

**Section 8 fee language and
example if the rule was in effect 6/1/22**

§45-30-8. Fees.

8.1. All stationary sources subject to this rule shall pay annual fees in accordance with subsection 8.1. A source's Title V fee is calculated by adding the Consumer Price Index (CPI) adjusted base fee component (BF) under subdivision 8.1.a, the Consumer Price Index (CPI) adjusted complexity fee component (CF) under subdivision 8.1.a, and the emissions fee component (EF) under subdivision 8.1.b as follows:

Title V Fee = BF + CF + EF

This is the fee calculation for any specific facility.

For this summary example, it is the sum of data for all facilities.

Other scenarios for an example facility are provided at the end of this document.

Title V Fee = \$925,000 + 660,000 + \$3,308,298

Title V Fees = \$4,893,570

8.1.a. Title V base fee (BF) and complexity fee (CF) components.

8.1.a.1. Permit Source Base Fee (PSBF). All sources required to obtain a Title V operating permit shall pay an annual base fee of \$5,000.

185 sources x \$5,000/source = \$925,000.

8.1.a.2. Deferred Source Base Fee (DSBF). All sources subject to this rule that are deferred from the obligation to obtain a Title V operating permit shall pay an annual base fee of \$0.

310 sources x \$0/source = \$0.

8.1.a.3. Complexity Fee (CF111). All sources subject to an applicable standard promulgated under CAA §111 and 45CSR16, 45CSR18 and 45CSR23 shall pay an annual complexity fee of \$1,000. The CF111 fee is independent of the number of standards to which the source is subject.

438 sources x \$1,000 = \$438,000.

8.1.a.4. Complexity Fee (CF112). All sources subject to an applicable standard promulgated under CAA §112, except for §112(r) which is exempt, and 45CSR34 shall pay an annual complexity fee of \$1,000. The CF112 fee is independent of the number of standards to which the source is subject.

222 sources x \$1,000 = \$222,000.

8.1.a.5. Base and complexity fees required by paragraphs 8.1.a.1 through 8.1.a.4 shall be adjusted annually by the consumer price index (CPI) specified in paragraph 8.1.a.6.

The CPI adjustment would not yet be in effect. \$925,000 + \$0 + \$438,000 + \$222,000 = \$1,585,000.

8.1.a.6. Consumer price index (CPI) riser. Effective July 1, 2025, the Title V base and complexity fees shall be increased by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the reference calendar year 2023. For this rule:

8.1.a.6.A. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers (CPI-U) published by the U.S. Bureau of Labor

Statistics, as of the close of the twelve (12) month period ending on August 31 of each calendar year.

8.1.a.6.B. The CPI-U area coverage is U.S. city average, the series title is all items, and the index base period is 1982-84 equals 100 or the revision of the CPI most consistent with this paragraph.

8.1.a.6.C. On or before June 1, 2025, and each June 1 thereafter, the Secretary shall determine the CPI riser for the coming fiscal year. The fees adjusted pursuant to paragraph 8.1.a.6 are not cumulative and shall remain adjusted for not more than one year.

8.1.a.6.D. The CPI riser shall be calculated using the formula specified in paragraph 8.1.a.7.

8.1.a.7. CPI Riser Calculation. The formula to determine the annual CPI Riser is:

$$\text{CPI riser} = ((\text{CPI current year} - \text{CPI reference year}) / (\text{CPI reference year})) + 1$$

8.1.b. Title V emissions fee component (EF). On July 1 each year, annual Title V emissions fees for all stationary sources subject to this rule shall be calculated by multiplying the dollars per ton (\$/ton) emissions fee factor (EFF) under paragraph 8.1.b.1 by the source's actual emissions (AE) of all regulated pollutants (for fee calculation) discharged during the most recent calendar year or portion thereof. The formula to determine the EF is:

$$\text{EF} = \text{EFF} \times \text{AE}$$

$$\text{EF (all sources)} = \$24.29/\text{ton} \times 136,200 \text{ tons}$$

$$\text{EF} = \$3,308,298$$

Where:

EF is the source's emissions fee component.

EFF (\$/ton) is the emission fee factor under paragraph 8.1.b.1.

AE (tons) is the source's actual emissions of all regulated pollutants (for fee calculation) discharged during the most recent calendar year or portion thereof.

