Evaluating Alternative Structures for Title V Air Quality Program Fees

Submitted to the Oregon Legislature

DEQ

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Executive summary

Title V of the Clean Air Act regulates air emissions from the largest and most complex industrial sources. Under the Act, the direct and indirect costs of administering and enforcing the Title V program must be entirely supported by fees paid by the regulated entities. The Act established a presumptive fee structure of combined base fees and emission fees. Many states, including Oregon, utilize the Act's fee structure, but air permitting authorities have flexibility in how they structure fees so long as they are adequate to support the program.

DEQ Title V fees are contained in ORS 468A.315. During the 2023 legislative session, the legislature adopted the first increase to the statutory fees in nearly 13 years. In doing so, the legislature also directed DEQ to evaluate and report back to the legislature on alternative approaches to structing Oregon's Title V program fees. Specifically, HB 3229 (2023) and budget note #1 in the agency's budget bill report provide that:

> *No later than Dec. 31, 2023, the Department of Environmental Quality is directed to report to the Legislature, in the manner provided by ORS 192.245, on an evaluation of alternative fee structures to support Oregon's federal air quality operating permit program, known as the Title V program. In evaluating and reporting on alternative approaches the Department shall:*
>
> - *Identify fee structures that require the owners or operators of facilities subject to the federal operating permit program to pay fees that are commensurate with the regulatory complexity of the facility or permit.*
> - *Ensure that any recommended fee structures would result in fees that are sufficient to cover all reasonable direct and indirect costs of the federal operating permit program, as required by section 502(b) of the federal Clean Air Act.*
> - *Review the fee structures of other state and local government agencies that administer a federal operating permit program.*
> - *Solicit and consider input from owners or operators of facilities subject to the federal operating permit program and program stakeholders.*

Over the last six months, DEQ has researched and evaluated alternative approaches to structuring Oregon Title V fees. This work included reviewing the programs of neighboring jurisdictions, analyzing the results of a nationwide survey of Title V program fees and finances, reviewing relevant reports, modeling the impacts of various scenarios, and most importantly engaging feepayers and other interested parties.

Modeling various complexity fee scenarios revealed that when complexity is considered, some of the state's highest emitting facilities, including electric power plants and pulp and paper mills, see fee decreases. The less a fee structure relies on emissions fees, the less those facilities pay. However, many lower emitting facilities that are subject to multiple federal regulations (a proxy for complexity) would experience fee increases.

Key findings from the scenario modeling, research, and stakeholder engagement include:

1. **Oregon faces national-level challenges in sustainably funding Title V programs.** A 2022 report from the EPA Inspector General found that Title V permitting authorities across the country are grappling with the consequences of the original fee model established in the Federal Clean Air Act. Federal regulations introduced over the years have reduced emissions, thereby reducing revenue for permitting authorities. At the same time, those same federal regulations have made permitting more complex and time-consuming. This has strained the budget and staffing-levels of permitting authorities.
2. **Oregon's current fee structure is inequitable for feepayers and leaves DEQ in a financially vulnerable position.** Oregon's system relies heavily on emissions-based fees Nearly 70% of total program revenue comes from emissions fees. This also greatly impacts higher-emitting facilities, almost a third of program revenue comes from just five regulated facilities. This is inequitable to feepayers and leaves DEQ vulnerable to changes in industry, such as closure of the state's only coal-fired power plant in 2020.
3. **A more regular review of program finances and fees will improve predictability.** Feepayers and DEQ share an interest in avoiding irregular but large increases. A system that provides for more regular review of program finances and fee levels will be important moving forward. The EPA Inspector General found that states that set fees in statute, like Oregon, are at particular risk of delayed adjustments, revenue shortfalls, and the associated programmatic impacts of inadequate staffing levels.
4. **Basing fees on facility complexity can improve equity and stability, but the details matter.** Considering facility complexity in the design of a fee structure has benefits, including: (1) providing a more equitable distribution of fee burden, facilities that require more staff time and expertise would pay more, and (2), reducing the reliance on emission fees helps stabilize the program budget and addresses the downward spiral highlighted in the first finding. However, the manner in which complexity is defined and weighted can have significant impacts to fee payers, as detailed by modeling conducted for this report.
5. **Ongoing analysis and conversation are critical**. The analysis and conversation spurred by this work has been valuable in identifying shared interests, concerns, and considerations. Additional research and discussion will help identify approaches that balance equity and stability while avoiding drastic impacts to small businesses. DEQ will continue discussions with feepayers, the legislature, and other interested parties as it evaluates alternative approaches for Title V fees in Oregon and prepares its 2025-2027 Agency Request Budget.

Title V background

The Department of Environmental Quality's mission is to be a leader in restoring, preserving, and enhancing Oregon's air, land, and water. The agency was delegated the administration and enforcement of Title V of the federal Clean Air Act in 1995. A condition of the delegation is that Oregon be able to issue and enforce permits and maintain revenues sufficient to operate all Title V permitting requirements. States can add requirements under the authority of the Clean Air Act but at a minimum must enforce the federal requirements as a condition of delegation.

The Clean Air Act requires "major sources" to obtain a Title V operating permit and report emissions annually. Major sources are defined as "any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants."[i] Examples of major sources in Oregon include power plants, pipeline compressor stations, pulp and paper mills, wood products plants and other manufacturing facilities.

Under both state and federal law, the Title V program must be 100% funded through fees collected from the major industrial sources it regulates.[ii] [iii] Title V program activities include permit writing, permit modifications, construction approvals, annual report reviews, inspections, air quality monitoring, source test reviews, enforcement, small business assistance and public engagement. States administering the Title V program must demonstrate "how required fee revenues are used solely to cover the costs of meeting the various functions of the permitting program." [iv]

Oregon DEQ invoiced 102 Title V facilities in 2022 for operation in 2023. Oregon's fee structure includes a flat "base" fee, and a fee charged per-ton of regulated pollutant. Emissions fees are based on the previous year's emissions, as reported by the facility and verified by the department. The average (mean) fee (inclusive of the base and emissions fee) invoiced in 2022 was $35,000. In 2022, the top five feepayers generated nearly 1/3 of total program revenue. Program-wide approximately 70 percent of the program's revenue is generated by emissions fees. The agency's Legislatively Approved Budget includes authority for 32 FTE for the program Due to revenue shortfalls, the program has operated at closer to 15 FTE for the past year.

The EPA has conducted two comprehensive program audits of states/jurisdictions with delegated authority to operate the Title V program. Oregon was audited in 2006 and again in 2016. These audits reviewed all aspects of the program including management and resources. The 2006 audit expressed concern about a revenue shortfall and the impact on staffing. Oregon's Legislative Assembly enacted a staggered fee increase to raise fees each year between 2006 and 2011. That same audit found Oregon DEQ had sound accounting practices and a system to effectively track Title V revenue expenses separately from non-Title V revenue and expenses.

The 2016 audit found the agency still had adequate resources based on increases authorized by the legislature in 2007, due in part to a fund balance that accrued. This audit also included a full review of systems used to account for Title V revenue and expenses and years of financial data. EPA found no issues.

In 2018, Oregon Secretary of State Dennis Richardson initiated a comprehensive performance audit of DEQ's air quality permitting programs. The audit resulted in 10 recommendations on improving program performance, including providing technical assistance to permit holders, clearer processes, and better training for staff. Among the findings was "competing compliance priorities limit staff time for permitting activities" and auditors directed DEQ to work with the legislature to right size program staffing and funding. The audit reviewed timekeeping and accounting practices and found sounds management practices. However, the audit found that a lack of updated guidance for permit writers and permit applicants took time away from permitting activities. "Poor guidance frequently results in incomplete permit applications, which can also slow the permit writing process." v The audit also recommended that DEQ:

- Develop and implement more robust inspection tracking systems.
- Fill vacancies in a timely manner.
- Modernize guidance documents for permit writers and regulated industries.
- Improve pre-application guidance for permit-holders.

A follow-up audit one year later found DEQ had fully implemented - or was in the process of implementing - all audit recommendations. The final recommendation was for DEQ to work with the legislature to identify potential sources of funding for additional staff, to better align workload demands with appropriate staffing levels.

As a state, Oregon has flexibility under federal law in determining how Title V fees are configured, so long as they are sufficient to cover all direct and indirect costs of administering the program. Like most jurisdictions across the country, Oregon's fee structure is based off the Clean Air Act model of a base fee plus an emissions fee.

Since the time Oregon received delegated authority, program fees have been in statute. However, the Environmental Quality Commission has had authority to adjust fees, annually, commensurate with the increase in the Consumer Price Index. The passage of HB 3229 (2023) modified this authority to increase fees annually up to three percent or the increased costs associated with operating the program, whichever is lower.vi

Over the last thirty years, emissions from Title V regulated facilities have reduced significantly, and as a result so too has the permitting authorities' fee revenue. At the same time the number and complexity of applicable federal rules has increased making permits more time consuming to issue, review, and modify. In 2022, the EPA's Office of Inspector General reported that nine of the ten EPA regions cited declining revenues as a key challenge that permitting authorities were facing.vii The report notes, "the EPA faces a national trend of declining Title V revenues."viii The

EPA generally attributed these revenue declines to permitting authorities' reliance on the presumptive emissions-based fees structure included in the Clean Air Act to generate annual revenue.ix

The inspector general noted that "the national trend toward decreasing Title V revenues undermines the sustainability of Title V programs and their ability to protect human health and the environment. Frequent annual deficits can diminish Title V program account balances built up in previous years."x The report also found that programs requiring legislative approval for fee increase (like Oregon) were at greater risk of being insufficiently funded. Ultimately, the Inspector General's concern was that declining revenues "could hinder the ability of Title V programs to protect human health and the environment."xi

Failure to reasonably administer the program can result in EPA assessed penalties including the loss of highway funding and ultimately, revocation of the program. In the case of a revocation, the EPA regains administration of the program from the state. Because the federal government is also required to support the program through permitting fees and due to higher staffing and overhead costs, it is likely that an EPA administered program would result in higher permitting fees, with no recourse for state legislatures or policymakers.

In 2019, in response to recommendations of the Secretary of State Performance Audit, DEQ made a concerted and successful effort to fill vacancies in the permit program. Between 2021 and 2022 the program was able to operate at almost full staff capacity. Recognizing the increased expenditures associated with being fully staffed and the depleting ending balance, DEQ began exploring a Title V increase for the 21-23 Agency Request Budget. However, due to COVID-related economic uncertainties the agency paused consideration. Additionally, at the request of fee payers, the Department did not pursue a consumer price increase to fees in 2021. By 2022, DEQ had to begin shifting work away from Title V program and holding positions vacant due to the insufficient revenues, slowing progress on the permit renewal backlog.

2023 legislative action

The agency's 2023-2025 Agency Request Budget included a significant revenue shortfall in the Title V program, requiring a fee increase to avoid permanent loss of nearly 1/3 of all budgeted positions in the Title V program. The Governor's Recommended Budget included a Policy Option Package to retain the positions, supported by revenue raised through a fee increase. Because Title V Program fees are set in statute, the agency also worked to have legislation introduced (HB 3229) proposing a staggered fee increase over two invoicing years and subsequent authority for the EQC to develop, through rulemaking, an alternative fee structure. xii

The agency communicated the budget shortfall to stakeholders and specified that to fully restore program staffing levels, a fee increase of approximately 80% was necessary.

HB 3229 received a hearing on Feb. 27, 2023, in the House Climate Energy and Environment Committee. While the text of the bill as introduced did not propose specific amounts, DEQ communicated the request for an 80% increase for 2023 and a 3% increase for 2024. On March 27 the bill was moved to the Ways and Means Committee and discussions continued.

During the discussions opponents of the bill expressed frustration over the magnitude of the fee increase and the inequity in Oregon's current fee structure. There was also concern with providing the EQC authority to establish new fees in rule without further legislative investigation and direction. Interested parties recognized the benefits of a well-functioning Title V program and the importance of stable and predictable fees.

On June 16, the Joint Sub Committee on Capital Construction adopted the -2 amendment to HB 3229, which increased fees by approximately 43% for 2023 and by a non-compounded 40% for 2024. The -2 amendment also directed the department to evaluate alternative fee structures for Oregon's federal operating permit program and report back to the legislature by Dec. 31, 2023. It specifically directed the department to:

a) Identify fee structures that require the owners or operators of facilities subject to the federal operating permit program to pay fees that are commensurate with the regulatory complexity of the facility or permit.
b) Ensure that any recommended fee structures would result in fees that are sufficient to cover all reasonable direct and indirect costs of the federal operating permit program, as required by section 502(b) of the federal Clean Air Act.
c) Review the fee structures of other state and local government agencies that administer a federal operating permit program.
d) Solicit and consider input from owners or operators of facilities subject to the federal operating permit program and program stakeholders.

The same direction was included as a budget note, in the report accompanying DEQ's budget bill, HB 5018 (2023).

The Governor signed HB 3229 and HB 5018 on July 13 and 27, 2023 respectively.

