

455B.133B Air contaminant source fund created — fees and appropriations.

1. As used in [this section](#), unless the context otherwise requires:

a. “*Federal Clean Air Act Amendments of 1990*” means Pub. L. No. 101-549, including those amendments effective on January 1, 1991, regulations promulgated by the United States environmental protection agency pursuant to that Act, the provisions of [this chapter](#), and rules adopted by the commission pursuant to [this chapter](#).

b. “*State fiscal year*” means the fiscal year described in [section 3.12](#).

2. An air contaminant source fund is created in the office of the treasurer of state under the control of the department. The fund shall be composed of an air emission fee account and an operating permit application fee account as provided in [this section](#).

3. In establishing fees to be imposed and collected by the department pursuant to [section 455B.133, subsection 8](#), the commission shall use the calculated estimate described in [this section](#). The fees collected pursuant to [section 455B.133, subsection 8](#), shall be credited to the fund. The fund may include any other moneys appropriated by the general assembly or otherwise available to and obtained or accepted by the department for deposit in the fund.

4. a. The commission shall establish each fee amount based on the department’s calculated estimate of total revenues from all fees predicted to be credited to each account in the fund, but not to exceed a ceiling amount for each account as provided in [this section](#). However, [this subsection](#) does not require that an account have a zero ending balance at the close of a state fiscal year.

b. Each state fiscal year the department shall recompute its calculated estimate and obtain approval from the commission if an established fee amount must be adjusted.

c. (1) The department shall annually convene a Tit. V fees stakeholder meeting. The department shall provide a report on the fees and budgets to the stakeholders. The department shall consider any recommendations of the stakeholders when computing its calculated estimate for the following state fiscal year.

(2) A person invited to attend a stakeholder meeting is not entitled to receive a per diem as specified in [section 7E.6](#) and shall not be reimbursed for expenses incurred while attending the meeting.

5. a. The air emission fee account shall include all fees established by the commission to be imposed and collected by the department for emission fees for regulated pollutants submitted by major sources as defined in section 502 of the federal Clean Air Act Amendments of 1990, 42 U.S.C. §7661, and as defined in [567 IAC ch. 22](#).

b. (1) The department’s calculated estimate for the air emission fee account shall be computed to produce total revenues sufficient to pay for reasonable direct and indirect costs of implementing and administering the operating permit program as provided in [section 455B.133, subsection 8](#), on a state fiscal year basis.

(2) The reasonable direct and indirect costs described in subparagraph (1) shall be limited to all of the following:

(a) General administrative costs of administering the operating permit program, including the supporting and tracking of operating permit applications, compliance certification, and related data entry.

(b) Costs of implementing and enforcing the terms of an operating permit, not including any court costs or other costs associated with an enforcement action, including adequate resources to determine which sources are subject to the program.

(c) Costs of emissions and ambient site-specific monitors.

(d) Costs of Tit. V source-specific modeling, analyses, or demonstrations.

(e) Costs of preparing inventories and tracking emissions.

(f) Costs of providing direct support to sources under the small business stationary source technical and environmental compliance assistance program as provided in [section 455B.133A](#).

(3) The department shall not include in its computations for a calculated estimate, and the commission shall not establish fees, for greenhouse gas emissions as defined in [40 C.F.R. §70.12](#).

c. The department’s calculated estimate for the air emission fee account shall not produce

total revenues in excess of eight million two hundred fifty thousand dollars during any state fiscal year.

d. (1) Moneys in the air emission fee account are appropriated to the department to pay for the reasonable direct and indirect costs specified in paragraph “b”, subparagraph (2).

(2) Notwithstanding subparagraph (1), moneys in the air emission fee account are also appropriated to the department to pay for costs associated with implementing and administering regulatory activities, including programs, provided for in [division II of this chapter](#), other than costs covered by any of the following:

(a) Operating permit application fees credited to the operating permit application fee account as provided in [subsection 6](#).

(b) New source review application fees credited to the major source account of the air quality fund as provided in [section 455B.133C, subsection 5](#).

(c) New source review application fees credited to the minor source account of the air quality fund as provided in [section 455B.133C, subsection 6](#).

(d) Notification fees credited to the asbestos account of the air quality fund as provided in [section 455B.133C, subsection 7](#).

6. a. The operating permit application fee account shall include all fees established by the commission to be imposed and collected by the department for accepting applications for operating permits submitted by major sources as defined in section 502 of the federal Clean Air Act Amendments of 1990, 42 U.S.C. §7661, and as defined in [567 IAC ch. 22](#).

b. (1) The department’s calculated estimate for the operating permit application fee account shall be computed to produce total revenues sufficient to provide for the reasonable direct and indirect costs of implementing and administering operating permit programs described in paragraph “a”.

(2) The reasonable direct and indirect costs described in subparagraph (1) shall be limited to all of the following:

(a) Costs of reviewing and acting on any application for an operating permit or operating permit revision.

(b) General administrative costs of administering the operating permit program, including the supporting and tracking of operating permit applications and related data entry.

c. The department’s calculated estimate for the operating permit application fee account shall not produce total revenues in excess of one million two hundred fifty thousand dollars during any state fiscal year.

d. Moneys in the operating permit application fee account are appropriated to the department to pay for reasonable direct and indirect costs specified in paragraph “b”, subparagraph (2).

7. a. The commission or department shall not transfer moneys credited from one account to another account of the fund.

b. Notwithstanding [section 8.33](#), any unexpended balance in an account of the fund at the end of each state fiscal year shall be retained in that account.

c. Notwithstanding [section 12C.7](#), any interest and earnings on investments from moneys in an account of the fund shall be credited to that account.

[91 Acts, ch 255, §10](#); [92 Acts, ch 1163, §91, 92](#); [95 Acts, ch 26, §1, 2](#); [2008 Acts, ch 1105, §3](#); [2015 Acts, ch 100, §2, 7](#); [2016 Acts, ch 1011, §75](#)

Referred to in [§455B.133](#), [§455B.133C](#), [§455B.150](#)

For the commission’s authority to establish or adjust certain designated fees, see [2015 Acts, ch 100, §4, 5](#)