

# Evaluating Alternative Structures for Title V Air Quality Program Fees: Analysis and Stakeholder Engagement

Joint Committee on Ways and Means Natural Resources Subcommittee  
February 14, 2023

# HB 3229

---

- Title V Permitting fees established in ORS 468A.315
- Legislatively adopted fee increases:
- 2007 (staggered increase over 4 years).
- 2023 (staggered increase over 2 years).
- HB 3229 (2023):
  - Raised base fee and emissions fee.
  - Directed DEQ to report back to the legislature on alternative fee structures by December 31, 2023.

# Evaluating Alternative Title V Fee Structures

---

- Identify fee structures that require fees that reflect the regulatory complexity of the facility or permit.
- Ensure recommended fee structures would result in fees sufficient to cover all reasonable direct and indirect costs of the federal operating permit program.
- 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.

# Federal Operating Program (Title V)

---

## **Title V of the Clean Air Act**

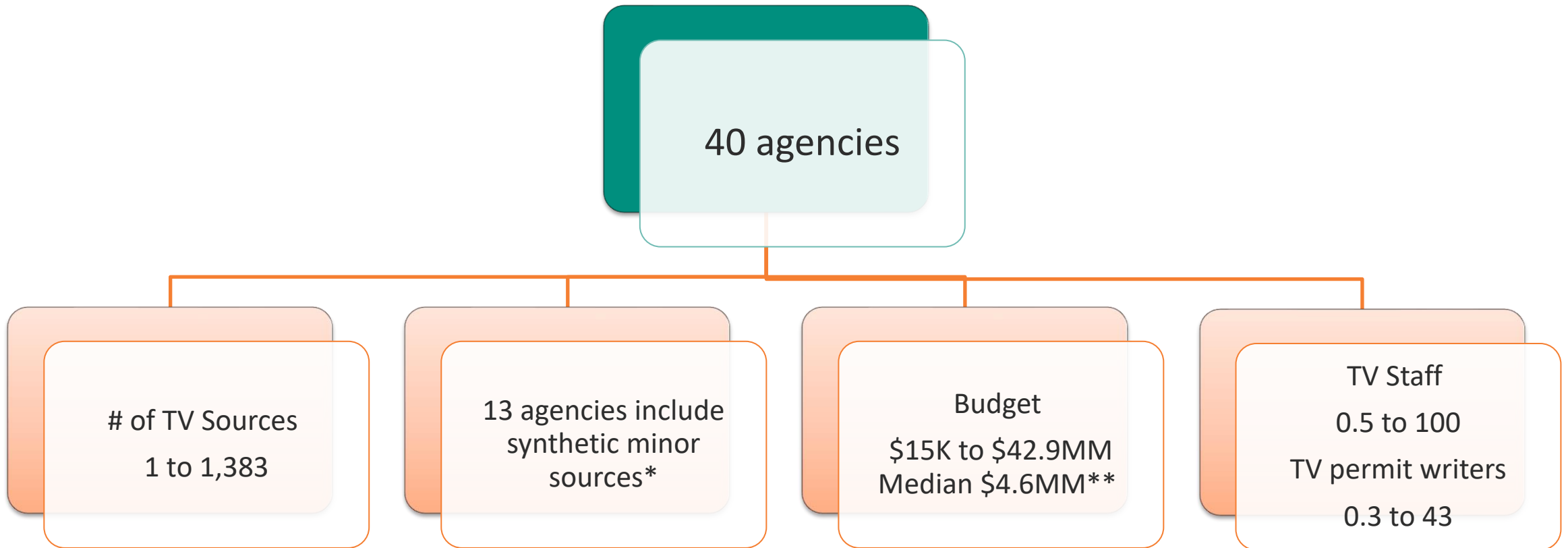
- Major sources
  - Categorical
  - Emissions based
- Delegated to States
  - All direct and indirect costs of the program must be covered by permittees.
  - Permit writing, permit modifications, construction approvals, annual report reviews, inspections, air quality monitoring, source test reviews, enforcement, small business assistance, 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”

# Title V Fees Declining Nationally

---

- Presumptive fee structure in CAA
  - Base fee plus fee for emissions
  - Structure provides incentive to control emissions
- 9 of 10 EPA regions reported declining revenues as a key challenge that permitting authorities were facing
  - “the EPA faces a national trend of declining Title V revenues”
- Reliance on the presumptive emissions-based fees structure in the Clean Air Act for annual revenue