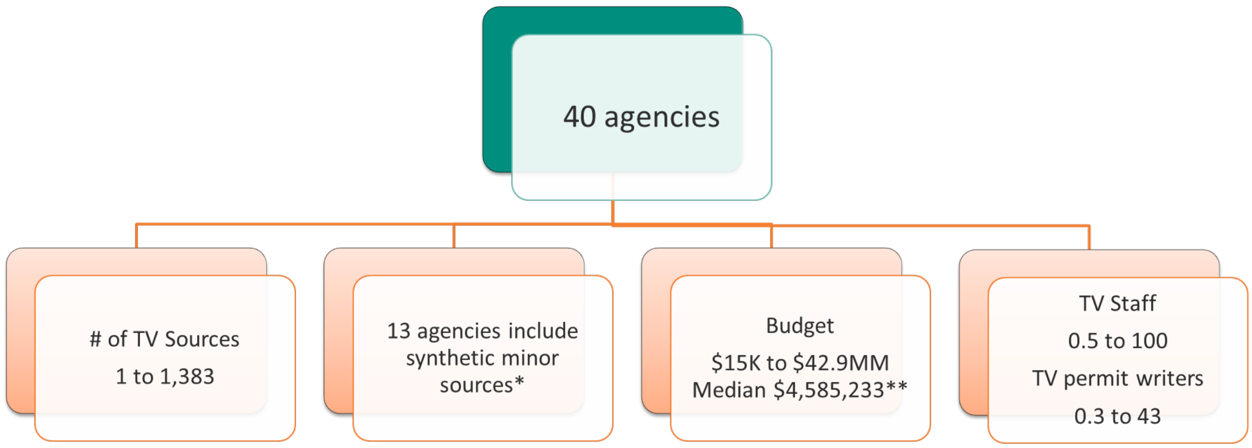
National profile of Title V programs

DEQ researched alternative Title V fee funding options by evaluating neighboring jurisdictions, examining the results of a national program survey, reviewing relevant reports, and consulting feepayers and other interested parties.

The National Association of Clean Air Agencies is a national, non-partisan, non-profit association of air pollution control agencies comprised of 40 states, 117 local air agencies, the District of Columbia, and four territories. In early 2023, NACAA surveyed their members on their Title V fee structures along with other information on their Title V permitting program. As a NACAA member DEQ had access to the complete survey results.xiii

Title V program summaries

Forty state and local air agencies responded to the survey. The number of Title V sources supporting the air programs ranged from a single facility to 1,383 facilities. For context, DEQ has approximately 100 Title V facilities. Staffing levels also varied between half of an FTE to 100; the number of permit writers ranged from .3 to 43 FTE. And annual budgets ranged between $15,000 to $42.9 million. The following graphic provides details on the range of Title V programs.

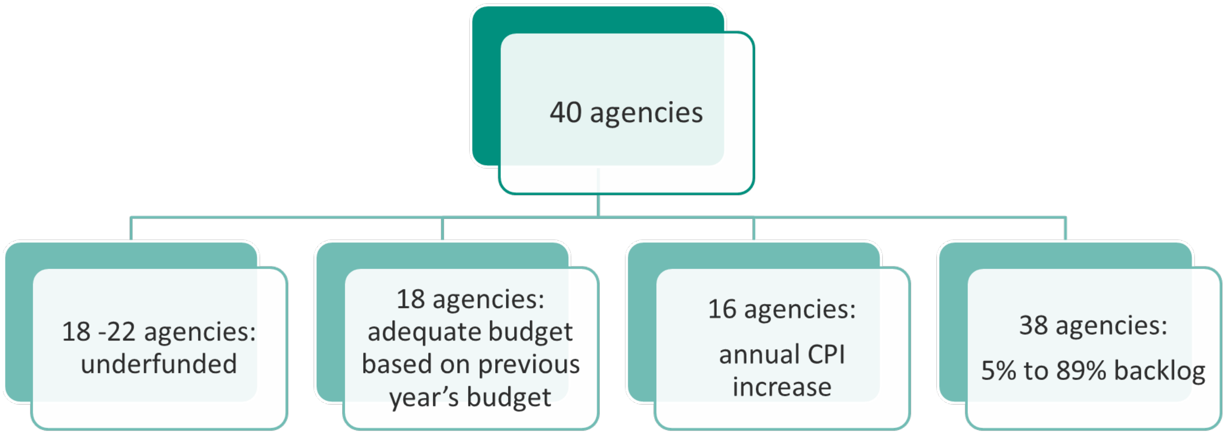


*synthetic minor sources take limits to avoid TV permitting
**median for state agencies, not locals

Backlog

Around half of the responding air permitting authorities noted they were underfunded. Just under half responded that they have the authority to enact an annual increase to account for changes to the consumer price index. Nearly all agencies reported some level of backlog or were otherwise not meeting key performance targets. Reported permit renewal backlogs ranged between 5 and 89 percent. The EPA has set a 20 percent threshold for developing an "action plan" to address backlog issues. In a letter to DEQ the EPA noted DEQ had seen "several years of improvement" but expressing concerns over funding and increasing timelines.xiv

The Oregon legislature has also adopted a Key Performance Measure for DEQ, that the Title V permit renewal backlog not exceed 20%. In reporting year 2023, the agency had a Title V permit renewal backlog of 29%, representing significant improvement since the performance audit conducted in 2018.



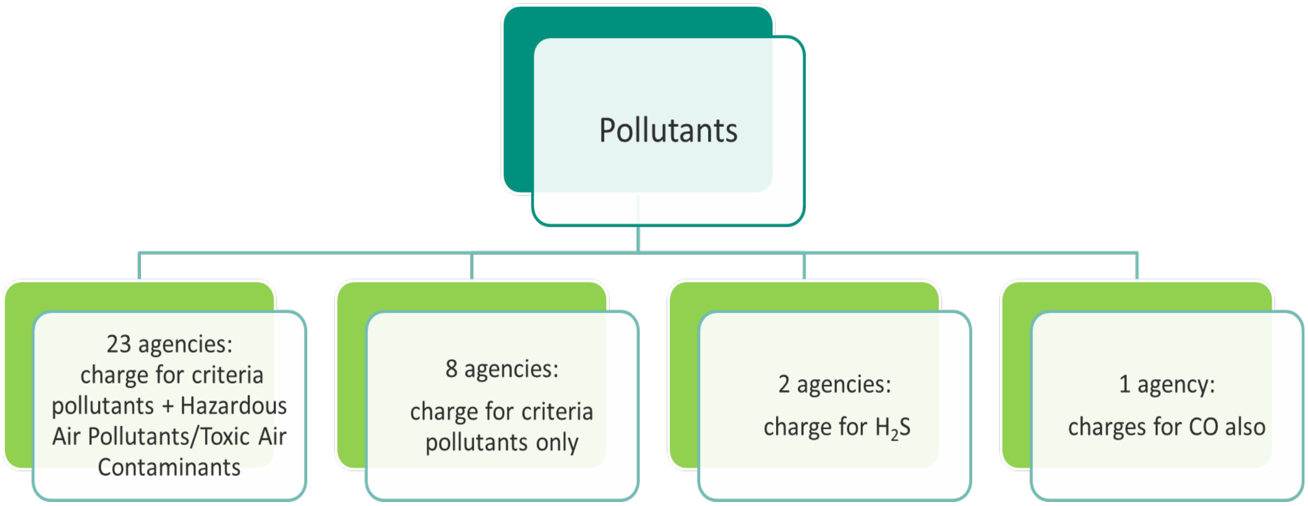
Emission fees

All agencies charge fees based on the amount of facility emissions but the pollutants for which fees are charged vary, as does the overall reliance on emission fees as a revenue source. Almost all agencies (37 of 40 respondents) confirmed the findings of the EPA Inspector General Report that emissions have decreased over time impacting program revenue. A minority of respondents base emission fees on the 6 criteria pollutants established under the Clean Air Act. Around half the respondents base their fees on both "Criteria Pollutants"[xv] and "Hazardous Air Pollutants."

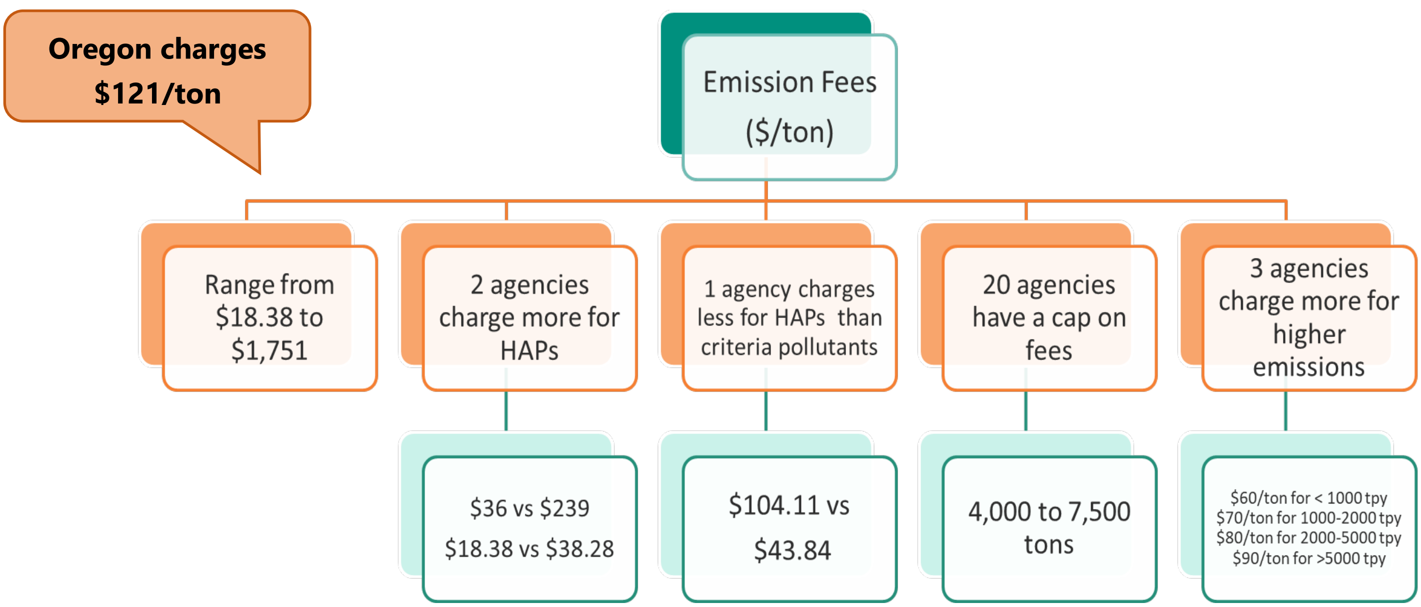
- 23 agencies charge emissions feed for both criteria pollutants and hazardous air pollutants
- 8 agencies charge emissions fees only for criteria pollutants
- 2 agencies also charge fees on emissions of hydrogen sulfides
- 1 agency charges fees on emissions of carbon monoxide

Criteria pollutant: one of six pollutants that the federal clean air act regulates through the implementation of ambient air quality standards.

Hazardous air pollutants: pollutants known to cause cancer, regulated through technology-based emissions limits or standards.

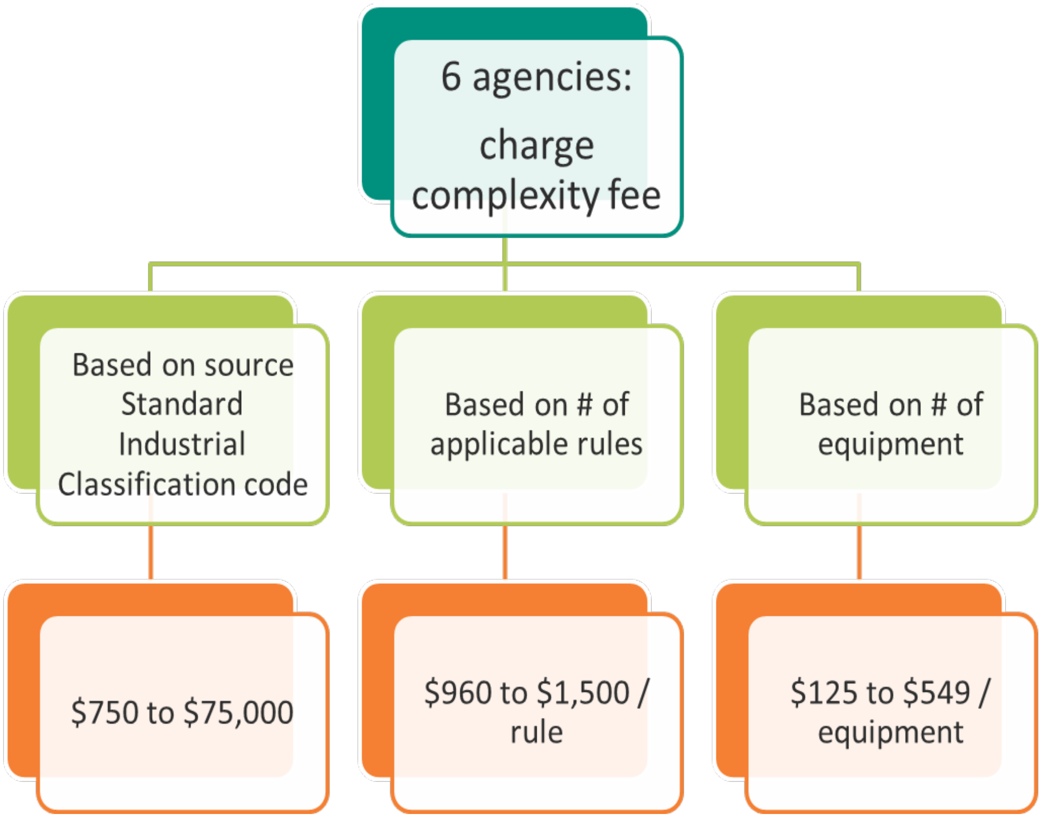


The amount of emission fees also widely varies. Some agencies charge more for hazardous air pollutants than criteria pollutants. A few agencies charge higher $/ton fees if emissions are above a certain threshold.



