

By: Senator(s) Dearing

To: Environment Prot,
Cons and Water Res

SENATE BILL NO. 2983

1 AN ACT TO AMEND SECTION 49-17-30, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE METHOD BY WHICH TITLE V PERMIT FEES ARE CALCULATED
3 AND TO SPECIFY THE MINIMUM AND MAXIMUM FEE; AND FOR RELATED
4 PURPOSES.

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

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

8 49-17-30. (1) As a condition of any air operating permit
9 required under Title V of the federal Clean Air Act, the owner or
10 operator of any stationary source shall pay to the Department of
11 Environmental Quality an annual permit fee. The commission shall
12 establish the amount of each fee to cover the costs of the Title V
13 program as provided in Section 49-17-14.

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

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

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

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

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

48 (c) The commission shall assess and collect a fee from
49 each facility that is required to hold a Title V permit. The
50 commission shall set a minimum fee of Two Hundred Fifty Dollars
51 (\$250.00). This minimum fee shall be assessed to each Title V
52 facility for which the potential or actual emissions, as
53 calculated under subsection (2)(b) of this section, otherwise
54 subject the facility to a fee of less than Two Hundred Fifty
55 Dollars (\$250.00). The commission shall not assess and collect a
56 fee greater than Two Hundred Fifty Thousand Dollars (\$250,000.00)
57 from any one (1) Title V facility.

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

63 (b) Following the date of full implementation of the
64 Title V program in Mississippi, the fee schedule for Title V

65 permit fees for any subsequent calendar year shall be set by order
66 of the commission in an amount sufficient to cover the reasonable
67 costs of development and administration of the Title V program.

68 The commission's order shall follow:

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

71 (ii) A public hearing to be held not earlier than
72 thirty (30) days following receipt by the commission of the report
73 and recommendations of the Advisory Council. The commission may
74 proceed with entry of the order on fees if the Advisory Council
75 fails to submit its report in a timely manner. The order of the
76 commission may be appealed in the manner set forth in Section
77 49-17-41. The determination of the fee shall be by order of the
78 commission and shall not be considered the promulgation of a
79 regulation by the commission. The record of the public hearing
80 shall be included in the record upon which the order is based and
81 shall become a part of the appellate records for all appeals taken
82 from the order of the commission establishing or modifying Title V
83 permit fees. Any undisputed amount due from an appellant must be
84 paid according to the appellant's payment schedule during the
85 pendency of the appeal.

86 (4) Any person required to pay the Title V permit fee set
87 forth under this chapter who disagrees with the calculation or
88 applicability of the person's fee may petition the commission in
89 writing for a hearing in accordance with Section 49-17-35. Such
90 hearing shall be in accordance with Section 49-17-33. Any
91 disputed portion of the fee for which a hearing has been requested
92 will not incur any penalty or interest from and after the receipt
93 by the commission of the hearing petition. The decision of the
94 commission may be appealed in the manner set forth in Section
95 49-17-41.

96 (5) All fees collected pursuant to this section shall be
97 deposited into the "Air Operating Permit Program Fee Trust Fund"

98 established in Section 49-17-14.

99 SECTION 2. This act shall take effect and be in force from
100 and after July 1, 1999.