

**Public Hearing
 9th Floor Conference Room
 William R. Snodgrass Tennessee Tower
 312 Rosa L. Parks Avenue
 Nashville, TN 37243
 9:30 A.M.
 April 20, 2017**

Hearing Officer:	Malcolm Butler
Division of Air Pollution Control Representatives:	Malcolm Butler Lacey Hardin
Other Divisions: Resources Management Bureau	N/A
Public	N/A

**Proposed Changes to 1200-03-26 to Revise the Title V Annual Emission Fee
 Due Date From July 1 for All Sources to April 1 for Many Sources, Require
 Payment of at Least 65% of the Fee Due by April 1 for Other Sources,
 Correct Typographical Errors, and Clarify the Definition of Annual
 Accounting Period**

Comment Summary

No comments received.

Commenter	Comment	Response
George Woods, S&ME	What is the Division hoping to achieve with the proposed Rule amendment that couldn't be achieved with the previous version of the Rule?	There are two reasons for the proposed change: budgetary and planning. Budgetary - Under the current system, Title V fees are due July 1 st of each year. These fees are used to fund expenses for the <u>previous</u> fiscal year that runs July 1 st through June 30 th . Our fee rules don't impose late penalties until a fee is 15 days late. As a result of this, a large portion of Title V fees are currently received after the fiscal year has ended and thus cannot be used to pay expenses for which the funds are needed. For the most recent fiscal year, FY2016, approximately 25% of the Title V fees were not received until after the fiscal year had ended. Fortunately, the Air Division has had a healthy reserve in Title V revenue to enable us to overcome this shortfall. However, that is not expected to

		<p>continue.</p> <p>Planning – Each year, the Division reviews the previous year’s fee receipts and reported tons and uses this as a basis for estimating Title V revenue for the upcoming fiscal year. This information is then used to determine if a change in the fee system is necessary. Due to statutory requirements, the Division has to start this process in the Spring of each year. If fee reports are not due until July 1st of each year, with extensions available until September 29th, this information is not available in a timely manner. With the proposed changes, the majority of the information necessary for planning purposes would be available in April of each year, thus allowing for adequate planning.</p>
George Woods, S&ME	With the proposed Rule amendment, will the fee payment declaration no longer be required with the submission of a Title V Permit Application or Title V Permit Renewal Application?	It will still be required due to uncertainty in when the new permit will be issued.
George Woods, S&ME	If the annual fee for a source is due July 1, 2017 for the period from July 1, 2016 to June 30, 2017, how will the period from July 1, 2017 to December 31, 2017 be handled if the proposed Rule amendment goes into effect on January 1, 2018 and a calendar year basis is selected? Is one-half of the “annual fee” due and payable for the initial fee payment under the revised schedule proposed by the Division?	In each year, sources will be required to pay for one year’s worth of emissions (actual, allowable, or a combination). The proposed rule allows sources to change the time period in which fees are based. If a facility elects to switch from fiscal year (July 1 st through June 30 th) to calendar year, they must still pay for a full 12 months of emissions, it is just a calendar year. In fact, the proposed change would allow a facility to evaluate whether basing fees on a calendar year or fiscal year is more cost efficient to the company and change their selection accordingly (as long as that selection is made by December 31 st). The only situation that the Division is aware of that might result in a facility “double-paying” for a particular time period is if they switch from fiscal year to calendar year and then permanently shut down and surrender their permit between January and June of the following year.
George Woods, S&ME	How did the Division arrive at the estimated sixty-five percent (65%) of the fee due amount for sources choosing to pay on a fiscal year basis? Why the departure from the original eighty (80) percent of the fee due?	Under the current system, many facilities calculate their fees for June through May, submit that amount by July 1 st , and request a 90-day extension for the remainder of their fees. In this situation, the company would pay approximately 92% of their total fee by July 1 st , thus satisfying the current 80% requirement. With the due date

		<p>changed to April 1st, the percentage due was lowered to allow facilities to continue this practice. By the time the initial payment is due, facilities will have data for June through February, or two-thirds of the full year. By changing the payment requirement to 65%, facilities can make payments based on the data that they have at the time the fee is due (i.e., 67% of the year) and make the 65% criteria. Note that as the commenter pointed out, the requirement is to pay “an estimated sixty-five percent”. Thus, if the amount paid by the due date is less than 65% and the facility made a good faith effort in their estimate, they have complied with the fee rule.</p>
George Woods, S&ME	<p>Why doesn't the Division require the base \$7,500 part of the annual fee be paid by sources choosing the fiscal year payment basis by March 31 instead of an estimated sixty-five percent (65%) of the fee payment with the balance of the annual fee due July 1?</p>	<p>The current Title V fee rules don't include a base fee. This was changed from a base fee to a minimum fee starting with the FY2015 fees. Additionally, receipt of only the minimum fee by April 1 will not provide adequate revenue to accomplish the goals of this rulemaking outlined above.</p>
George Woods, S&ME	<p>Currently, it is difficult for some sources paying on actual emissions to get emissions calculated by June 30 and a check prepared for submission by the grace period of July 15 each fiscal year. For those sources still choosing to pay the annual fee on a fiscal year basis, this will mean two sets of emission calculations and two checks being prepared for submission by March 31 and July 1. This means additional work for the permitted facility.</p>	<p>The Division understands that an earlier due date will result in additional work from some facilities. However, this change is necessary as explained above. It should be pointed out that facilities that submit their payments after July 1st and do not apply for an extension are in violation of the Title V fee rule even though late penalties are not assessed until July 15th.</p>
Lacey Hardin	<p>The Division intends to revise the draft rule to make the due date April 1 rather than March 31.</p>	<p>The Division will make this change.</p>