May 24 Stakeholder Meeting

Location:	Tennessee Bureau of Investigation Training Rooms 1 and 2
Moderator:	Jimmy Johnston
APC Attendees:	Michelle Owenby, Jimmy Johnston, Lacey Hardin, Paul LaRock, Srinivasa Kusumanchi, Randy Powers
Public Attendees:	Mike Haverstick, Nissan Duncan Kimbro, Franklin Engineering Dirk Wiley, American Redibilt Dale Bryant, American Redibilt Steve Marquardt, ERM

Questions and Comments

1. Is the Division making cuts and reducing expenses as companies have to do when revenues drop? ***The Division has reduced expenses over the past several years. This has mainly come from not filling positions as they have become vacant. Of the 33 permitting staff and management positions, nine of them are currently vacant. The Division is also reducing travel costs by using webinars and conference calls where appropriate. In addition, the Division is in the process of developing new, more efficient permitting processes, such as permits-by-rule and general permits, that should result in lower personnel costs in the long run. However, it should be noted that many costs, such as employee salary and benefit increases, are established by the state legislature and beyond the control of the Division. Also, the vast majority of the tasks performed by the Air Division are federal Clean Air Act requirements, such as ambient air monitoring and permitting, and must be carried out regardless of funding. It is important to note that the relationship between revenue and operations is different for the Division than most of the industries we regulate. For most manufacturing operations, when planning, production, sales, and service are good, revenue increases. However, for environmental regulatory agencies like the Division of Air Pollution Control, when planning, permitting, education, outreach, and compliance are good, compliance is high, emissions are low, and revenue is down.***

2. One commenter stated that they are the frustrated "little guys". They have made significant reductions in their emissions and their emissions are below all Title V thresholds, but they must still be part of the Title V program because they are subject to a MACT (40 CFR 63 VVVV, New and Existing Boat Manufacturing) and are caught by EPA's "Once In, Always In" policy. Their HAP emissions have been less than 1 TPY for several years. ***The Division is aware of that some facilities, such as the commenter's facility, are subject to Title V permitting, and thus Title V fees, solely because of EPA's Once-In, Always-In policy. The Division has been working through its national associations, including the Environmental Counsel of States and Association of Air Pollution Control Agencies, to encourage EPA to revisit EPA's Once-In, Always-In policy as part of the new administration's regulatory reform efforts.***

3. A commenter stated that they have gone from sixty employees in the plant to ten, and the current minimum fee of $7,500 is a week's payroll.

4. Based on information provided in the webinar, the reduction in fees appears to be due primarily from emission reductions from EGU's (i.e., TVA). Has the Division considered raising the rates for EGUs so as not to shift the burden to all of the other facilities? ***Starting with FY2010 fees, the Division began to see a significant drop in Title V revenue to the point that the current fee system could not sustain the Title V program. Because many manufacturing facilities were still facing the effect of the recession, the Division worked with TVA to increase the fee rates so that the bulk of the burden fell on TVA (non-EGU rates increased 2.5% to 3.5% whereas EGU rates increased 44% to 60%) with the understanding that when the economy improved APC would take efforts to minimize or eliminate the difference in the fee rates. In 2015, the fee rates were revises to close, but not eliminate this gap. As a result EGUs currently have dollar per ton rates that are currently 15% to 20% higher than non-EGU rates.***

5. How much have emissions from T5 facilities gone down? ***For 2014 fees, reported allowable emissions were 137,674 tons and actual emissions were 18,984 tons. It should be noted that sources with allowable emissions of less than 250 tons did not report emissions for 2014 fees. For 2016 fees, reported allowable emissions were 120,711 tons and actual emissions were 25,618 tons. The Division is projecting that reported allowable emissions will be 72,498 tons and actual emissions will be 32,476 tons for 2019 fees. In all cases, emissions in excess of 4000 tons of allowable and/or actual emissions for a single pollutant from a facility are not reported.***

6. One commenter asked about the differences in the projected funding shortfall presented during the 2016 stakeholder meetings and current projections. ***During the January, 2016, Title V Fee Stakeholder Meeting, the Division projected a negative balance of $645,116 at the end of FY2017 and a negative balance of $2,871,640 at the end of FY2018. The more recent projections presented at the 2017 webinars and stakeholder meetings showed a projected positive balance of $1,887,080 at the end of 2017, an estimated positive balance of $950,588, at the end of FY2018, and an estimated negative balance of $1,545,163 at the end of FY2019. The primary reason for the significant increase in the ending balance in FY2017 and FY2018 was the discovery that expenses that should have been charged to non-Title V fees were incorrectly charged to Title V fees. These expenses were incorrectly charged for several years. Following this discovery, these expenses were correctly transferred to non-Title V fees starting in FY2016 and $1,919,778 was transferred from the non-Title V reserve account to the Title V reserve account to account for incorrect charges from FY2015 and prior. Correction of this error reduced projected expenses by approximately $600,000 per year. The recently approved change in the Title V fee due date, starting with 2018 fees, should result in a much larger amount of 2018 fees being paid in FY2018 (~90% with the April 1 due date compared to ~75% with the current July 1 due date), which delays the funding shortfall until FY2019. Other***

changes in actual and projected expenses and revenue account for smaller changes in the estimates.