Complexity fees

Six agencies reported charging a complexity fee. There were three primary proxies used for complexity: Industry Classification Code, the number of applicable rules or standards a facility is subject to, and emissions units at the facility. While many federal regulations apply to Standard Industrial Classification codes, facilities may fall under multiple codes. Additionally, facilities within a classification will vary. A more direct method is to use the number of New Source Performance Standards and [National Emission Standards for Hazardous Air Pollutants](#) that apply to a facility. Because facilities may determine how to group emissions units, charging fees based on the number of emissions units can be difficult and unequitable, particularly using information currently available in Oregon. For example, one facility may group all their boilers into one emissions unit while another facility may identify each boiler as an emissions unit. xvi



Other fees

Many agencies charge other types of fees, in addition to base fees, emission fees, and permit modification fees. Several agencies charge hourly fees, in addition to fees for modeling, stack testing, inspections, permit renewals, and expedited permits. DEQ charges fees for some types of permit modification but does not charge other activity fees. Examples of other, or specific activities fees include:

Activity	Range of fee
Base of permit maintenance fee	$650-$66,520
Hourly service fee	$50-$260 per hour
Stack testing fee	$,2562-$5,119 per test
Public notice fee	$130-$3,600
Permit renewal fee	$628-41,894
Inspection or Re-inspection fee	$1,278-$40,118
Modeling review fee	$1,621-$7,740
Expedited review or action fee	$1,500-$25,000

Fee for service models present uncertainties for both feepayers and permitting authorities. Predicting revenue under a fee for service model can be difficult, as year-to-year services requested may vary greatly. It can also be challenging to predict up-front the number of hours required, and invoiced, for a particular task given the complex nature of businesses regulated under the Title V program.

Neighboring jurisdictions

Of Oregon's neighboring air permitting jurisdictions, the Washington Department of Ecology was the only state agency to respond to the NACAA survey. California has 35 separate local air permitting authorities. Of the five local authorities that responded to the NACAA survey each had a different methodology for funding the Title V program. Methods ranged from utilizing the EPA's presumptive minimum plus 5%, to an application fee, to the use of a billable hour service model. The number of Title V facilities per local air agency also varied widely. Coupled with feedback the department received during the small group meetings DEQ staff decided not to focus on the various methods used throughout California for this report.

The Washington Department of Ecology performs a workload analysis every two years to determine the amount of money needed to fund their Title V program. They receive money from the seven Washington local agencies for development and oversight of the program. After subtracting that amount from the annual budget, Ecology divides the total amount needed into thirds. One-third is a flat fee which is divided equally among all the Title V facilities. One-third is an emissions fee, which is divided by the tons/year for all Title V facilities then charged for the individual facility based on its emissions. One-third of the fee is a complexity fee which is paid only by the facilities whose permit is being worked on that year.

Ecology provides rebates to facilities if they overcharge fees. For example, a permit writer may get assigned to a special project and may not work on a certain Title V permit. That facility would receive a rebate because the fees charged assumed that someone would work on their permit the entire year. This approach has ensured that Ecology collects an adequate amount of money to fund their program while striving for an equitable approach for feepayers.

The Idaho Department of Environmental Quality also has three elements comprising their Title V fee structure. The fixed annual fee is based on the amount of emissions from a facility (there are six categories, associated with ranges of emissions). The presumptive minimum fee is based on what EPA would charge (e.g., $61.73/ton for 9/23 through 8/24) but is capped based on emissions. The fee-for-service is an hourly fee based on the individual salary of the staff working on the permit. The number of hours is highly variable, depending on the complexity of the facility so can be considered a complexity fee. The fee-for-service is capped at $45,000.

Considerations for alternative fee structures

HB 3229 requires DEQ to ensure any recommended fee structures would result in fees sufficient to cover all reasonable direct and indirect costs of operating the Title V program. It is important that the Title V fee structure be predictable and sustainable for both feepayers and DEQ. Facilities must be able to reasonably predict regulatory costs. DEQ must ensure that the Title V program collects adequate revenue to fulfill its obligations under the Clean Air Act. Both the regulated and regulator are negatively impacted by unsustainable fee structures. With a sustainably funded program, DEQ staff can hire, train, and retain staff, as well as renew permits while continuing to prioritize construction approvals for projects needed by Oregon’s regulated industry.

Based on a review of programs nationally, investigation by the EPA Inspector General, and conversations with interested parties, DEQ identified the following as important elements of sustainable fee structures:

- **Predictable fees:** Feepayers need predictable fees in order to anticipate and plan for annual operating costs. Likewise, DEQ must have a sufficient and predictable revenue stream to ensure that staffing is adequate to provide timely permit actions.
- **Equitable distribution of fees:** Regulated facilities should pay their fair share of fees without subsidizing others. A lopsided distribution makes it vulnerable to shortfalls as industry participants change. However, the extra resources needed to permit and ensure compliance for complex facilities should be accounted for within a fee structure.

- **Ease of implementation:** A fee structure must be easy to implement to reduce workload for both industry and DEQ.
- **Emission fees:** As permits continue to become more complex and stricter regulations further reduce emissions, DEQ cannot be dependent on an emissions fee-based model.

These considerations underlay the department's choice to delve more closely into specific fee structures for the purposes of stakeholder outreach. The department continues to be open to considerations brought forward by all interested parties regarding alternative fee structures.

Industry outreach and feedback

On Sept. 26, 2023, DEQ invited all Oregon Title V facilities and other interested parties to a webinar on evaluating complexity-based fee options. Staff requested feedback on three scenarios:

- If complexity is used as a factor to set future Title V fees, what should Oregon consider when defining "complexity" and what weight should complexity be given?
- What other factors should DEQ consider when researching and evaluating alternative Title V fee structures?
- What additional information would help you evaluate and understand alternatives?

Department staff engaged industry and facilities representatives to discuss alternative fee structures. Small group discussion participants included representatives from The Northwest Pulp and Paper Association, Oregon Business and Industries, The Oregon Forest Industries Council, and individuals from electric utilities, wood products manufacturers, metals and mining, fabrication, steel mill, landfills, manufacturing, and cement facilities.

The small groups met on Oct. 10 and 11, Oct. 25, and Nov. 9 and 28, 2023. Additionally, department staff met to discuss alternative fees structures with other interested parties including Neighbors for Clean Air, Beyond Toxics, Oregon Environmental Council, and Earth Justice. DEQ expects conversations with all interested parties to continue.

The facilities expressed concern over the recent fee increase. For financially regulated industries, such as electric utilities, adjusting prices to offset the increase is difficult. Feepayers were frustrated by the infrequent but large increases. They asked that any fee structure that is adopted be predictable and prevent future instances of large infrequent adjustments.

Feepayers were also concerned about the service level provided by the department, and the continued impact reduced staffing will have. Although facilities can continue to operate while the agency reviews and processes a permit renewal application, there are risks to regulated facilities. Older and out-of-date permits are not reflective of all new applicable federal rules. Businesses want to understand what they "are paying for" and feepayers expressed interest in ongoing attention to process improvement and efficiencies in service delivery.

The number of non-Title V regulations that facilities are subject to was also a point of discussion. For example, Title V facilities are also subject to Oregon's Air Toxics Program, Cleaner Air Oregon. Members noted that in some jurisdictions air toxics and criteria pollutants are addressed at the same time. The group questioned how reducing emissions and greenhouse gases may impact DEQ funding in the future. They expressed interest in ways to incentivize facilities for reducing emissions.

Regarding the structure of the Title V program, members noted that some jurisdictions do not use permit writers to inspect facilities. DEQ permitting staff are responsible for developing permits, inspections, compliance, and responding to complaints. Air permitting authorities represented in the NACAA survey reported both types of structures. The group also discussed the use of actual emissions or permitted emissions as the basis for the emission fee. To pay on actual emissions, a facility must test frequently, which can be expensive. Alternatively, paying on permitted emissions, which represent a general allocation of emissions that are higher than actual emissions, may increase the emission fee but facilities will not have to pay for as many source tests. The use of actual emissions is also more time consuming for DEQ permitting staff who must review the source test reports and validate reported emissions.

Members noted that complexity fees were common but there was concern for unintended consequences depending on how "complexity" is characterized. Feepayers cautioned DEQ, presumably due to the number and differences between local air permitting authorities, against using California as a model.

DEQ staff discussed the limitations of utilizing the Standards Industry Classification Code. Members agreed that facilities could be subject to multiple Industry classification code and that each facility is unique.

DEQ also discussed charging activity fees with the small groups. Facilities often hire contractors to assist with compliance activities, and a fee-for-service model is familiar. As noted earlier in the report, jurisdictions charge for a wide variety of activities, including review of source test plans/reports, review of modeling reports, and holding a public hearing at the request of a permittee before one is requested by the public. If Oregon pursued a fee for service model, then DEQ would need to pursue to enhancements to its timekeeping and payroll systems.

Another consequence of a fee for service model is its unpredictability. Under Oregon law DEQ must prepare a balanced budget for the upcoming biennium. The agency must be able to predict and rely upon a stable revenue. DEQ cannot anticipate how many of any given activity will occur during a year making it difficult to rely on special activity fees as part of the annual budget. Similarly, a fee for service model is unpredictable for feepayers, as they would lack certainty on the costs associated with permitting actions, particularly complex ones like permit renewals However, some use of activities fees for services beyond those covered in the base permit may be worth additional consideration.

In order to further investigate the merits and impacts of complexity-based fees, as directed by the legislature, DEQ modeled the impacts of several illustrative scenarios. Specifically, DEQ evaluated several scenarios that define complexity by the number of regulations appliable to the facility. Staff combed through permitting information to determine the number of rules applicable to individual facilities and then calculated, based on approximate revenue needs, the associated fees.

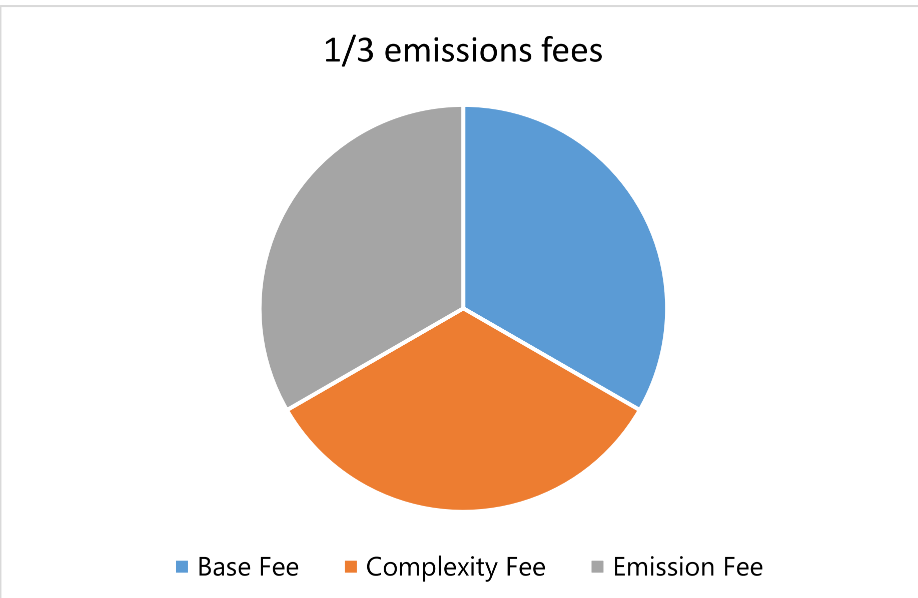
The group discussed limitations to using the number of applicable regulations as a measure of complexity. The National Emissions Standard for Hazardous Air Pollutants tend to be more complex than the New Performance Standards. However, not all NESHAPS are equally complex. Staff analyzed the impacts of weighing NESHAPs and NSPS and the emissions fee as illustrated below.

