Title V Fee Stakeholder Kickoff Meeting
April 23rd, 2018
Topics Covered

- How is the Division of Air Pollution Control (DAPC) funded?
- What statutory requirements apply to air quality fees?
- What regulatory requirements apply to air quality fees?
- What are Title V Fees?
- Historical and Projected Revenue
- Historical and Projected Expenses
- Options for Changing 2020 Fees
- Demonstration of Title V Fee Analysis Tool
- Timeline
- Website
Note: This chart is a simplified representation of APC funding. Actual budgetary and accounting information is much more complicated. Does not include “pass-through” funds or one-time funding. Does not include payments to counties as part of I/M program.
(a) (1) In order to facilitate the proper administration of each statute listed in § 68-203-101(b), the department of environment and conservation shall charge fees for the various services and functions it performs under each of those statutes, including, but not limited to, permit processing fees, permit maintenance fees, license fees, registration fees, plans review fees, facility inspection fees and emission fees.
(a) (2) The **level of these fees** shall be determined after careful consideration of the **direct** and **indirect costs** incurred by the department in performing its various functions and services under each of the statutes listed in § 68-203-101(b).
(a)(3) It is the intention of the general assembly that the fees shall provide funding for additional staff of the environmental regulatory programs and an improvement of the salaries and benefits of the existing staff of the environmental regulatory programs, to continue to improve performance in carrying out its duties.
(a)(3) (continued) Prior to promulgating any fee increase, the authorities listed in subsection (b) shall review the basis for the fee increase and make a determination that the fee increase is warranted. The factors in the determinations shall include, if relevant: staffing needs, ability to attract and retain quality staff, feasible cost containment measures, comparisons with salaries paid by other governments and the private sector, levels of federal grants and state appropriations, and the ability of the program to maintain or improve its performance in carrying out its duties.
(1) Purpose

(a) It is the purpose of this rule to establish construction fees, annual emission fees, and permit review fees for sources subject to permitting pursuant to Division 1200-03 sufficient to supplement existing state and federal funding that covers reasonable costs (direct and indirect) associated with the development, processing, and administration of the air pollution control program. This will provide for better quality evaluation of the impact of air emissions on the citizens of Tennessee, and timely permitting services for sources subject to permitting requirements.
What regulatory requirements apply to air quality fees?

1200-03-26-.02 CONSTRUCTION AND ANNUAL EMISSION FEES

(1) Purpose

(b) Such costs shall include, but not be limited to, costs associated with review of applications and reports, issuance of required permits and associated inspections of sources, unit observation, review and evaluation of monitoring results (stack and/or ambient), modeling, and costs associated with any necessary enforcement actions (excluding penalties assessed).
What regulatory requirements apply to air quality fees?

1200-03-26-.02 CONSTRUCTION AND ANNUAL EMISSION FEES

(1) Purpose

Annual emission fees collected from sources named by the Board in the Division’s Workload Analysis as being major sources pursuant to the provisions of Title V of the federal Clean Air Act and the federal regulations at 40 C.F.R. Part 70 [FR Vol 57, No. 140, Tuesday, July 21, 1992 p32295-32312] and the definition of a major source in subparagraph 1200-03-26-.02(2)(g) shall be used to pay for the direct and indirect costs of:

1. Preparing generally applicable regulations or guidance regarding the permit program or its implementation or enforcement;

2. Reviewing and acting on any application for a permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, or permit revision or renewal;

3. General administrative costs of running the permit program, including the supporting and tracking of permit applications, compliance certification and related data entry;
1200-03-26-.02 CONSTRUCTION AND ANNUAL EMISSION FEES

(1) Purpose

(c) Annual emission fees collected from sources named by the Board in the Division’s Workload Analysis as being major sources pursuant to the provisions of Title V of the federal Clean Air Act and the federal regulations at 40 C.F.R. Part 70 [FR Vol 57, No. 140, Tuesday, July 21, 1992 p32295-32312] and the definition of a major source in subparagraph 1200-03-26-.02(2)(g) shall be used to pay for the direct and indirect costs of:

4. **Implementing and enforcing** the terms of any part 70 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;

5. **Emissions** and **ambient monitoring**;

6. **Modeling**, analyses, or demonstrations;

7. Preparing **inventories** and tracking **emissions**; and

8. Providing direct and indirect support to sources under the **Small Business Environmental Assistance Program**.
What are Title V Fees?

Note: This chart is a simplified representation of APC funding. Actual budgetary and accounting information is much more complicated. Does not include “pass-through” funds or one-time funding. Does not include payments to counties as part of I/M program.
Recently Title V Fee Rule Revisions
Starting with Fees Due 2018 – Due Date Change

• Previously all fees due July 1
  • 90 day extension available with payment of 80% of fees by July 1

• Revised Due Dates:
  – Fees based on Allowable Emissions – due April 1
  – Fees based on Actual or Mix of Actual & Allowable:
    • Calendar Year Accounting Period Used to Calculate Fees – due April 1
      – 90 day extension available with payment of 65% of fees by April 1
    • Fiscal Year Accounting Period Used to Calculate Fees
      – 65% due April 1
      – Remainder due July 1
    » 90 day extension available with if requested by April 1 (along with 65% of Fees)
Recent Title V Fee Rule Revisions
Starting with Fees Due 2019 – Fee Change

<table>
<thead>
<tr>
<th></th>
<th>Previous $/ton Rate</th>
<th>New $/ton rate</th>
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</thead>
<tbody>
<tr>
<td>Non-EGU Actual</td>
<td>$43.00</td>
<td>$53.50</td>
</tr>
<tr>
<td>EGU Actual</td>
<td>$49.50</td>
<td>$75.00</td>
</tr>
<tr>
<td>Non-EGU Allowable</td>
<td>$32.50</td>
<td>$33.50</td>
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<tr>
<td>EGU Allowable</td>
<td>$39.00</td>
<td>$47.00</td>
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</tbody>
</table>