8.1.b.1. On or before June 1, 2023, and each June 1 thereafter, the Secretary shall calculate the emissions fee factor (EFF) (\$/ton) in accordance with the following formula:

$$\text{EFF} = [\text{TVE} - \text{TVE} - (\text{PSBF} \times \text{TPS}) - (\text{DSBF} \times \text{TDS}) - (\text{CF111} \times \text{T111}) - (\text{CF112} \times \text{T112})] / \text{TAE}$$

$$\text{EFF} = [\$4,893,570 - \$0 - (\$925,000) - (\$0) - (\$438,000) - \$222,000] / 136,200 \text{ tons}$$

$$\text{EFF} = \$24.29/\text{ton}$$

EFF (\$/ton) is the emission fee factor for calculating emissions fees in subdivision 8.1.b.

TVE is the three (3) fiscal year average of expenses under Air Quality Fund 3336/9310.

FY2021 (\$4,820,258), FY2020 (\$4,834,921), & FY2019 (\$5,025,532). Average is \$4,893,570.

TVE is the interest earned from Air Quality Fund 3336/9310 for the fiscal year.

\$0 because on 6/1/22 nothing was yet invested. Approval to invest granted by 2022 WV Legislature.

PSBF is the source base fee under paragraph 8.1.a.1 adjusted by the CPI.
\$5,000 (no CPI adjustment in this example)

TPS is the total number of sources required to obtain a permit subject to paragraph 8.1.a.1.
185 sources

DSBF is the deferred source base fee under paragraph 8.1.a.2 adjusted by the CPI.
\$0

TDS is the total number of deferred sources subject to paragraph 8.1.a.2.
310 sources

CF111 is the complexity fee for sources subject to paragraph 8.1.a.3 adjusted by the CPI.
\$1,000 (no CPI adjustment in this example)

T111 is the total number of sources subject to paragraph 8.1.a.3.
438 sources

CF112 is the complexity fee for sources subject to paragraph 8.1.a.4 adjusted by the CPI.
\$1,000 (no CPI adjustment in this example)

T112 is the total number of sources subject to paragraph 8.1.a.4.
222 sources

TAE is the total amount of actual emissions (tons) of all regulated pollutants (for fee calculation) for all sources subject to this rule, as reported for the most recent calendar year.
136,200 tons

8.1.b.2. The fiscal year is the period from July 1 through June 30. For the purpose of the calculation under paragraph 8.1.b.1:

8.1.b.2.A. The fiscal year shall be the last completed fiscal year and

8.1.b.2.B. The three (3) fiscal year average shall be the last three completed fiscal years.

8.2. Penalties and interest. Any person who operates a stationary source in violation of section 8 shall be subject to a penalty equal to five (5) percent of the fees required under section 8 for each calendar month or portion thereof in which the violation continues in addition to the annual fees required to be paid under section 8. Fees due for the fiscal year beginning July 1 shall not be subject to any penalties if paid on or before July 31 of that fiscal year. This penalty for delinquent payment is separate from and unrelated to any other penalties assessed by a court or collected by the Secretary pursuant to W.Va. Code §22-5-1 et seq., or any rules of the West Virginia Department of Environmental Protection.

8.3. Actual Emissions.

8.3.a. The emissions fee (EF) component will be based upon an accurate accounting of the source's actual emissions of all regulated pollutants (for fee calculation) from the most recent calendar year. For sources subject to paragraph 8.1.a.1, the actual emissions shall be submitted to the Secretary no later than March 31 of each year and shall account for emissions from the previous calendar year. For deferred

sources subject to paragraph 8.1.a.2, the actual emissions shall be submitted to the Secretary no later than May 1 of each year and shall account for emissions from the previous calendar year.

8.3.b. Emissions submitted by a source are subject to review by the Secretary. The Secretary shall make or shall require the source to make corrections to the emissions.

8.3.b.1. The source shall be liable for any increased fees resulting from any adjustments to emissions made pursuant to subdivision 8.3.b.

8.3.b.2. The Secretary shall credit the source with any decreasing adjustments to the emissions made pursuant to subdivision 8.3.b.

8.3.c. Fees are due by July 31 of each year.

8.4. If the Air Pollution Control Fund 3336/9310 balance becomes higher than necessary to effectively operate the Title V program, the Director shall waive the CPI riser used in the calculations under 8.1 for the coming fiscal year. Higher than necessary is defined as 110% of the TVE, or the three (3) fiscal year average of expenses.

8.5. On or before October 1, the Secretary shall prepare an accounting of all Title V fees received in the previous fiscal year and shall include how the fees were used to fund the Title V operating permit program.

8.6. The Secretary shall transition the base fee components under subdivision 8.1.a in accordance with the following, which shall apply when the rule becomes effective.

8.6.a. The Permitted Source Base Fee (PSBF) is \$ 5,000.

8.6.b. The Deferred Source Base Fee (DSBF) is \$ 0.

8.6.c. These base fee components shall remain in effect until revised or superseded.