Complexity fee modeled scenarios

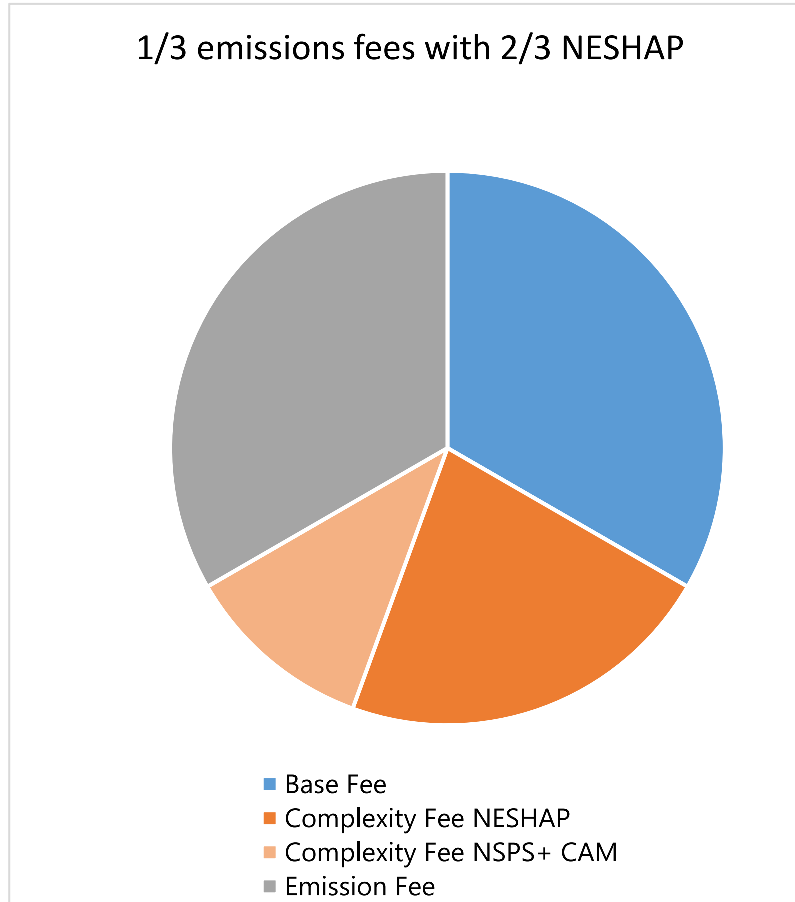
DEQ examined three different fee structures, with variations, resulting in six total scenarios:

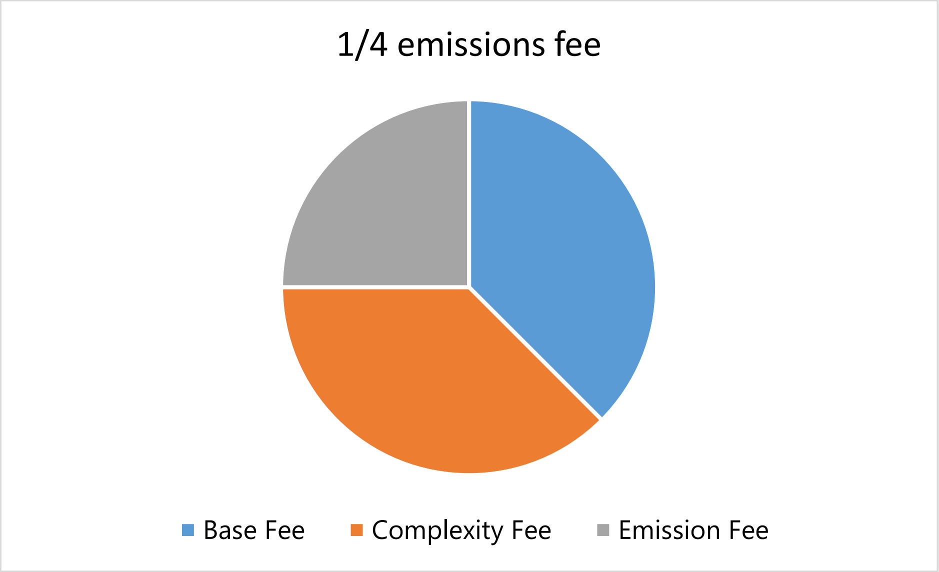
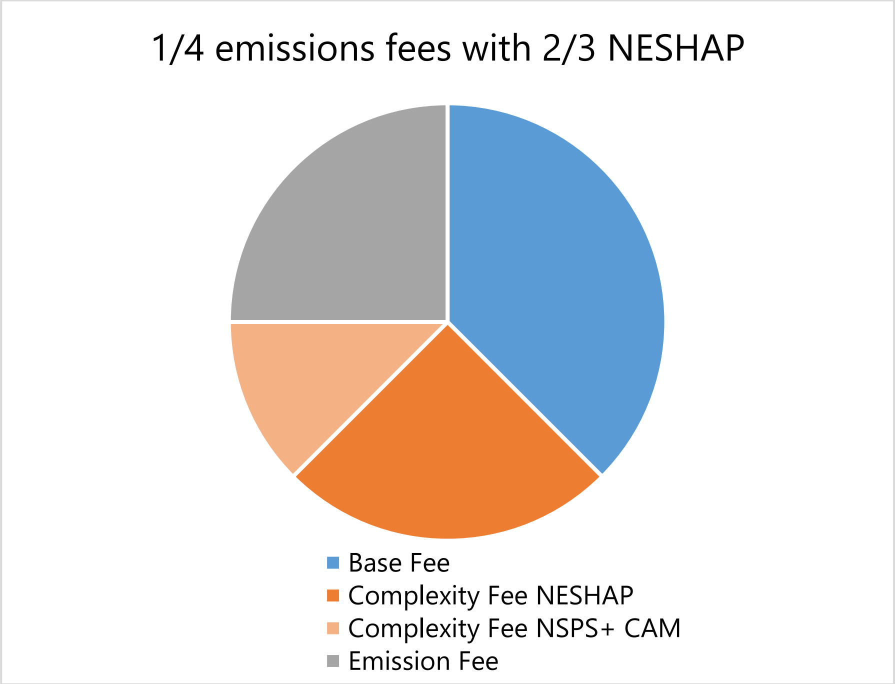
Option 1: divide the annual budget into thirds

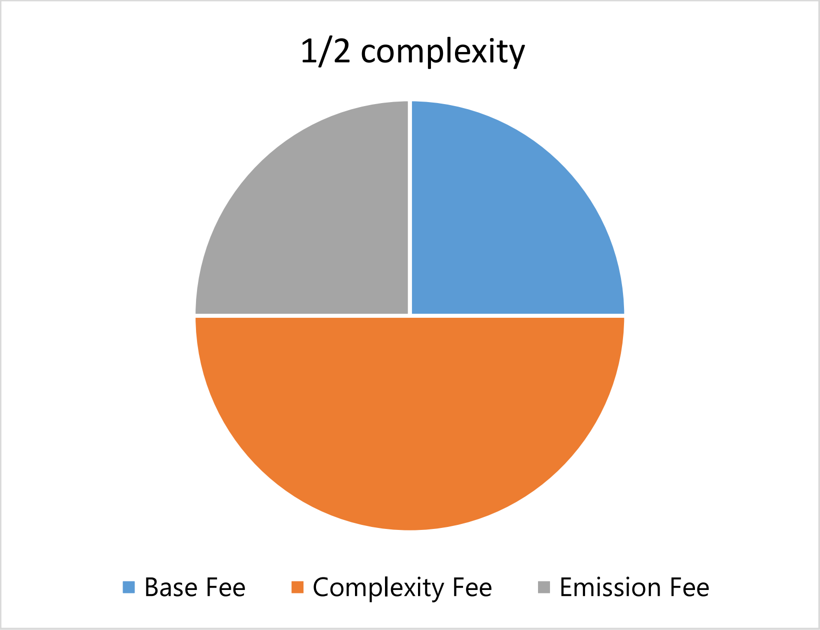
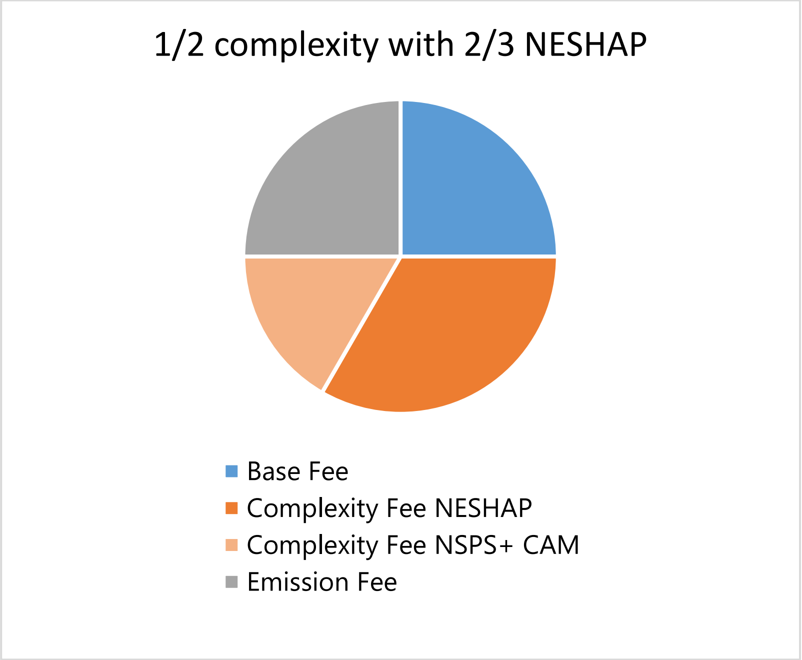
- One-third for a base fee, distributed evenly for all Title V permittees;
- One-third for a complexity fee for all federal regulations implemented by DEQ and distributed for Title V permittees that subject to those federal regulations; and
- One-third for emission fees for all emissions of Title V sources, distributed for Title V permittees based on their emissions.



Option 1a: divide the annual budget into thirds but weight complexity fee depending on complexity of the federal rules.



Option 2: ¼ of budget for emission fees and 3/8 of budget for base fee and 3/8 of budget for complexity fee. • Three-eighths for a base fee, distributed evenly for all Title V permittees; • Three-eighths for a complexity fee for all federal regulations implemented by DEQ and distributed for Title V permittees that subject to those federal regulations; and • One-quarter for emission fees for all emissions of Title V sources, distributed for Title V permittees based on their emissions.  	**Option 2a:** ¼ of budget for emission fees and 3/8 of budget for base fee and 3/8 of budget for complexity fee. 

Option 3: ½ of budget for complexity fee and ¼ of budget for emission fees and ¼ of budget for base fee: • One-quarter for a base fee, distributed evenly for all Title V permittees; • One-half for a complexity fee for all federal regulations implemented by DEQ and distributed for Title V permittees that subject to those federal regulations; and • One-quarter for emission fees for all emissions of Title V sources, distributed for Title V permittees based on their emissions. 	**Option 3a:** ½ of budget for complexity fee and ¼ of budget for emission fees and ¼ of budget for base fee but weight complexity fee depending on complexity of the federal rules 

To assist facilities in evaluating the various scenarios, DEQ modeled the impact to all Oregon fee payers (see attachment D), based on 2022 emissions and accounting for the fee increases authorized by HB 3229.

Modeling various complexity fee scenarios revealed that when complexity is considered, some of the state's highest emitting facilities, including electric power plants and pulp and paper mills, see fee decreases. The less a fee structure relies on emissions fees, the less those facilities pay. However, many lower emitting facilities that are subject to multiple federal regulations (a proxy for complexity) would experience fee increases, in some cases by tens of thousands of dollars annually. Other facilities saw almost no change at all across the scenarios.

Feepayers acknowledged the importance of considering complexity as part of fees but were also struck by the effects of reducing the reliance on emissions. One member provided an analysis based solely off emissions fees divided by the estimated revenue need. They recognized that as emissions decreased that fees would need to be adjusted upward to continue to generate adequate revenue.

Other interested parties expressed concern about the stability of the Title V program, and the importance of maintaining resources necessary to address the permit renewal backlog and ensure the department had adequate resources for compliance.

Parties questioned whether there was a correlation between whether an air permitting program charged for hazardous air pollutants in addition to criteria pollutants and a program's solvency. They also wondered whether backlogs indicated a solvency concern. Staff did not find any correlation between air agencies that charged for emissions beyond criteria pollutants or the backlog and whether programs reported being underfunded. Staff did find a correlation between the frequency with which an agency is able to adjust fees and solvency. Those programs that adjusted fees between one and three years reported adequate budgets.

Some interested parties expressed concern that moving away from emissions-based fees would remove incentives for some businesses to reduce emissions. DEQ believes it is unlikely that a decreased emphasis on emission fees would lead to across the board increases in emissions, as applicable regulations, not permit fees, are the primary factor influencing facility-level emissions.