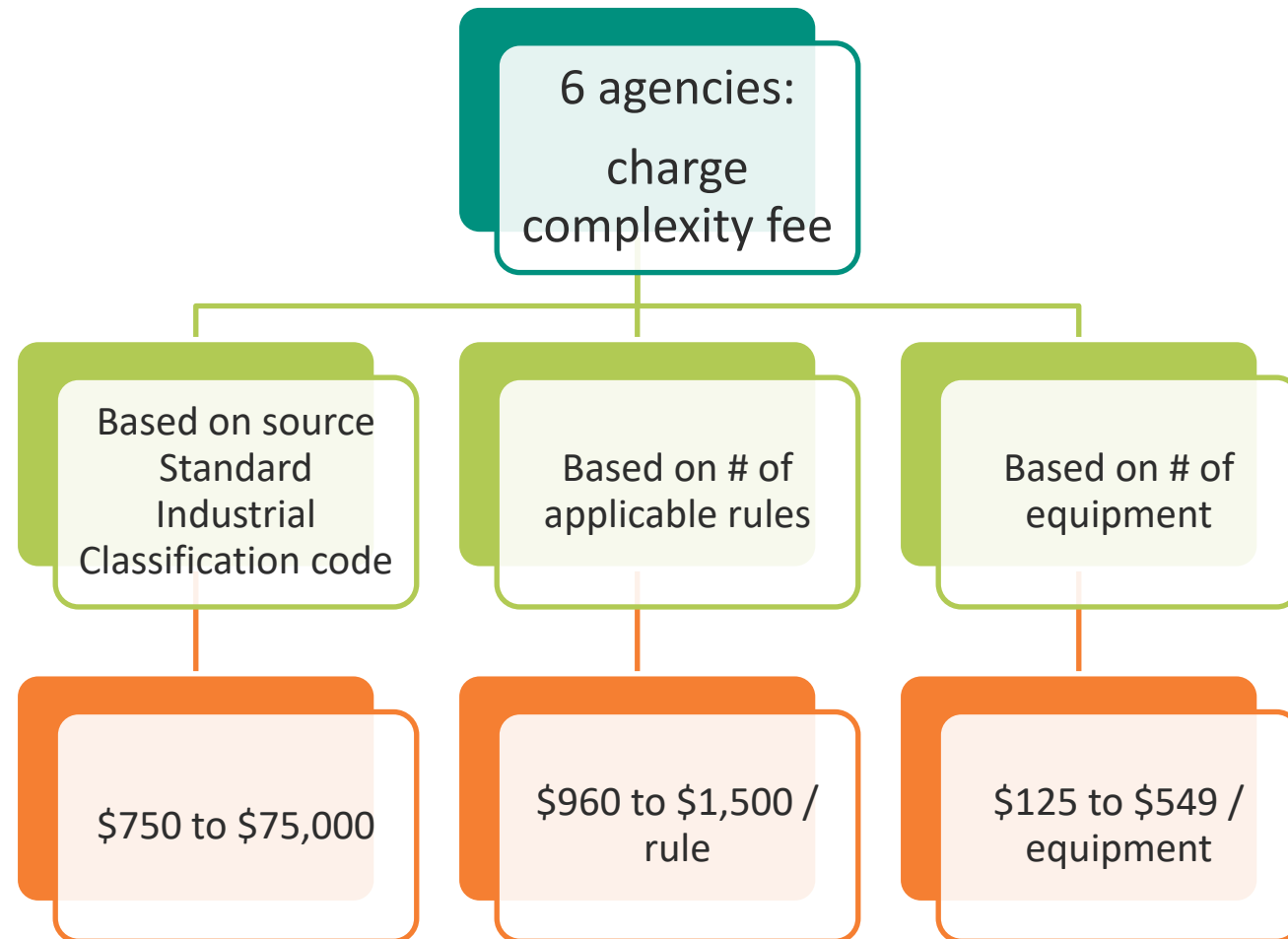
# NACAA Title V Fee Survey



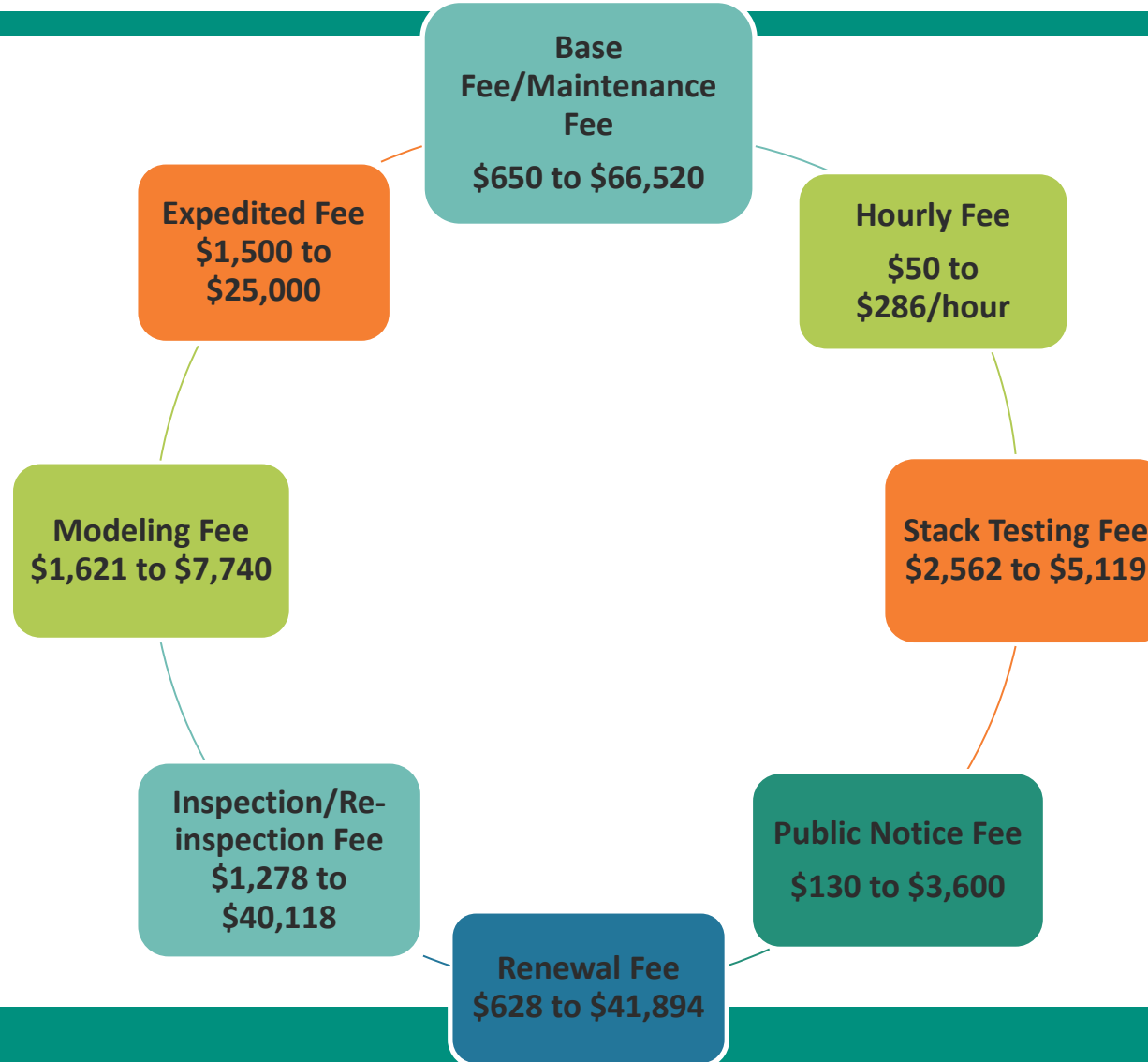
\*synthetic minor sources take limits to avoid TV permitting

\*\*median for state agencies, not locals

# Complexity Fee



# Other Types of Fees





# Other States

- **Washington Department of Ecology**

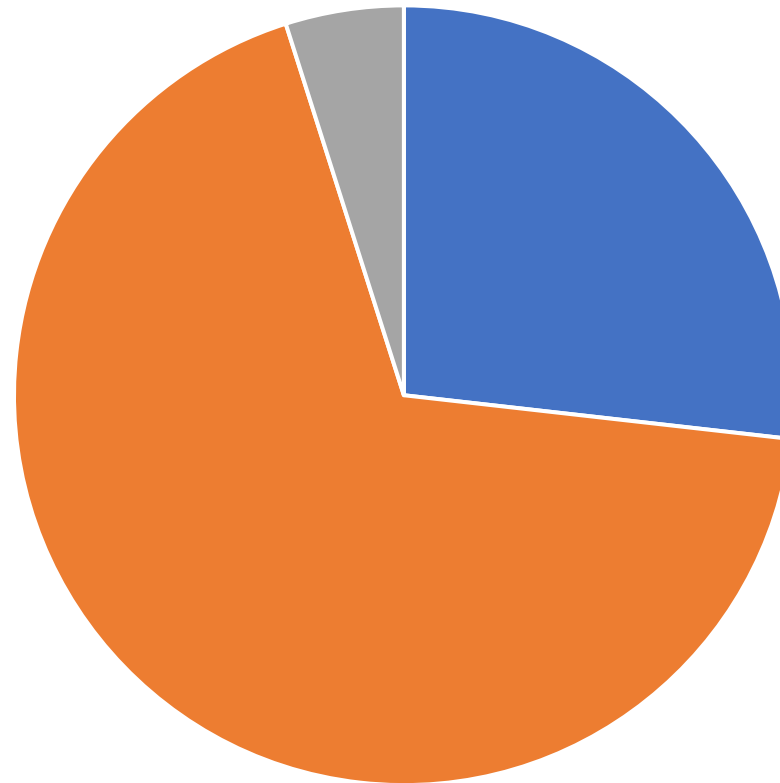
- Workload analysis every 2 years. divides budgetary needs into thirds.
  - $1/3$  = flat fee divided equally among all the Title V facilities.
  - $1/3$  =emissions fee.
  - $1/3$  =complexity fee paid only by the facilities whose permit is being worked on that year.
- Ecology provides rebates to facilities if they overcharge fees

