

IC 13-17-8

Chapter 8. Title V Operating Permit Program, Trust Fund, and Fees

IC 13-17-8-1

Title V operating permit program trust fund

Sec. 1. (a) The Title V operating permit program trust fund is established to provide a source of money for the implementation, enforcement, and administration of the operating permit program required to implement 42 U.S.C. 7661 through 7661f of the federal Clean Air Act, as provided in sections 2 through 9 of this chapter.

(b) The expenses of administering the fund shall be paid from the money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The sources of money for the fund are the following:

(1) Fees collected under the operating permit program required to implement 42 U.S.C. 7661 through 7661f.

(2) Appropriations made by the general assembly.

(f) Money in the fund may be used only to pay the costs of the operating permit program activities described in section 3 of this chapter.

(g) Revenues that accrue to the fund are appropriated to the department for the purposes described in section 3 of this chapter.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-2

Fees; owner or operator of source requiring permit

Sec. 2. (a) The owner or operator of a source subject to the requirement to obtain a permit necessary to implement 42 U.S.C. 7661 through 7661f shall pay a fee determined by the board under rules adopted under IC 4-22-2.

(b) The department shall do the following:

(1) Collect the fees described in subsection (a).

(2) Deposit the fees in the Title V operating permit program trust fund.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-3

Fees

Sec. 3. The board shall adopt fees to be collected under the operating permit program. The annual aggregate amount of fees collected under the operating permit program from all sources subject to the operating permit program must be sufficient to cover only the direct and indirect reasonable costs of the following permit program activities:

- (1) Preparing rules, regulations, and guidance regarding implementation and enforcement of the program.
- (2) Reviewing and acting on the following:
 - (A) An application for an operating permit.
 - (B) An operating permit revision.
 - (C) An operating permit renewal.
- (3) The general administrative cost of running the operating permit program.
- (4) Implementing and enforcing the terms of a permit granted under the operating permit program. However, court costs for enforcement actions are not included under this subdivision.
- (5) Emissions and ambient monitoring.
- (6) Modeling analyses and demonstrations.
- (7) Preparing inventories and tracking emissions.
- (8) Developing and administering a small business stationary source technical and environmental compliance assistance program.

As added by P.L.1-1996, SEC.7. Amended by P.L.133-2012, SEC.122.

IC 13-17-8-4

Fee structure

Sec. 4. The fee structure established under section 3 of this chapter may include any of the following:

- (1) The placement of persons described in section 2(a) of this chapter into categories.
- (2) Fee amounts based on the amount and type of emissions if:
 - (A) maximum; and
 - (B) minimum or base;
 fee amounts are included as part of the fee structure.
- (3) Fee amounts based on the cost of performing the activities described in section 3 of this chapter.
- (4) A maximum fee amount for each source described in section 2(a) of this chapter;
- (5) A base or minimum fee for each source described in section 2(a) of this chapter.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-5

Fee structure; application

Sec. 5. The fee structure established under section 3 of this chapter applies to each source subject to the requirement to obtain a permit required to implement 42 U.S.C. 7661 through 7661f.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-6

Fee structure; restrictions

Sec. 6. The following apply to the initial fee structure established under section 3 of this chapter:

- (1) Except as provided in subdivision (2), the initial fee

structure may not include a fee for a source that exceeds one hundred fifty thousand dollars (\$150,000) in each year.

(2) For a source that:

(A) is located in an area designated as a serious or severe ozone nonattainment area under the federal Clean Air Act; and

(B) emits more than:

(i) one hundred (100) tons of volatile organic compounds; and

(ii) one hundred (100) tons of nitrogen oxides;

the initial fee structure may not include a fee that exceeds two hundred thousand dollars (\$200,000) in each year.

(3) Except as provided in subdivision (4), during the period:

(A) after December 31, 1994; and

(B) before January 1, 2000;

the fee structure may not be attributable to the amount or type of emissions from a steam electric generating unit that is an affected unit under 42 U.S.C. 7651c.

(4) During the period described in subdivision (3), the total annual fee for affected units at a source that contains at least one (1) affected unit described in subdivision (3) may not exceed fifty thousand dollars (\$50,000). Fees paid for the source under the fee structure established in section 3 of this chapter shall be credited toward the amount of the fee that the source is required to pay under this subdivision.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-7

Fees; increases and decreases in amount

Sec. 7. (a) Except as provided in section 8 of this chapter, this section applies to an increase or a decrease in the fees described in this chapter:

(1) based on the Consumer Price Index (CPI), consistent with 42 U.S.C. 7661a; or

(2) necessary to provide adequate revenue to fund all activities described under section 3 of this chapter.

(b) The increase or decrease shall be made equally and proportionately to all:

(1) minimum fees;

(2) base fees;

(3) maximum fees;

(4) cost of service fees; and

(5) emission based fees;

established as described in this chapter or as revised by the board.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-8

Fees; adjustments to cost of service

Sec. 8. The requirement for equal and proportionate increases does not apply to adjustments to cost of service based fees that are:

- (1) the result of increased activities described under section 3 of this chapter; and
- (2) attributable to federal mandates related to particular types or categories of sources.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-9

Annual accounting

Sec. 9. The commissioner shall provide the Administrator of the United States Environmental Protection Agency with an annual accounting of:

- (1) the receipt of operating permit fees; and
- (2) the expenditure of money in the fund under this chapter; to demonstrate that operating permit fees are used solely to support the operating permit program.

As added by P.L.1-1996, SEC.7.

IC 13-17-8-10

Failure to obtain permit

Sec. 10. (a) This section applies to the issuance or denial of an operating permit under the operating permit program established under 42 U.S.C. 7661 through 7661f.

(b) If:

- (1) an applicant has submitted a timely and complete application for a permit required under the operating permit program; and
 - (2) final action has not been taken on the application;
- the applicant's failure to have a permit is not a violation of this article until after final agency action is taken on the permit application.

As added by P.L.1-1996, SEC.7.