The department also received written comments in response to its outreach on alternative Title V fee structures. The Department received comments from Ryan Ramage of Valley Environmental LLC. Mr. Ramage expressed concern over the fee increase contained in HB 3229. His product, the Air Curtain Incinerator, is classified at the federal level as a Title V "facility." He expressed concern that the permitting costs make it difficult to deploy the relatively new technology. If the EPA reclassifies air curtain incinerators as not Title V then he would be subject to different permitting fees. (Appendix A)

The department received comments and a letter from a coalition consisting of Beyond Toxics, Earthjustice, Northwest Environmental Defense Center, Tualatin Riverkeepers, Verde, and Willamette Riverkeepers. The letter noted that DEQ has "long suffered from chronic underfunding, resulting in systemic deficiencies within the DEQ's administration that have had a detrimental impact on communities." (Appendix B)

Conclusion and key findings

The 1990 Clean Air Act Amendments strengthen the ability of EPA and the states to enforce standards by requiring that all air-pollution-control obligations of an individual source be contained in a single five-year operating permit. The Act requires states to support their programs entirely through fees paid by the regulated facilities. The Act established a presumptive fee structure composed of a base fee and an emissions-based fee. Most states support their programs through this methodology. Due in part to progress toward reducing emissions, most air permitting authorities have seen reductions in their program revenue. Additionally, as federal requirements become more complex and time consuming to administer, programs are experiencing challenges related to backlogs, hiring, and retaining technical staff. The EPA Inspector General issued recommendations to the EPA suggesting improved training and support for states struggling with inadequate programming budgets. The Inspector General noted the need for creative fee structures to support stable programs.

The experiences described by the Inspector General have been playing out in Oregon, too. Because Title V program fees are established in statute, they are subject to infrequent but large increases. These increases are disruptive to both the industry and agency. Facilities need to be able to predict regulatory fees and the agency must be able to budget around a predictable revenue. Revenue must be adequate to support the program so that the program can support the industry through timely permits, small business assistance, and knowledgeable staff. The current fee structure is highly sensitive to changes in emissions but is not reflective of the complexity of any given permit. Currently five facilities contribute around a third of the program revenue; while these facilities are high emitters, they are not necessarily the most complex or the most time-consuming permittees.

The NACAA survey of air permitting authorities revealed that many permitting authorities are struggling with reduced revenue. Permitting authorities also noted difficulties hiring and retaining technical staff. A few permitting authorities have developed innovative permitting fee structures to capture complexity. Complexity can be determined by Standard Industrial Classification code, number of rules or standards that a permittee is subject to, or the amount of time a program spends on a particular permit or number of services rendered. None is a perfect proxy for complexity and data is not available to support one methodology over another. How fees are structured does not appear correlated with program solvency. However, those programs that reported adequate budget all frequently assess budgetary needs and adjust fees between one and three years.

Program stakeholders uniformly agree that it is important to have a stable Title V permitting program. It is a benefit to industry to have timely and accurate permits. A stable program protects communities by enforcing current permitting emission limits. Likewise, large infrequent fee increases negatively impact Oregon businesses and the permitting program. It is particularly difficult for small businesses to absorb these costs and it hobbles the program’s ability to assist with technical issues.

It is imperative that Oregon’s Title V program has a sustainable, predictable fee structure to support the work required under the Clean Air Act. In summary, DEQ offers the following key findings from its investigations and work with interested parties:

1. **Oregon faces national-level challenges in sustainably funding Title V programs.** A 2022 report from the EPA Inspector General found that Title V permitting authorities across the country are grappling with the consequences of the original fee model established in the Federal Clean Air Act. Federal regulations introduced over the years have reduced emissions, thereby reducing revenue for permitting authorities. At the same time, those same federal regulations have made permitting more complex and time-consuming. This has strained the budget and staffing-levels of permitting authorities.
2. **Oregon’s current fee structure is inequitable for feepayers and leaves DEQ in a financially vulnerable position.** Oregon’s system relies heavily on emissions-based fees Nearly 70% of total program revenue comes from emissions fees. This also greatly impacts higher-emitting facilities, almost a third of program revenue comes from just five regulated facilities. This is inequitable to feepayers and leaves DEQ vulnerable to changes in industry, such as closure of the state’s only coal-fired power plant in 2020.
3. **A more regular review of program finances and fees will improve predictability.** Feepayers and DEQ share an interest in avoiding irregular but large increases. A system that provides for more regular review of program finances and fee levels will be important moving forward. The EPA Inspector General found that states that set fees in statute, like Oregon, are at particular risk of delayed adjustments, revenue shortfalls, and the associated programmatic impacts of inadequate staffing levels.
4. **Basing fees on facility complexity can improve equity and stability, but the details matter.** Considering facility complexity in the design of a fee structure has benefits, including: (1) providing a more equitable distribution of fee burden. Facilities that require more staff time and expertise would pay more, and (2), reducing the reliance on emission fees helps stabilize the program budget and addresses the downward spiral highlighted in

the first finding. However, the manner in which complexity is defined and weighted can have significant impacts to fee payers, as detailed by modeling conducted for this report.

5. **Ongoing analysis and conversation are critical**. The analysis and conversation spurred by this work has been valuable in identifying shared interests, concerns, and considerations. Additional research and discussion will help identify approaches that balance equity and stability while avoiding drastic impacts to small businesses. DEQ will continue discussions with feepayers, the legislature, and other interested parties as it evaluates alternative approaches for Title V fees in Oregon, and prepares its 2025-2027 Agency Request Budget.

Appendix: A

Letter from Ryan Ramage, Valley Environmental LLC

Good afternoon,

I wanted to thank you for spending the time to go over the HB 3229 increase today and that you are open for feedback.

My company Valley Environmental is one of the first companies in Oregon to bring the Air Curtain Burner (ACI) technology to the PNW. When starting this venture to bring an alternative solution to the PNW for excessive biomass disposal and cleaner air, I understood I would be faced higher than normal permit fees and restrictions compared to other states, but knew this was part of pioneering an industry and figured being Oregon, it would sooner than later make the changes to encourage newer proven technologies for cleaner air practices in our communities.

Since I have started my business I have had unexpected added financial increases from DEQ and changes in my restrictions making it harder to operate and be effective in our communities and make beneficial environmental improvements.

With this increase of HB 3229 it will be putting a huge financial strain on my business and possibly not allow me to continue with growing the ACI industry in Oregon or possibly stay in business. The feedback I am getting too is that my equipment is in the process of being reclassified out of the Title V program, so the timing of my permit dues doesn't make sense to continue with paying these increased fees. I would appreciate any feedback on this matter as I know these increased fees will eliminate an industry that is actually countering current open burn practices and improving air quality among many other environmental issues our state is facing.

Thank you,

Ryan Ramage

Valley Environmental LLC/ VAE LLC

(503)799-9728

rramage@valleyenvironmental.net

www.valleyenvironmental.net

Appendix B: Letter from Beyond Toxics, Earthjustice, Northwest Environmental Defense Center, Tualatin Riverkeepers, Verde, and Willamette Riverkeepers

October 31, 2023

Oregon Department of Environmental Quality Attn:
Ali Mirzakhalili and Jill Inahara
700 NE Multnomah St., Suite 600
Portland, OR 97232

SUBMITTED VIA EMAIL TO: AQpermits@deq.oregon.gov

Dear Mr. Mirzakhalili, Ms. Inahara, and DEQ staff:

Thank you for the opportunity to offer recommendations and feedback on the Department of Environmental Quality's ("DEQ") restructuring of Oregon's fee structure for the Title V air permitting program. On behalf of Beyond Toxics, Earthjustice, Northwest Environmental Defense Center, Tualatin Riverkeepers, Verde, and Willamette Riverkeeper, we submit these comments in response to questions DEQ posed in its September 26, 2023, webinar update on HB 3229 (§ 6): Research on Title V Alternative Fee Structures.[1]

Oregon's Title V program has long suffered from chronic underfunding, resulting in systemic deficiencies within the DEQ's administration that have had a detrimental impact on communities, especially those communities overburdened by pollution. Chronic underfunding has resulted in staffing shortages, exacerbating DEQ's struggle to issue timely permits and renewals. Oregon's permitting backlog recently increased to 29%.[2] As highlighted by Oregon's

[1] DEQ, HB 3229 (§ 6): Research on Title V Alternative Fee Structures (Sept. 26, 2023), https://tinyurl.com/mt8eucab.
[2] Letter from Krishna Viswanathan, Air and Radiation Division Director, EPA Region 10 to Ali Mirzakhalili, Air Quality Division Administrator, DEQ Re: Title V Fees (March 8, 2023). As EPA Region 10 explained in its letter, Oregon's permitting backlog is calculated as the sum of initial applications not processed within 18 months and renewal applications not processed by the time of permit expiration divided by the total number of sources requiring permits.

Secretary of State, "[u]ntimely permits, combined with a current backlog of inspections, endanger the state's air quality and the health of Oregonians."[3]

Revenue from the Title V program is intended to provide DEQ with the necessary resources for Oregon to meet its federal Clean Air Act obligations to protect human health and the environment. It is also meant to ensure a reasonable and effective process for those seeking permits. We, therefore, strongly urge DEQ to establish a Title V fee structure that prioritizes public health. This fee structure should guarantee adequate resources and personnel to craft robust permits that uphold compliance with environmental regulations, maintain thorough oversight of facility testing, monitoring, and compliance, and ensure diligent enforcement of permits.

I. DEQ Must Establish a Sustainable Title V Fee Structure That Ensures Oregon Can Meet Its Clean Air Act Obligations.

Congress enacted the Clean Air Act "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population," including through "pollution prevention."[4] To advance this objective, Congress created a comprehensive operating permit program for stationary sources of pollution to ensure compliance with and enforcement of air pollution laws.[5] This program is known as the Title V program and requires major stationary sources of air pollution and certain minor stationary sources to obtain an operating permit that includes all applicable federal and state requirements.[6] Title V permits also must contain adequate monitoring, testing, reporting, and recordkeeping to assure compliance with the terms and conditions of the permit.[7] Sources must renew their Title V permit every five years.[8]

The federal Clean Air Act and accompanying regulations require DEQ, as the permitting authority for the Title V program in Oregon,[9] to establish and collect fees from Title V sources that are sufficient to fund all reasonable (direct and indirect) costs required to administer the program.[10] Oregon may design its fee schedule to collect fees using various methods, including charging an annual fee in addition to other fees deemed necessary to support the Title V program like emission-based fees or facility fees.[11] An adequate permit fee schedule is a key provision of Title V as fees support:

- Implementing and enforcing the permitting program
- Reviewing new permit applications

[3] Oregon Sec'y of State Audits Div., DEQ Should Improve the Air Quality Permitting Process to Reduce Its Permit Backlog and Better Safeguard Oregon's Air, Rep. No. 2018-01, at 3, 19 (2018) ("DEQ Audit Report"), https://sos.oregon.gov/audits/documents/2018-01.pdf.
[4] 42 U.S.C. 7401(b)(1), (c).
[5] 42 U.S.C. §§ 7661-7661f.
[6] 40 C.F.R. §§ 70.6(a); 70.7. *See also Id.* § 70.4(b)(10).
[7] 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c).
[8] 42 U.S.C. § 7661a(b)(5); 40 C.F.R. § 70.6(a)(2).
[9] The state of Oregon submitted a Title V program governing the issuance of operating permits on November 15, 1993. The EPA approved Oregon's Title V operating permit program in 1995. 60 Fed. Reg. 50106 (Sep. 28, 1995).
[10] 42 U.S.C. § 7661a(b); 40 C.F.R. § 70.9.
[11] 40 C.F.R. § 70.9(a)-(b).

- Reviewing revisions or renewals of existing permits
- Monitoring facility compliance
- Undertaking enforcement actions for noncompliance
- Performing monitoring, modeling, and analysis
- Tracking facility emissions
- Preparing emission inventories[12]

EPA has made clear that states are obligated to update and adjust their fee schedules periodically if they are not sufficient to fund the reasonable costs of the permit program.[13]

Oregon currently funds its Title V permitting program with an annual fee and an emissions-based fee adjusted annually for increases in the Consumer Price Index (usually under 2%).[14] EPA and DEQ have recognized that relying on emission-based fees alone to fund the Title V program is unsustainable because as sources reduce their emissions the emissions-based revenues supporting the program also decline.[15] This decline in emissions and emissions-based revenues does not mean that the cost of the Title V program declined as the number and complexity of permits remains relatively constant. Before the Oregon legislature approved a much needed increase in fees last summer, the state's revenue to administer the Title V program had declined by 11.4% since 2013-2015.[16] As a result of inadequate funding and rising costs, DEQ admitted that it ran the Title V program with approximately half the number of personnel needed to properly administer the program.[17] In fact, DEQ was so cash-strapped at one point that it held open vacancies so that the agency could draw on cash reserves to administer the Title V permitting program.[18]

II. **QUESTION 1**: *If complexity is used as a factor to set future Title V fees, what should Oregon consider when defining "complexity" and what weight should complexity be given?*

We urge DEQ to adopt a robust fee structure and are encouraged that the agency is considering adopting complexity as a factor in setting Oregon's Title V fees. The EPA Office of Inspector General lists charging sources for time and materials for permit work as one of the solutions for resolving declining Title V emission-based revenues.[19] We recommend DEQ

