

BEFORE THE MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

In the Matter of the State Title V Program Fee.

ORDER NO. 7251 23

ORDER

This matter came before the Mississippi Commission on Environmental Quality (Commission) on April 27, 2023, pursuant to Miss. Code Ann. Section 49-17-30, which authorizes the Commission to set annually the federally mandated Title V program fee in an amount sufficient to cover the reasonable costs of the development and administration of the Mississippi Title V program.

The Commission, being fully advised in this matter, having reviewed the documents referred to herein, and having heard the presentation of the staff of the Mississippi Department of Environmental Quality (Staff), finds as follows:

1. Miss. Code Ann. Section 49-17-30 authorizes the Commission to assess and collect fees from any stationary source subject to the Title V program.
2. Miss. Code Ann. Section 49-17-30 provides that, for purposes of fee assessment and collection, the Commission shall establish the amount of each fee to cover the reasonable costs of development and administration of the Title V program as provided in Section 49-17-14.
3. Miss. Code Ann. Section 49-17-30 provides that the fee schedule for Title V program fees shall be set annually by order of the Commission. The Commission's Order shall follow receipt of the report and recommendations of the Mississippi Title V Advisory Council (Advisory Council), if timely received, and a public hearing held not earlier than thirty (30) days

following receipt by the Commission of the report and recommendations of the Advisory Council. However, the Commission may proceed with entry of the order on fees if the Advisory Council fails to submit its report in a timely manner.

4. On February 23, 2023, Staff provided the Commission with the report and recommendations of the Advisory Council on this matter. The Advisory Council, based upon currently available projections, recommended the fee schedule include a proposed fee rate of \$37 per ton of regulated air pollutants with no individual pollutant emissions cap and a tiered minimum fee applied for the emissions portion of the fee, along with a tiered maintenance fee based on the number of applicable standards for the complexity portion of the fee. For the purpose of establishing the emissions portion of the program fee, the term “regulated air pollutants” should not include carbon monoxide, greenhouse gases, any pollutant that is a regulated air pollutant solely because it is a Class I or II substance regulated under Title VI of the Federal Clean Air Act, nor any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Federal Clean Air Act. For the purpose of establishing the complexity portion of the program fee, the term “applicable standards” shall be limited to the federal air regulations found in 40 CFR Parts 60, 61, 63, and 68 excluding Subparts A and considering the whole of Part 68 as a single regulation. Staff reported to the Commission that the proposed fee schedule would adequately fund the Title V program for FY2024. Staff recommended that this fee be proposed as the Title V program fee for FY2024 and that a public hearing be held for this matter.

5. On February 23, 2023, the Commission accepted the recommendation of the Advisory Council and directed Staff to proceed with a public hearing to receive comments on the proposed Title V program fee schedule that includes a proposed fee rate of \$37 per ton of regulated

air pollutants with no individual pollutant emissions cap and a tiered minimum fee applied for the emissions portion of the fee, along with a tiered maintenance fee based on the number of applicable standards for the complexity portion of the fee.

6. On April 12, 2023, Staff held a public hearing to receive comments on the proposed Title V program fee. No comments, verbal or written, were received.

7. On April 27, 2023, Staff recommended that the Commission set the fee according to the proposed fee schedule, a proposed fee rate of \$37 per ton of regulated air pollutants with no individual pollutant emissions cap and a tiered minimum fee applied for the emissions portion of the fee, along with a tiered maintenance fee based on the number of applicable standards for the complexity portion of the fee. The Commission voted and approved the recommendations of the Advisory Council and Staff.

THE COMMISSION CONCLUDES AND HEREBY ORDERS that the Title V program fee schedule from September 1, 2023, to August 31, 2024, shall be the following:

- a. The emissions portion of the fee shall be \$37.00 per ton of regulated air pollutants excluding carbon monoxide, greenhouse gases, any pollutant that is a regulated air pollutant solely because it is a Class I or II substance regulated under Title VI of the Federal Clean Air Act, nor any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Federal Clean Air Act with no individual pollutant emissions cap. Furthermore, the minimum fee for the emissions portion shall be as specified in the table below.

Tiered Minimum Emissions Fee (for facilities with total emissions 100 tons or less)	
Emissions (tons)	Minimum Fee (\$)
0-10	\$370
>10-50	\$1,850
>50	\$3,700

- b. The complexity portion of the fee shall be the tiered maintenance fee structure specified in the table below with the term “applicable standards” limited to the federal air regulations found in 40 CFR Parts 60, 61, 63, and 68 excluding Subparts A and considering the whole of Part 68 as a single regulation.

Tiered Maintenance Fee	
Number of Applicable Standards	Maintenance Fee (\$)
0 - 2	\$1,500
3 - 5	\$4,000
> 5	\$10,000


The effective date of this fee is September 1, 2023.

An evidentiary hearing regarding this Order may be requested pursuant to Miss. Code Ann.

Section 49-17-41 within thirty days of execution of the Order.

SO ORDERED, this the 3rd day of May, 2023.

FOR: MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 
CHRIS WELLS
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT OF
ENVIRONMENTAL QUALITY