penalty or interest from and after the receipt by the commission of the hearing petition. The decision of the commission may be appealed in the manner set forth in Section 49-17-41.

(5) All fees collected pursuant to this section shall be deposited into the "Air Operating Permit Program Fee Trust Fund" established in Section 49-17-14.

SECTION 2. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
March 13, 2012



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 26, 2012



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

4:35 pm