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[12] 40 C.F.R. § 70.9(b)(1).
[13] Memorandum from John Seitz, Director, Office of Air Quality, Planning and Standards, U.S. EPA, to Regional Air Division Directors, Reissuance of Guidance on Agency Review of State Fee Schedules for Operating Permits Programs Under Title V (Aug. 4, 1993) https://www.epa.gov/sites/default/files/2015-08/documents/fees.pdf; 40 C.F.R. § 70.9(a)-(b).
[14] Relating To Fees For Air Pollution Programs; Declaring an Emergency: Hearing on HB 3229 Before the House Comm. on Climate, Energy, and Env't, 82nd Leg. Assembly, Reg. Sess. (Or. 2023) (Statement of Ali Mirzakhalili, Air Quality Division Administrator, DEQ) ("DEQ Testimony"), https://tinyurl.com/22rbka5b; DEQ, HB 3229: Maintain Effective Federal Air Quality Permit Program ("DEQ Powerpoint Slides"), at 7 (Feb. 2023), https://tinyurl.com/n2dx4p3d.
[15] *Id*., Office of Inspector Gen., EPA, Rep. No. 22-E-0017, EPA's Title V Program Needs to Address Ongoing Fee Issues and Improve Oversight, at 8 ("EPA OIG Title V Rep.") (2022), https://tinyurl.com/2pmbrunt.
[16] *Id.*
[17] DEQ Testimony, https://tinyurl.com/22rbka5b.
[18] *Id.*
[19] EPA OIG Title V Rep. at 9, https://tinyurl.com/2pmbrunt.

establish a fee structure inspired by the Delaware Department of Nature Resources and Environmental Control's Title V program ("DNREC"), which EPA found to be a "highly successful permitting program."[20] Delaware's Title V fee structure factors in "complexity" by considering the total number of hours required for the agency to issue and enforce Title V permits ("Base Fee").[21] The Base Fee is calculated using timesheets to establish the total number expended over the most recent five years for the engineering, compliance, and enforcement hours spent on each facility, ensuring that a source's fee is proportional to the complexity of their operations and their emissions and aligning the costs with the resources needed for compliance and enforcement.[22] Based on the sum of hours expended, facilities are placed in one of eleven Base Fee tiers, with the largest and most complex sources that require the highest expenditure of resources (>6,000 hours) paying the highest fees and less complicated sources that require fewer resources (0-333 hours) paying the lowest fees.[23] According to DNREC, the Base Fee guarantees that essential regulatory activities are adequately funded, including permit issuance and renewals, stationary source regulation development, ambient monitoring, emission inventory, control strategy development, and the development, administration, and implementation of the Small Business Stationary Source Technical Program and the Environmental Compliance Program.[24] The Base Fee not only simplifies billing but also fosters financial equity across facilities.

In addition to the Base Fee, DNREC's Title V fee structure includes a "User Fee" that is determined based on facility emissions of each air contaminant.[25] The User Fee accounts for activities not covered by the Base Fee, such as compliance and enforcement program development, implementation and enforcement of permit terms, permit revisions, data management, and modeling.[26] Like the Base Fee, facilities are placed in one of seven User Fee tiers, with the largest emitters paying the highest fees and the lowest emitters paying the lowest fees. Industries are responsible for ensuring that their activities do not cause harm to the environment and public health. An emission-based fee provides an economic incentive for sources to reduce their emissions and adopt cleaner technologies and processes.

It has proven to be highly effective for Delaware to structure the state's Title V fees based on a Base Fee that represents the total number of hours required for the agency to issue and enforce a facility's Title V permits over the last five years and a User Fee that represents a facility's emissions. This fee structure has allowed Delaware to significantly reduce its permit backlog while also producing high-quality permits through extensive draft permit review, community engagement, and staff support, as recognized by EPA in its 2022 evaluation of

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[20] EPA Region 3, Clean Air Act Title V Program Evaluation Report [Delaware] Department of Natural Resources and Environmental Control – FY2022 ("EPA Delaware Title V Program Rep."), at 1 (Sept. 14, 2022), https://tinyurl.com/27rm6u9m; *see also* EPA Region 3, Delaware Title V Operating Permit Program Fee Evaluation ("EPA Delaware Fee Rep."), at 9 (May 21, 2019), https://tinyurl.com/mta3n5t9.
[21] EPA Delaware Fee Rep., at 3-4, https://tinyurl.com/mta3n5t9. *See also* Delaware Department of Natural Resources and Environmental Control, Air Quality Management Section, Title V Fee Discussions Background Information ("Delaware Background Information on Title V"), at 9 (Dec. 2006), https://tinyurl.com/yswf4hjw.
[22] *Id*. at 3.
[23] *Id*. at 3-4.
[24] Delaware Background Information on Title V at 9, https://tinyurl.com/yswf4hjw
[25] EPA Delaware Fee Rep., at 3-4.
[26] *Id*., *see also* Delaware Background Information on Title V at 9, https://tinyurl.com/yswf4hjw

Delaware's Title V program.[27] EPA's 2019 evaluation of Delaware's Title V fee structure also confirms its status as the gold standard, highlighting DNREC's robust accounting system for tracking expenses, innovative fee development, and the adequacy of fees collected to sustain the program.[28] EPA even noted that "[b]y revisiting fees regularly, and by incorporating the two-pronged approach which includes not just emissions-based fees but workload based fees as well, DNREC has managed to reduce the impact that the general trend of diminishing emissions has had on other permitting authorities nationwide."[29] By adopting a similar two-prong approach, DEQ can ensure there is adequate funding to administer the Title V program properly and that public health is protected through strong permits and robust testing, monitoring, and enforcement.

III. **QUESTION 2**: *What other factors should DEQ consider when researching and evaluating alternative Title V fee structures?*

In addition to complexity and emissions, we strongly encourage DEQ to consider incorporating the following factors into Oregon's Title V fee structure to protect public health and the environment:

- *Cumulative Impacts*

DEQ should collect a fee from sources contributing to cumulative impacts in overburdened communities. The fee could be directed toward ensuring adequate monitoring and enforcement in these communities. It is a lack of monitoring and enforcement that for years allowed the Owens-Brockway glass recycling plant to operate unchecked and emit hundreds to thousands of pounds of pollutants in the neighboring community of Cully—a rich and diverse community that has been overburdened by air pollution. An independent modeling report showed that the facility was likely causing or contributing to exceedances of federal air quality standards that protect human health and the environment.

To determine the cumulative impact fee, we suggest DEQ use available information to identify the proximity of each source to overburdened communities. Such information may include the following:[30]

- EPA's EJSCREEN
- Census data
- Amounts of different pollutants that may be impacting these populations.

[27] *See generally* EPA Delaware Title V Program Rep., https://tinyurl.com/27rm6u9m
[28] *See generally* EPA Delaware Fee Rep., https://tinyurl.com/mta3n5t9.
[29] EPA Region 3, Delaware Title V Program Evaluation, at 1 (Sept. 29, 2015), https://tinyurl.com/ysryc7e6.
[30] We understand that DEQ is already working on how to evaluate cumulative impacts through its pilot study and would recommend that DEQ use that system to determine a cumulative impact fee once that system is rolled out across Oregon.

- *Consumer Price Index*

To address declining Title V revenues, the EPA Office of Inspector General recommends that permitting authorities link annual adjustments to fees based on the Consumer Price Index.[31] We encourage DEQ to adopt this approach.

- *Hazardous Air Pollutants*

DEQ should collect fees from facilities emitting certain levels of hazardous air pollutants, which would be used to ensure proper testing, monitoring, and enforcement of permit limits for these pollutants. Hazardous air pollutants are toxic substances that pose severe health risks to humans and the environment. These pollutants can cause various acute and chronic health problems, including respiratory issues, cancer, and developmental disorders. Fees also create a financial incentive for industries to adopt cleaner technologies and practices, reducing emissions and minimizing the negative impact on public health and the environment.

IV. Additional Recommendations

- *Title V Fee Committee*

We strongly encourage DEQ to create a Title V Fee Committee to review fees annually. The Committee would include members of the impacted communities, DEQ staff, and polluting entities. Delaware has implemented this approach, which provides adaptability critical to maintaining financial sustainability to ensure compliance with air pollution requirements and the protection of public health and the environment.[32] As noted earlier, EPA has made clear that states are obligated to update and adjust their fee schedules periodically if they are not sufficient to fund the reasonable costs of the permit program.[33] Establishing a Title V fee committee would allow DEQ to meet this obligation.

- *DEQ should refrain from considering fee structures from states where EPA flagged concerns about how those programs are administered.*

DEQ highlighted Idaho, Mississippi, and Washington as Title V programs with fee structures that provide adequate funding.[34] EPA has flagged several concerns with how Idaho and Washington administer their programs so we urge DEQ to

[31] EPA OIG Title V Rep., at 9, https://tinyurl.com/2pmbrunt.
[32] EPA Delaware Fee Rep. at 3, 8, https://tinyurl.com/mta3n5t9.
[33] *See* Memorandum from John Seitz, Director, Office of Air Quality, Planning and Standards, U.S. EPA, to Regional Air Division Directors, Reissuance of Guidance on Agency Review of State Fee Schedules for Operating Permits Programs Under Title V, Aug. 4, 1993, https://www.epa.gov/sites/default/files/2015-08/documents/fees.pdf; 40 C.F.R. § 70.9(a)-(b).
[34] DEQ, HB 3229 (§ 6): Research on Title V Alternative Fee Structures (Sept. 26, 2023), https://tinyurl.com/mt8eucab.

remove them from consideration.[35] DEQ should consider more than whether a state program has a permitting backlog as the agency looks to other programs in determining how to restructure Oregon's Title V fees. We strongly encourage DEQ to evaluate funding structures based on whether the Title V programs as a whole ensure there are sufficient resources and personnel to write strong permits, oversee testing and monitoring, and prioritize enforcement.

We also encourage caution in considering Mississippi's new funding structure because, as DEQ acknowledged, there's no data to demonstrate that it provides the necessary funding for the state to administer its Title V program or reduce its sizable permitting backlog.

CONCLUSION

Thank you again for your consideration of our feedback. We look forward to working with you to protect Oregon's air and all who breathe it.

Sincerely,

Lisa Arkin, *Executive Director*
Beyond Toxics

Ashley Bennett, *Senior Attorney*
Earthjustice

Jonah Sandford, *Executive Director*
Northwest Environmental Defense Center

Victoria Frankeny, *Riverkeeper & Staff Attorney*
Tualatin Riverkeepers

Xitlali Torres, *Air Quality and Climate Program Coordinator*
Verde

Lindsey Hutchison, *Staff Attorney*
Willamette Riverkeeper

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[35] *See* EPA Region 10, Idaho Department of Environmental Quality Title V Program Review (3rd Round) (Sept. 7, 2023), https://tinyurl.com/4kmyj73n; EPA Region 10, Washington Department of Ecology Title V Program Review (Sept. 28, 2022), https://tinyurl.com/ywz8n5sj.

Appendix C: Letter to DEQ Air Program Administrator Ali Mirzakhalili from EPA Region 10 Air and Radiation Division Director Krishna Viswanathan, March 8, 2023

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 155
Seattle, WA 98101

AIR &DIVISION RADIATION

March 8, 2023

Mr. Ali Mirzakhalili
Air Quality Administrator
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, Oregon 97232

Re: Title V Fees

Dear Mr. Mirzakhalili:

Thank you for meeting with me recently in Seattle to discuss Oregon's Performance Partnership Agreement with the U.S. Environmental Protection Agency. I am writing to express concern that the fees that Oregon collects from owners and operators of stationary sources may not be adequate to implement its federal operating permit program.

Title V of the Clean Air Act as amended in November of 1990 requires that states develop and implement an operating permits program for stationary sources of air pollutants. Both title V of the Act and its implementing regulation at 40 CFR part 70, require states to collect fees from the owners and operators of stationary sources sufficient to cover the permit program costs and shall ensure that any fee required by this section will be used solely for permit program costs. See section 502(b) of the act and 40 CFR 70.9.

A 1993 memorandum issued by John S. Seitz clarifies which direct and indirect costs must be covered by title V permitting fees and which may not.[1] More recently, in response to a 2014 report from the EPA's Office of the Inspector General on EPA oversight of title V fee practices,[2] Peter Tsirigotis, Director of EPA's Office of Air Quality, Planning and Standards issued updated guidance on title V fees.[2] Additional guidance can be found at the EPA's title V permit fees webpage.[4]

Based on available guidance, we believe that states should regularly review the fees they collect considering the costs associated with implementing the operating permit program. The last time Oregon updated its fee schedule, other than annual adjustments based on the consumer price index, was in 2011.

The Office of the Inspector General's 2014 report found that title V fees had been generally declining across the country and frequently failed to cover title V expenses. A title V revenue deficit may result in late issuance of initial and renewal operating permits, permits that do not contain all applicable requirements, and inadequate compliance evaluations of permitted stationary sources.

Region 10 has identified the Oregon Department of Environmental Quality as one of several permitting authorities in the region with a permitting backlog greater than 20 percent, the level we have set for the development of an action plan.[3] Collection of adequate fees will help Oregon DEQ to dedicate the staff time – and, if necessary, hire more staff – to ensure that it is implementing its operating permits program effectively.

If you have any questions regarding this letter, please contact Karl Pepple, Air Permits and Toxics Branch Manager, at (206) 553-1778 or at pepple.karl@epa.gov.

