



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
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ATLANTA, GEORGIA 30303-8960

APR 18 2019

Krystal Rudolph, Chief
Environmental Permits Division
Mississippi Department of Environmental Quality
PO Box 2261
Jackson, Mississippi 39225

Dear Ms. Rudolph:

On August 27-28, 2018, the U.S. Environmental Protection Agency conducted a program evaluation of the Mississippi Department of Environmental Quality's (MDEQ) title V program. The program evaluation consisted of a review of title V revenue and expenses, permit issuance, selected files, staffing and public participation.

Based on the EPA's evaluation, the EPA has determined that the title V Program is being implemented in accordance with the requirements set forth in 40 CFR part 70. The EPA commends the State for taking actions to improve the processing time for title V permitting actions but, is concerned that the program has a significant backlog of title V permit applications. This is further complicated by MDEQ's challenge of retaining and the ability to hire adequate permitting staff to carry out the permitting requirements. Enclosed in the comments are specific recommendations to address these issues

Thanks to you and your staff for the cooperation and hospitality that was shown throughout this process. If you have any questions or comments regarding this report, please do not hesitate to contact me at (404) 562-8975, or have your staff contact Randy Terry of the EPA Region 4 staff at (404) 562-9032.

Sincerely,

A handwritten signature in blue ink that reads "Carol L. Kemker".

Carol L. Kemker
Acting Director
Air, Pesticides and Toxics Management Division

Enclosure

Program Evaluation Findings
Mississippi Department of Environmental Quality (MDEQ)
August 27-28, 2018

Title V Revenue and Expenses

Projected FY2019 revenue is approximately 20 percent less than actual FY2017 revenue (the most recent closed fiscal year prior to the evaluation). As a result, title V expenses are expected to exceed revenue in FY2019, necessitating the use of a portion of the State's approximately \$1.5 million title V fund surplus as of the end of FY2018. The State's title V program revenue is based solely on emissions-based fees. In anticipation that emissions will continue to decline, MDEQ, along with the State's title V Advisory Council, will evaluate whether an increase in the \$/ton will be necessary in upcoming fiscal years to adequately fund the title V program.

Permit Issuance

- 1) The program has a backlog of 99 title V permit applications (including new issuances, reissuances, minor modifications and significant modifications) that were received 180 days or more prior to the program evaluation. Seventy (70) of those applications were for permit renewal. These renewal applications were certified by MDEQ as being timely, so they are extended and not expired. This renewal backlog represents approximately 26 percent of their title V universe. In addition, 41 of these permitting actions are more than two years extended past the permit expiration dates. Ensuring that title V permits are drafted and subject to public review every five years is an important aspect of the title V program.
- 2) MDEQ has proactively looked at their permitting structure and made significant revisions to their organizational structure to ensure that the Department is better able to process title V permitting actions within the allocated timeframes set forth in 40 CFR Part 70. This reorganization is less than one year old but data from the most recent quarter suggests that the reorganization is a step in the right direction to reduce the permitting backlog.
- 3) MDEQ has recently began conducting monthly staff meetings with the Environmental Permits Division for training, Q&A and case study discussions. The inclusion of these meetings as a key teaching tool is a great practice and allows for the entire group to hear the same message while specific issues are addressed and resolved.
 - **Suggested Action:** The EPA suggests semi-annual status updates on the progress of eliminating the permit application backlog. The status updates should list of all permitting actions with an extended date of two years or more, along with a proposed schedule or timeline for elimination of the backlog. This information will be helpful in joint planning efforts to address the backlog. The updates can be submitted with the semi-annual TOPS reports that MDEQ already submits to the EPA.

Adequate Staffing To Eliminate and Prevent Backlog

- 1) Retention of adequate staff and succession planning to meet the permitting requirements of 40 CFR Part 70 is a concern. MDEQ has had a lot of staff turnover with a few of those being experienced permit writers and managers. MDEQ anticipates staff turnover will continue. It is too early to tell if MDEQ's reorganization will be effective in retaining expertise and lessening the effect of staff turnover on MDEQ's ability to issue permits within the required time frames.
 - **Suggested Action:** MDEQ should monitor the success of the reorganization in knowledge retention. MDEQ should continue to document standard practices and procedures for various permitting actions, so that they can retain these practices in the future. Written documentation also provides a method to ensure consistency within the staff.

Selected Permit Files Reviewed

- 1) The files selected for review were well-organized and clearly labeled, which aided greatly in allowing the EPA to conduct a detailed review and determine that the files were all administratively complete.
- 2) The EPA applauds MDEQ for utilizing the reverse-chronology method that is used to file relevant documents; it makes for locating documents of interest much easier, especially with respect to subsequent permitting actions.

Public Participation

MDEQ has a well-developed commitment to the practice of Environmental Justice, as evidenced by ensuring that the permitting staff have undergone EJ training. MDEQ has developed and utilizes a project awareness checklist to ensure that all permit writers actively check to determine if a source is located near an EJ community. In addition, MDEQ has provided public notices in Vietnamese, so the Vietnamese community near Biloxi is aware of upcoming permitting actions.