- **Idaho Department of Environmental Quality**

- The fixed annual fee based on a facility's emissions (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) capped based on emissions.
- The fee-for-service is an hourly fee based on the individual salary of the staff working on the permit.

# Current Revenue by Fee Type

Estimated Revenue by Fee Type



■ Base Fees   ■ Emission (Per Ton) Fees   ■ Other Permitting Activity Fees

As of 7/1/2023	
Base Fees	\$1,337,928.00
Emission (Per Ton) Fees	\$3,411,260.00
Other Permitting Activity Fees	\$244,730.00

# Elements of a Sustainable Fee Structure

---

- **Predictable fees:**
  - FeePAYERS need predictable fees to anticipate and plan operating costs.
  - DEQ must have a sufficient and predictable revenue stream to ensure that staffing is adequate to provide timely permit actions.
- **Equitable distribution:**
  - Regulated facilities should pay their fair share of fees without subsidizing others.
  - A lopsided distribution makes budgets vulnerable to shortfalls as industry participants change.
- **Not dependent on an emissions fee-based model:**
  - Emission based fees will continue to decline as permits become more complex and stricter regulations further reduce emissions.

# Complexity Fee Scenario Modeling

---

- Modeled various complexity fee scenarios based on 2022 regulated emissions
  - Scenario 1: equally weight base, complexity and emission fees
  - Scenario 2: 3/8 of the total fee based on complexity
  - Scenario 3: 1/2 of the total fee based on complexity
- Each scenario includes variations on how to quantify complexity

# Projected Impact

Emissions (2022)	Current estimated invoice: 2025	1/3	1/3 plus NESHAPS	¼ Plus NESHAPS	½ Plus NESHAPS
<b>Low Emitting High Complexity</b>					
<b>578</b>	\$ 85,940	\$ 83,354	\$ 83,642	\$ 82,028	\$ 86,618
<b>191</b>	\$ 39,113	\$ 57,566	\$ 59,551	\$ 63,007	\$ 66,645
<b>High Emitting Low Complexity</b>					
<b>911</b>	\$ 126,233	\$ 92,192	\$ 93,412	\$ 86,066	\$ 87,367
<b>937</b>	\$ 129,379	\$ 106,057	\$ 78,013	\$ 68,199	\$ 63,182

# Industry Outreach and Feedback

- **Concern over the recent fee increase.**
  - Any alternative fee structure should be predictable and prevent future instances of large infrequent adjustments.
- **Concern about the service levels and the impact reduced staffing will have.**
  - interest in ongoing attention to process improvement and efficiencies in service delivery.
  - Businesses want to understand what they “are paying for.”
- **Concern about the stability of the Title V program.**
  - importance of maintaining resources necessary to address the permit renewal backlog and ensure the department had adequate resources for compliance.
- **Complexity fees are common.**
  - Beware unintended consequences depending on how “complexity” is characterized.

# Findings

---

1. Oregon faces national-level challenges in sustainably funding Title V programs.
2. Oregon's current fee structure is inequitable for feepayers and leaves DEQ in a financially vulnerable position.
3. A more regular review of program finances and fees will improve predictability.
4. Basing fees on facility complexity can improve equity and stability, but the details matter.
5. Ongoing analysis and conversation are critical.

# Questions

---

Full report available at: <https://www.oregon.gov/deq/air/Documents/TitleVfeereport.pdf>

Aeron Teverbaugh  
Senior Legislative Analyst  
[Aeron.teverbaugh@deq.Oregon.gov](mailto:Aeron.teverbaugh@deq.Oregon.gov)