Sincerely,

KRISHNASWAMY VISWANATHAN

Digitally signed by KRISHNASWAMY VISWANATHAN Date: 2023.03.08 11:54:41 -08'00'

[1] *Reissuance of Guidance on Agency Review of State Fee Schedules for Operating Permits Programs Under Title V*, John S. Seitz, Director, Office of Air Quality Planning and Standards, U.S. EPA, to Regional Air Division Directors, August 4, 1993. [2] *Enhanced EPA Oversight Needed to Address Risks from Declining Clean Air Act Title V Fee Revenues*, U.S. EPA Office of the Inspector General, Report No. 15-P-0006, October 20, 2014.

[2] *Updated Guidance on EPA Review of Fee Schedules for Operating Permit Programs Under Title V*, Peter Tsirigotis, Director, Office of Air Quality, Planning and Standards, U.S. EPA, to Regional Air Division Directors, March 27, 2018. [4] https://www.epa.gov/title-v-operating-permits/title-v-permit-fees

[3] After several years of improvement, Oregon's permitting backlog – calculated as the sum of initial applications not processed within 18 months and renewal applications not processed by the time of permit expiration divided by the total number of sources requiring permits – increased to 29 percent in December of 2022.

Krishna
Viswanathan
Director

Appendix D: Estimated 2026 invoices for current Title V permit holders. Reflects HB 3229 authorized fee adjustments through 2025. Calculations are based on 2022 reported emissions

Permit Number	Facility Name	2023 Emissions (Assumed = 2022 Emissions) (tpy)	FY2025 Fees W/CPI+LegAdj	Potential Options						
			Estimated Invoice	1 thirds	1a thirds + 2/3 NESHAP	2 1/4 emissions	2a 1/4 emissions + 2/3 NESHAP	3 1/2 Complex	3a 1/2 Complex + 2/3 NESHAP	
22-0143	Arauco Duraflake Division	545	$ 81,947	$ 71,813	$ 73,032	$ 69,409	$ 70,781	$ 70,253	$ 72,082	
26-3009	Arclin Surfaces, Inc. Portland Operations	157	$ 34,999	$ 58,568	$ 57,658	$ 59,353	$ 61,587	$ 62,246	$ 65,225	
01-0029	Ash Grove Cement Company	1,111	$ 150,433	$ 119,722	$ 117,706	$ 111,489	$ 109,221	$ 118,480	$ 115,456	
22-0547	ATI Wah Chang	352	$ 58,594	$ 82,924	$ 81,674	$ 85,939	$ 84,533	$ 94,980	$ 93,105	
22-1034	Bear Mountain Forest Products, Inc. Golden Fire Pellets	262	$ 47,704	$ 45,126	$ 44,813	$ 45,295	$ 44,944	$ 42,041	$ 41,572	
15-0159	Biomass One, L.P.	543	$ 81,705	$ 60,772	$ 60,460	$ 57,031	$ 56,679	$ 53,776	$ 53,307	
09-0121	**Black Butte Ranch (New 3/3/2021)**	23	$ 18,785	$ 26,130	$ 25,275	$ 29,167	$ 27,954	$ 23,863	$ 22,245	
31-0006	Boise Building Solutions Manufacturing Elgin Plywood & Stud Mill	290	$ 51,092	$ 59,952	$ 58,833	$ 58,760	$ 60,132	$ 59,604	$ 61,433	
31-0002	Boise Building Solutions Manufacturing Island City Particleboard	683	$ 98,645	$ 79,497	$ 80,716	$ 75,172	$ 76,544	$ 76,016	$ 77,846	
15-0004	Boise Building Solutions Manufacturing, LLC	578	$ 85,940	$ 83,354	$ 83,642	$ 83,082	$ 82,028	$ 88,025	$ 86,618	
15-0020	Boise Building Solutions Manufacturing, LLC	44	$ 21,326	$ 32,987	$ 34,519	$ 36,191	$ 37,915	$ 32,937	$ 35,235	
05-1849	Boise White Paper, LLC	250	$ 46,252	$ 38,993	$ 39,759	$ 38,647	$ 39,509	$ 33,343	$ 34,492	

Permit Number	Facility Name	2023 Emissions (Assumed = 2022 Emissions) (tpy)	FY2025 Fees W/CPI+LegAdj	Potential Options					
			Estimated Invoice	1 thirds	1a thirds + 2/3 NESHAP	2 1/4 emissions	2a 1/4 emissions + 2/3 NESHAP	3 1/2 Complex	3a 1/2 Complex + 2/3 NESHAP
26-2030	BP West Coast Products, LLC I (Seaport Midstream Partners, LLC)	143	$ 33,305	$ 54,893	$ 53,189	$ 58,768	$ 56,852	$ 61,661	$ 59,106
16-0003	Bright Wood Corporation	140	$ 32,942	$ 32,868	$ 33,634	$ 34,053	$ 34,915	$ 28,749	$ 29,898
26-3135	Bullseye Glass	35	$ 20,237	$ 37,950	$ 40,248	$ 41,963	$ 44,549	$ 40,758	$ 44,205
30-0118	Calpine Construction Finance Company, L.P. Calpine	424	$ 67,306	$ 54,146	$ 53,834	$ 52,061	$ 51,709	$ 48,806	$ 48,338
15-0029	Carestream Health, Inc.	436	$ 68,758	$ 76,561	$ 75,735	$ 77,152	$ 76,098	$ 82,094	$ 80,688
22-3501	Cascade Pacific Pulp, LLC Halsey Pulp Mill	1,230	$ 164,832	$ 127,852	$ 128,022	$ 116,459	$ 118,341	$ 123,450	$ 125,960
36-5034	Cascade Steel Mills	552	$ 82,794	$ 72,202	$ 71,578	$ 69,701	$ 68,998	$ 70,545	$ 69,608
26-2027	Chevron Products Company	296	$ 51,818	$ 52,483	$ 52,937	$ 52,863	$ 53,373	$ 51,658	$ 52,338
18-0013	Collins Products LLC Weyerhaeuser	911	$ 126,233	$ 92,192	$ 93,412	$ 84,694	$ 86,066	$ 85,538	$ 87,367
18-0014	Columbia Forest Products, Inc.	297	$ 51,939	$ 52,539	$ 54,837	$ 52,905	$ 55,490	$ 51,699	$ 55,147
11-0001	Columbia Ridge Landfill & Recycling Center	597	$ 88,239	$ 74,708	$ 74,083	$ 71,581	$ 70,878	$ 72,425	$ 71,487
24-5398	Covanta Marion, Inc.	242	$ 45,284	$ 51,147	$ 49,756	$ 51,861	$ 50,296	$ 50,655	$ 48,569
26-2197	Daimler Trucks North America, LLC Western Star Truck Plant Portland	105	$ 28,707	$ 49,707	$ 48,532	$ 51,034	$ 52,406	$ 51,878	$ 53,707
09-0040	Deschutes County Landfill	58	$ 23,020	$ 39,231	$ 37,840	$ 42,924	$ 41,359	$ 41,718	$ 39,632
34-2756	DMH, Inc.	98	$ 27,860	$ 35,994	$ 37,526	$ 38,447	$ 40,170	$ 35,192	$ 37,490
10-0012	Douglas County Forest Products	223	$ 42,985	$ 54,774	$ 53,258	$ 55,962	$ 55,259	$ 56,806	$ 55,868

Permit Number	Facility Name	2023 Emissions (Assumed = 2022 Emissions) (tpy)	FY2025 Fees W/CPI+LegAdj	Potential Options					
			Estimated Invoice	1 thirds	1a thirds + 2/3 NESHAP	2 1/4 emissions	2a 1/4 emissions + 2/3 NESHAP	3 1/2 Complex	3a 1/2 Complex + 2/3 NESHAP
10-0031	Douglas County Public Works Dept. - Roseburg Landfill	16	$ 17,938	$ 25,963	$ 24,885	$ 28,875	$ 27,661	$ 23,571	$ 21,953
15-0026	Dry Creek Landfill, Inc.	148	$ 33,910	$ 45,809	$ 49,082	$ 52,830	$ 52,127	$ 53,674	$ 52,736
37-0777	Elder Demolition (Title V Application 3/22/2022)	26	$ 19,148	$ 25,072	$ 25,442	$ 29,292	$ 28,079	$ 23,988	$ 22,371
27-0005	Elkay Wood Products Company	113	$ 29,675	$ 31,364	$ 32,130	$ 32,925	$ 33,787	$ 27,622	$ 28,771
10-0054	Emerald Forest Products, Inc.	191	$ 39,113	$ 41,172	$ 42,704	$ 42,330	$ 44,054	$ 39,076	$ 41,374
07-0001	Endura Products, Inc.	54	$ 22,536	$ 27,021	$ 28,845	$ 30,462	$ 31,323	$ 25,158	$ 26,307
22-6024	Entek International LLC	69	$ 24,351	$ 67,110	$ 65,916	$ 74,121	$ 72,715	$ 83,161	$ 81,286
23-0032	EP Minerals, LLC	339	$ 57,021	$ 66,141	$ 62,259	$ 66,954	$ 62,962	$ 69,847	$ 64,525
26-2068	ESCO Corporation	129	$ 31,611	$ 37,664	$ 37,407	$ 39,741	$ 39,390	$ 36,487	$ 36,018
26-1865	EVRAZ Inc, NA	545	$ 81,947	$ 88,373	$ 86,190	$ 87,852	$ 85,584	$ 94,843	$ 91,819
10-0155	FCC Commercial Furniture, Inc.	16	$ 17,938	$ 36,892	$ 39,190	$ 41,170	$ 43,755	$ 39,964	$ 43,411
25-0041	Finley BioEnergy LLC	61	$ 23,383	$ 33,933	$ 33,621	$ 36,901	$ 36,550	$ 33,647	$ 33,178
25-0001	Finley Buttes Landfill Company Finley Buttes Regional LF	129	$ 31,611	$ 35,493	$ 37,407	$ 39,741	$ 39,390	$ 36,487	$ 36,018
22-2525	Frank Lumber Co. Inc.	137	$ 32,579	$ 49,094	$ 48,469	$ 52,370	$ 51,667	$ 53,214	$ 52,277
22-6002	Freres Lumber Co. Inc. #1, 2, & 4	223	$ 42,985	$ 70,499	$ 68,260	$ 74,404	$ 72,137	$ 81,396	$ 78,372
28-0007	Gas Transmission Northwest Corporation Compressor Station #10	145	$ 33,547	$ 49,540	$ 47,070	$ 52,704	$ 49,926	$ 53,548	$ 49,844

Permit Number	Facility Name	2023 Emissions (Assumed = 2022 Emissions) (tpy)	FY2025 Fees W/CPI+LegAdj	Potential Options					
			Estimated Invoice	1 thirds	1a thirds + 2/3 NESHAP	2 1/4 emissions	2a 1/4 emissions + 2/3 NESHAP	3 1/2 Complex	3a 1/2 Complex + 2/3 NESHAP
18-0096	Gas Transmission Northwest Corporation Compressor Station #13	243	$ 45,405	$ 38,603	$ 39,369	$ 38,354	$ 39,216	$ 33,051	$ 34,200
25-0026	Gas Transmission Northwest Corporation Compressor Station #9	422	$ 67,064	$ 54,035	$ 53,722	$ 51,977	$ 51,626	$ 48,723	$ 48,254
16-0026	Gas Transmission Northwest Corporation Compressor Station 11	81	$ 25,803	$ 35,047	$ 34,735	$ 37,737	$ 37,385	$ 34,482	$ 34,013
09-0084	Gas Transmission Northwest Corporation Compressor Station 12	401	$ 64,523	$ 52,865	$ 52,553	$ 51,100	$ 50,749	$ 47,846	$ 47,377
18-0072	Gas Transmission Northwest Corporation Compressor Station 14	69	$ 24,351	$ 34,379	$ 34,066	$ 37,235	$ 36,884	$ 33,981	$ 33,512
04-0004	Georgia-Pacific Consumer Products LP Wauna Mill	4,132	$ 515,974	$ 317,170	$ 325,847	$ 280,684	$ 280,299	$ 302,020	$ 301,506
21-0005	Georgia-Pacific Toledo LLC Toledo	2,139	$ 274,821	$ 203,610	$ 196,181	$ 179,010	$ 176,039	$ 194,198	$ 190,237
26-2777	Graphic Packaging International, Inc. Graphic Packaging Int'l	49	$ 21,931	$ 33,098	$ 32,953	$ 36,400	$ 36,049	$ 33,146	$ 32,677
26-2944	Gunderson, Inc.	412	$ 65,854	$ 64,407	$ 65,627	$ 63,855	$ 65,227	$ 64,699	$ 66,528
29-0007	Hampton Lumber dba Tillamook Lumber Company	322	$ 54,964	$ 59,395	$ 60,615	$ 60,096	$ 61,468	$ 60,940	$ 62,770
26-1894	Herbert Malarkey Roofing (Title V application 01/20/2023)	53	$ 22,415	$ 19,608	$ 22,726	$ 24,397	$ 24,397	$ 17,045	$ 17,045