- Base Fee = $4000 per facility (previously no base fee)
- Minimum Fee = $7500 (same as previous)
- **Rates based on assumption that FY2019 will be funded in part by drawing ~$900,000 from reserve**
  - FY2020 Title V Fee System will Need to be Revised to Increase Fee Collections by this much as well as other projected increases cost.
- Workload Analysis Covered FY2018 and FY2019
Historical and Projected Income vs. Expenses and End-of-Year Reserve

Collections

<table>
<thead>
<tr>
<th>Year</th>
<th>Collections</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY2013</td>
<td>$7,000,000</td>
</tr>
<tr>
<td>FY2014</td>
<td>$7,000,000</td>
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<tr>
<td>FY2015</td>
<td>$7,000,000</td>
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<tr>
<td>FY2016</td>
<td>$6,000,000</td>
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<td>FY2017</td>
<td>$5,000,000</td>
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<tr>
<td>proj. FY2018</td>
<td>$8,000,000</td>
</tr>
<tr>
<td>proj. FY2019</td>
<td>$6,000,000</td>
</tr>
<tr>
<td>proj. FY2020</td>
<td>$5,000,000</td>
</tr>
</tbody>
</table>

Department of Environment & Conservation
Historical and Projected Income

Collections

Decrease in Emissions

- FY2013
- FY2014
- FY2015
- FY2016
- FY2017
- proj. FY2018
- proj. FY2019
- proj. FY2020
Historical and Projected Income

Collections

Change of Due Date

$8,000,000
$7,000,000
$6,000,000
$5,000,000
$4,000,000
$3,000,000
$2,000,000
$1,000,000
$0


Collections
Historical and Projected Income

Collections

![Graph showing historical and projected income with a 2019 fee increase.](image-url)
Salary Increase due to Tennessee Excellence in Accountability Management Act enacted by Tennessee General Assembly in 2012
Benefits are based on a percentage of salaries
Percentage of salaries shifted from Title V to non-Title V FY2013-FY2017.
Improved method for allocating personnel costs implemented starting with FY2018.
FY2019 & FY2020 projections assumes eight vacant positions are filled mid-2018 and no currently filled positions are vacated.
Historical and Projected Income vs. Expenses and End-of-Year Reserve

- Collections
- Expenses
- EOY Reserve
Summary

• Title V expenses increasing
  – Primarily due to increase in salary & benefits
  – Improved system for charging time will temporarily reduce expenses
  – Expenses predicted to increase ~3% per year
• 2019 Fee Increase Insufficient to Meet Future Expenses
  – Significant drop in emissions since FY2016
  – Was based on using $900,000 in reserve to meet FY2019 expenses
  – Improved personnel allocation system results in higher Title V personnel costs
• Reserve will be depleted during FY2019
• Need Fee increase starting in FY2020
  – Meet Expenses
  – Restore Reserve
  – Provide Stability for Upcoming Years
Potential Changes in Title V Fees

- Increase $/ton
- Increase base fee
- Increase minimum fee
- Change fee structure
- Remove Construction Fee exemption for Title V sources
  - Add fee for Op Flex and Insignificant Activities, Title V modifications and amendments
- Fees for Services (such as model review, providing emissions inventory, stack testing observation and review)
- Starting with 2021 Fees: Annual CPI adjustment (with APC Board Approval)
Stakeholder Process – tentative dates

• Email to all Title V sources– 4/6/2018
• Kickoff Webinars - 4/23/2018
  – present information & solicit input
• Second Webinar - 5/8/2018
  – review stakeholder input
• Third Webinar - 6/13/2018
  – present analyses and strawmen
• Stakeholder Comments on Strawmen – date TBD
• Other Outreach
  – Statewide & Regional Organizations
  – Presentations at Conferences and Meetings
Rulemaking Process – Tentative Time Frame

• Initial Board Briefing – 3/14/18
• Stakeholder Process – April through July, 2018
• Second Board Briefing with proposed rule – 8/8/2018
• Public Notice with Proposed Rule – No Later than 8/22/2018
• Webinar to Discuss Proposal - ~ two weeks after public notice
• Public Hearing – 10/16/2018
• Board Adoption – 11/14/2018
• File with Secretary of State – No Later than 1/16/2019
• Effective Date of Rule – 4/16/2019
• Change in Fees Effective FY2020
New Title V Fee Website

- [https://www.tn.gov/environment/program-areas/apc-air-pollution-control-home/apc/permits-air/permit-fees/title-v-permit-fees.html](https://www.tn.gov/environment/program-areas/apc-air-pollution-control-home/apc/permits-air/permit-fees/title-v-permit-fees.html)
- Go to [www.tn.gov/environment](http://www.tn.gov/environment)
  1. Select “Permitting”
  2. Select “Air Permits”
  3. Select “Permit and Annual Emission Fees”
  4. Select “Title V Fees”
New Title V Fee Website

- AEAR Forms
- Current Rules
- Stakeholder Information
  - Webinar Information
  - Analysis Tools
  - Presentations
  - Stakeholder Comments
- 2016 & 2017 Stakeholder Information
- Proposed Rule Revisions
How to Provide Input & Get Further Information

• Submit comments and questions by email to:
  – [air.permitting.permits@tn.gov](mailto:air.permitting.permits@tn.gov)
  – Include phrase “Title V fees” in subject line of email