

April 30, 2020

MEMORANDUM

To: Richard E. Dunn, Director
Environmental Protection Division

From: Karen Hays, Chief
Air Protection Branch

Subject: Responses to Comments Received During the Public Comment Period Regarding
Proposed Revisions to the Rules for Air Quality Control, Chapter 391-3-1

On February 27, 2020, EPD issued a public notice requesting comments on proposed revisions to the Georgia Rules for Air Quality Control, Chapter 391-3-1. The proposed changes included the following rule:

- **Rule 391-3-1-.03(9), “Permit Fees,”** is being revised to introduce an annual maintenance fee for Title V sources effective for state fiscal year 2021, specify the dollar-per-ton rate, and reference the “Procedures for Calculating Air Permit Application & Annual Permit Fees” (Fee Manual) for state fiscal year 2021 fees.

A public hearing was held at 2:00 p.m. on March 30, 2020, in the EPD Training Center located at 4244 International Parkway, Suite 116, Atlanta, Georgia 30354. The public hearing was also available via Zoom, a free web conferencing platform that also allows participation by phone. In accordance with EPD’s safety precautions regarding the COVID-19 virus and in keeping with the Governor’s Declaration of a Public Health State of Emergency, EPD encouraged members of the public to participate in the public hearing via Zoom. No comments were received during the public hearing. The public comment period ended April 6, 2020. On April 6, EPD received written comments from an environmental law firm. A summary of the comments and EPD’s responses are attached. No changes to the proposed amendments are recommended based on the comments received.

KH:MG

Attachment: Responses to Comments

Responses to Comments Received on the Proposed Amendments to the Rules for Air Quality Control, Chapter 391-3-1**February 27, 2020 through April 6, 2020**

On February 27, 2020, the Georgia Environmental Protection Division (EPD) issued a public notice requesting comments on Georgia's proposed amendments to the Rules for Air Quality Control, Chapter 391-3-1, pertaining to Permit Fees. No comments were received during the public hearing on March 30, 2020. The public comment period ended on April 6, 2020. Comments were received from an environmental law firm on April 6, 2020. A summary of the comments and EPD's responses have been summarized below.

Comment: EPD is not sufficiently funding its Title V permit program as required by Title V of the federal Clean Air Act (CAA) of 1990. Instead, the Air Protection Branch has diminished the program by eliminating permit-fee-funded positions, spent down reserve funds, and relied more heavily on uncertain grants. Staff cuts during a time of new and complex challenges such as cancer-causing ethylene oxide emissions from the medical sterilization industry and biomass facilities that burn creosote-treated railroad ties are untimely.

EPD's current permit fee proposal is a welcome shift in strategy. Rather than cutting the budget, EPD plans to close the funding gap by increasing permit application fees and instituting an annual maintenance fee for large emitters, among other changes. Unfortunately, these proposed tweaks will only delay the funding crisis another year or two. According to EPD's fact sheet, expenses could start to outstrip revenues again in fiscal year 2022.

EPD Response: According to EPD's projections, the proposed increase in permit application fees and annual permit fees will increase Title V revenues by approximately \$1.1 million per year. This is approximately equal to the projected revenue shortfall in FY2022 without any increases in fee revenues. Since the FY2022 and FY2023 revenue projections are uncertain (could be higher or lower depending on the number of new facilities, number of facility modifications, and number of facility shutdowns) and the FY2022 and FY2023 expense projections are uncertain (contains certain assumptions about number of Title V staff, possible pay raises, and office expenses), it is not clear that expenses will actually outstrip revenue. If they do, EPD has a Title V reserve to help offset the difference. If Title V expenses significantly outstrip Title V revenue in the future, EPD would likely explore the option of additional fee increases at that time.

Comment: The proposed rule changes will not provide a long-term solution to underfunding of Georgia's air protection program. Annual, automatic adjustments (based on the Consumer Price Index) to the dollar-per-ton fee in addition to the permit fees currently proposed is the long-term solution.

EPD Response: An annual, automatic adjustment to the permit fees would uniformly increase all fees (annual fees and application fees) for all facilities by the same percent each year. Since

approximately 65-70% of the annual permit fee revenue is collected from the \$/ton fee, this approach would place the majority of the burden on facilities that pay the \$/ton fee. Since EPD is working with facilities to reduce emissions, increasing the \$/ton fee while simultaneously reducing emissions is not a sustainable approach. As emissions continue to decrease, so does the amount of revenue collected. For that reason, a more sustainable approach was developed that did not rely on increasing the \$/ton fee.

EPD's proposed revisions reflect the changing workload in the Air Protection Branch as the Title V program matures and becomes more streamlined and as the workload breakdown for non-Title V sources continues to increase. Current workloads consist of approximately 60% Title V work, 30% Synthetic Minor work, and 10% Minor or unpermitted work. FY2019 Title V revenue consisted of 80% Title V source fees, 19% Synthetic Minor source fees, and 1% Minor source fees. The proposed fee revisions will more equitably match the revenue source percentages with the workload percentages.