Permit Number	Facility Name	2023 Emissions (Assumed = 2022 Emissions) (tpy)	FY2025 Fees W/CPI+LegAdj	Potential Options						
			Estimated Invoice	1 thirds	1a thirds + 2/3 NESHAP	2 1/4 emissions	2a 1/4 emissions + 2/3 NESHAP	3 1/2 Complex	3a 1/2 Complex + 2/3 NESHAP
30-0113	Hermiston Generating Company, L.P. and PacifiCorp	237	$ 44,679	$ 44,624	$ 43,421	$ 44,251	$ 43,900	$ 40,997	$ 40,528
02-2173	Hollingsworth & Vose Fiber (Title V application 05/22/2023)	41	$ 20,963	$ 19,608	$ 23,283	$ 24,815	$ 24,815	$ 17,462	$ 17,462
34-2681	Intel Corporation	428	$ 67,790	$ 43,440	$ 43,440	$ 39,933	$ 39,933	$ 32,580	$ 32,580
18-0005	Interfor Pacific Inc.	487	$ 74,929	$ 68,583	$ 69,803	$ 66,987	$ 68,359	$ 67,831	$ 69,660
03-2533	Interfor Pacific Inc.	191	$ 39,113	$ 57,566	$ 59,551	$ 60,773	$ 63,007	$ 63,666	$ 66,645
18-0006	JELD-WEN, Inc. dba JELD-WEN	304	$ 52,786	$ 74,787	$ 76,460	$ 77,787	$ 79,670	$ 84,779	$ 87,288
26-2028	Kinder Morgan Energy Partners, L.P.	205	$ 40,807	$ 60,071	$ 56,642	$ 61,358	$ 59,441	$ 64,251	$ 61,695
18-0003	Klamath Energy LLC Klamath Cogeneration Proj	258	$ 47,220	$ 61,296	$ 59,593	$ 63,571	$ 61,655	$ 66,464	$ 63,909
17-0046	MasterBrand Cabinets, Inc.	237	$ 44,679	$ 45,293	$ 45,266	$ 44,251	$ 45,975	$ 40,997	$ 43,295
27-0001	Marquis Spas (closing September 2023)	77	$ 25,319	$ 33,592	$ 25,838	$ 28,206	$ 29,068	$ 22,903	$ 24,052
26-3310	Metropolitan Service District St Johns Landfill	6	$ 16,728	$ 30,871	$ 30,558	$ 34,604	$ 34,253	$ 31,350	$ 30,881
03-0159	Miles Fiberglass and Plastics, Inc.	46	$ 21,568	$ 27,634	$ 28,400	$ 30,127	$ 30,989	$ 24,824	$ 25,973
33-0001	Northwest Aluminum Company, Inc.	51	$ 22,173	$ 38,841	$ 39,295	$ 42,631	$ 43,142	$ 41,426	$ 42,106
26-2492	Northwest Pipe Company	69	$ 24,351	$ 34,379	$ 35,911	$ 37,235	$ 38,959	$ 33,981	$ 36,279
01-0038	Northwest Pipeline GP	703	$ 101,065	$ 69,682	$ 71,214	$ 63,712	$ 65,436	$ 60,458	$ 62,756

Permit Number	Facility Name	2023 Emissions (Assumed = 2022 Emissions) (tpy)	FY2025 Fees W/CPI+LegAdj	Potential Options					
			Estimated Invoice	1 thirds	1a thirds + 2/3 NESHAP	2 1/4 emissions	2a 1/4 emissions + 2/3 NESHAP	3 1/2 Complex	3a 1/2 Complex + 2/3 NESHAP
30-0112	Northwest Pipeline GP	151	$ 34,273	$ 44,409	$ 43,018	$ 46,807	$ 45,243	$ 45,602	$ 43,516
03-2729	Northwest Pipeline GP Oregon City Compressor Station	364	$ 60,046	$ 50,805	$ 50,493	$ 49,555	$ 49,204	$ 46,301	$ 45,832
26-2050	Oregon Health Sciences University	102	$ 28,344	$ 41,681	$ 42,134	$ 44,761	$ 45,271	$ 43,556	$ 44,236
10-0008	Oregon Door Company (Simple Permit 9/25/2020)	-	$ 16,002	$ 19,608	$ 19,608	$ 22,059	$ 22,059	$ 14,706	$ 14,706
10-0033	Orenco Systems, Inc.	75	$ 25,077	$ 34,713	$ 36,245	$ 37,486	$ 39,210	$ 34,231	$ 36,530
26-3067	Owens Corning Roofing and Asphalt, LLC	194	$ 39,476	$ 52,268	$ 51,643	$ 54,751	$ 54,048	$ 55,595	$ 54,657
26-1876	Owens-Brockway Glass Container Inc.	404	$ 64,886	$ 70,636	$ 58,951	$ 57,373	$ 57,883	$ 56,168	$ 56,848
22-0011	Pacific Cast Technologies, Inc.	187	$ 38,629	$ 38,945	$ 40,637	$ 42,163	$ 41,812	$ 38,909	$ 38,440
08-0003	Pacific Wood Laminates, Inc.	343	$ 57,505	$ 49,636	$ 49,323	$ 48,678	$ 48,327	$ 45,424	$ 44,955
05-2520	Portland General Electric Company Beaver Plant	937	$ 129,379	$ 106,057	$ 78,013	$ 85,780	$ 68,199	$ 86,624	$ 63,182
25-0031	Portland General Electric Company Coyote Springs Plant	253	$ 46,615	$ 50,924	$ 48,698	$ 51,067	$ 49,502	$ 49,862	$ 47,775
25-0016	Portland General Electric Company PGE Boardman	160	$ 35,362	$ 61,304	$ 58,522	$ 65,626	$ 62,496	$ 70,568	$ 66,395
02-9503	Power Resources Cooperative	198	$ 39,960	$ 36,097	$ 36,863	$ 36,475	$ 37,337	$ 31,171	$ 32,321
36-0011	Riverbend Landfill Co.	383	$ 62,345	$ 62,792	$ 62,167	$ 62,644	$ 61,941	$ 63,488	$ 62,550

Permit Number	Facility Name	2023 Emissions (Assumed = 2022 Emissions) (tpy)	FY2025 Fees W/CPI+LegAdj	Potential Options						
			Estimated Invoice	1 thirds	1a thirds + 2/3 NESHAP	2 1/4 emissions	2a 1/4 emissions + 2/3 NESHAP	3 1/2 Complex	3a 1/2 Complex + 2/3 NESHAP
06-0010	Roseburg Forest Products Co.	256	$ 46,978	$ 62,744	$ 61,326	$ 63,488	$ 63,646	$ 66,381	$ 66,592
10-0025	Roseburg Forest Products Co. Dillard	2,901	$ 367,023	$ 209,697	$ 214,836	$ 180,095	$ 181,116	$ 185,037	$ 186,398
10-0013	Roseburg Forest Products Co. EWP Facility	103	$ 28,465	$ 47,312	$ 48,421	$ 50,950	$ 52,323	$ 51,794	$ 53,624
10-0078	Roseburg Forest Products Co. Riddle Plywood	470	$ 72,872	$ 84,197	$ 83,859	$ 84,720	$ 84,527	$ 91,711	$ 91,454
03-0017	Shaw's Fiberglass and Plastics, Inc.	9	$ 17,091	$ 36,502	$ 38,801	$ 40,877	$ 43,463	$ 39,672	$ 43,119
26-2029	Shore Terminals LLC	175	$ 37,177	$ 56,229	$ 54,526	$ 59,771	$ 57,854	$ 62,664	$ 60,109
15-0073	SierraPine, A California Limited Partner	335	$ 56,537	$ 60,119	$ 59,494	$ 60,639	$ 59,936	$ 61,483	$ 60,546
24-0162	Statera Fiberglass LLC Aumsville Plant	78	$ 25,440	$ 34,880	$ 36,412	$ 37,611	$ 39,335	$ 34,357	$ 36,655
34-2066	Stimson Lumber Company	239	$ 44,921	$ 77,340	$ 66,610	$ 68,925	$ 69,946	$ 73,867	$ 75,228
10-0045	Swanson Group Mfg. LLC	313	$ 53,875	$ 53,430	$ 53,883	$ 53,573	$ 54,083	$ 52,367	$ 53,048
10-0030	Swanson Group Mfg. LLC Roseburg	198	$ 39,960	$ 51,600	$ 51,866	$ 54,918	$ 54,215	$ 55,762	$ 54,824
15-0025	Timber Products Co.	454	$ 70,936	$ 67,406	$ 61,735	$ 59,461	$ 59,972	$ 58,256	$ 58,936
25-0047	TMF Biofuels, LLC	56	$ 22,778	$ 33,655	$ 33,343	$ 36,693	$ 36,341	$ 33,438	$ 32,969
17-0030	TP Grants Pass, LLC	91	$ 27,013	$ 30,195	$ 29,061	$ 32,007	$ 30,793	$ 26,703	$ 25,085
05-0005	United States Gypsum Company Rainier Plant	339	$ 57,021	$ 54,878	$ 53,487	$ 54,659	$ 53,094	$ 53,453	$ 51,367
37-0795	Valley Environmental (Title V Application 11/28/2022)	3	$ 16,365	$ 30,537	$ 28,547	$ 34,479	$ 32,053	$ 31,225	$ 27,989

Permit Number	Facility Name	2023 Emissions (Assumed = 2022 Emissions) (tpy)	FY2025 Fees W/CPI+LegAdj	Potential Options					
			Estimated Invoice	1 thirds	1a thirds + 2/3 NESHAP	2 1/4 emissions	2a 1/4 emissions + 2/3 NESHAP	3 1/2 Complex	3a 1/2 Complex + 2/3 NESHAP
02-9502	Valley Landfills, Inc. Coffin Butte Landfill	32	$ 19,874	$ 37,783	$ 38,237	$ 41,838	$ 42,348	$ 40,632	$ 41,313
26-3224	Vigor Industrial, LLC	253	$ 46,615	$ 51,926	$ 52,387	$ 51,067	$ 53,653	$ 49,862	$ 53,309
33-0007	Wasco County Landfill, Inc.	66	$ 23,988	$ 34,212	$ 35,744	$ 37,110	$ 38,834	$ 33,856	$ 36,154
04-0041	Weyerhaeuser Company Warrenton Sawmill	242	$ 45,284	$ 54,941	$ 56,161	$ 56,755	$ 58,127	$ 57,599	$ 59,429
22-3010	Weyerhaeuser NR Company Foster (Murphy Company)	188	$ 38,750	$ 57,399	$ 55,695	$ 60,648	$ 58,731	$ 63,541	$ 60,986
03-2145	Willamette Falls Paper	212	$ 41,654	$ 42,341	$ 43,874	$ 43,207	$ 44,931	$ 39,953	$ 42,251
30-0016	Woodgrain Millwork, Inc.	152	$ 34,394	$ 44,465	$ 44,919	$ 46,849	$ 47,360	$ 45,644	$ 46,324
26-2025	Zenith Energy Terminals Holding, LLC	200	$ 40,202	$ 52,658	$ 50,133	$ 55,001	$ 52,223	$ 55,845	$ 52,141
		35,200	$ 5,971,414	$ 6,116,136	$ 6,029,092	$ 6,066,887	$ 6,048,285	$ 6,026,023	$ 6,001,222

[i] 42 USC § 7412(a)(1)

[ii] "A requirement under State or local law or interstate compact that the owner or operator of all sources subject to the requirement to obtain a permit under this subchapter pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of this subchapter, including section 7661f of this title, including the reasonable costs of—

(i) reviewing and acting upon any application for such a permit,

(ii) if the owner or operator receives a permit for such source, whether before or after November 15, 1990, implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),

(iii) emissions and ambient monitoring,

(iv) preparing generally applicable regulations, or guidance,

(v) modeling, analyses, and demonstrations, and

(vi) preparing inventories and tracking emissions." 42 USC 7661a (b).

[iii] ORS 468A.315

[iv] 40 CFR 70.9(d).

[v] Oregon Secretary of State Audit. P 21

[vi] HB 3229 Section 4 (2) provides authority to the EQC to adjust fees annually by the increased costs of the program or 3% whichever is less. Or Laws 1989, ch 260, § 4(2).

[vii] EPA's Title V Program Needs to Address Ongoing Fee Issues and Improve Oversight, U.S. EPA Office of the Inspector General. Report No. 22-E-0017. January 12, 2022 ("OIG Report").

[viii] Id.

[ix] Id. at 7

[x] Id at 9.

[xi] Id at 7.

[xii] HB 3229 also proposed authority to increase Air Contaminate Discharge Permitting and Asbestos permitting fees by increased costs of the program or 3% whichever was lowest.

[xiii] NACAA released the survey results as member resource not to be distributed. NACAA is in the process of developing a summary of the results for wider release.

[xiv] Letter to DEQ Air Program Administrator Ali Mirzakhalili from EPA Region 10 Air and Radiation Division Director Krishna Viswanathan, March 8, 2023.(See Appendix C)

[xv] Ozone, Carbon Monoxide, Lead, Nitrogen Dioxide, Sulfur Dioxide, and Particulate Matter.

[xvi] "Emissions unit" means any part or activity of a source that emits or has the potential to emit any regulated pollutant.