June 1st Stakeholder Meeting

Location:	Chattanooga Environmental Field Office
Moderator:	Jimmy Johnston
APC Attendees:	Jimmy Johnston, Lacey Hardin, Olga Jacobsen, Srinivasa Kusumanchi, Randy Powers, Amelia Poe
Public Attendees:	Richard Holland, TCCI and PCA Don Houston, TVA Jim Osborne, TVA Melanie Krause, Lonza dba Arch Chemicals Sean Fisher, Bridgestone LaVergne Stacie Campbell-Eckhoff, Olin Mike Wingo, Denso Cody Buell, La-Z-Boy Steve Keylor, Waste Connections

Questions and Comments

1. When will the Workload Analysis be available to support the proposed fee changes? ***A draft workload analysis should be available when the proposed fee rule revision is presented to the Air Pollution Control Board, if not sooner. Development of the workload analysis cannot begin until FY2017 is complete, which ends June 30, 2017. The Division will allocate resources to complete a draft workload analysis in a timely manner and will make it available to stakeholders as soon as possible.***

2. One commenter asked if federal funding was in jeopardy. ***Earlier this year, the US Congress passed FY2017 appropriations bills which fund the federal government for the rest of the federal fiscal year (through September 30, 2017). As a result, US EPA has indicated that FY2017 federal grant funds will be approximately the same as FY2016 funding. While the President has recommended a federal FY2018 budget that is significantly less than FY2017, Congress has yet to take action on the FY2018 budget. The Division noted earlier that federal funds accounts for approximately 13% of the Air Division's annual operating budget. Any reductions in federal funds would have to be addressed appropriately. However, federal funds are not used to pay for the Title V permit program; thus, any potential reductions in federal funding will not affect efforts regarding Title V fees.***

3. Sean Fisher of Bridgestone gave a presentation that analyzed how the various options identified during the APC webinars would impact Bridgestone as well as five other facilities. He chose two facilities with high emissions, two facilities with median emissions, and two facilities with low emissions. He expressed preference for Scenario 4 because it appears to be the most balanced. ***Mr. Fisher's presentation is available on the permit fee stakeholder meeting website.***

4. A commenter requested an explanation of the base fee/minimum fee concept. ***The base fee and minimum fee concepts are explained in the presentations for the May 11th and May 15th webinars.***

5. Is the base fee/minimum fee was supported by the Workload Analysis? ***The annual resources required for each Title V facility are different for each year due to many factors (permit renewal, modifications, enforcement, etc.), but the intent of the base/minimum fee is to ensure adequate fees are collected to cover at least some portion of the direct costs associated with a typical Title V facility. The U.S. Congress, when establishing the Title V permit program, intended for Title V fees to be based on emissions and not directly tied to workload associated with individual facilities. Under this concept, higher emitting facilities pay more than lower emitting facilities. The Division will evaluate this question further as it completes the Title V workload analysis that will be used to support the fee change.***

6. A commenter asked if the Division was considering allowing facilities to enter their emissions information, as well as semiannual reports and annual compliance certifications, online. ***The Division is working to develop an online system for the entry and submittal of a number of reports, starting with emission inventories. Part of this project includes the development of an on-line portal for submitting permit fee reports (AEAR reports). This portion of the project should be completed by the time 2019 fees are due.***

7. One commenter stated that he has heard the excuse about not having enough data to refine the Workload Analysis for ten years, and asked if the Division was doing anything to improve the process. ***Starting July 1, 2017, the Division will begin utilizing an improved expense accounting mechanism that will provide better information necessary to differentiate Title V activity and expenses from other activity and expenses. This data will be used to better inform phase II of the permit fee revision process (see stakeholder presentation). In the meantime, the Division intends to improve the workload analysis by utilizing some of the improved expense and revenue projections developed as part of this stakeholder process.***

8. When will the Division's proposed revisions to the fee structure be available? ***Various "strawmen" fee structures will be made available during the June 16th webinar. Stakeholders will then have until June 30th to provide responses and comments to the strawmen options.***

9. Is the Division accounting for current economic growth as well as anticipated emission reductions? ***Projecting emissions related to economic growth is difficult to project, particularly in the short-term time frame associated with the current Title V fee stakeholder process. Generally, new industrial facilities and expansions to existing facilities tend to have newer, lower-emitting processes. Emissions from most new facilities are usually low enough to be below Title V applicability thresholds and thus do not have a significant impact on Title V fee revenues. The current projections include new permitted facilities that will be subject to Title V***

when they begin operation as well as facilities that have closed or will be closing. In general, emissions have been declining since the Title V program began in 1991. Reduced natural gas prices and new federal regulations have resulted in decreased emissions.

10. One commenter asked why an increase in expenditures is projected when the trend appears to be declining expenses. ***Expense reductions in recent years have been due primarily due to not filling vacant positions. As part of an effort by the Bureau of Environment to evaluate and, where necessary, make structural changes to meet the business needs of its operations, the Division has recently identified organizational changes necessary to maximize efficiency and effectiveness. As a result, the Division is beginning to implement changes that will result in the reclassification and filling of a portion of the vacant positions. The estimated full cost of filling these reclassified positions, as well as the cost of filling entry level vacancies that may be created when the newly reclassified positions are filled by internal promotions, has been included in the projected cost estimates. The actual cost of these personnel changes may be less than estimated and will be refined as these organizational changes are implemented. Also included in the increased expense projections are pay-for-performance salary increases authorized by the TEAM Act (see http://www.tennessee.gov/tdfi/article/tdfi-hr-team-act).***

11. One commenter stated that there are many different ways to approach declining revenues and asked for an explanation of the process that will be used to determine what approach to use. ***The Division began a formal stakeholder process in 2016 to gather ideas from affected entities to inform the Title V fee rule revision process. The 2017 stakeholder process builds on information gained in 2016 and will continue through the entire rulemaking process, which is expected to conclude with a decision by the Air Pollution Control Board near the end of 2017. It is the Division's goal to provide a proposed fee rule to the Board that is fair, equitable, collects sufficient funds to meet expenses, and considers stakeholder input. A detailed schedule is included in the various 2017 stakeholder presentations.***

12. A commenter stated that companies with the lowest emissions should not be hurt the most.