

Department of Natural Resources and Environmental Control

Division of Air Quality (DAQ) Responses to:

STATE OF DELAWARE TITLE V FEES COMMITTEE

QUESTIONS AND COMMENTS OF DELAWARE STATE CHAMBER OF COMMERCE
ENVIRONMENTAL COMMITTEE

January 19, 2011

As a follow-up to previous discussions, representatives from the Delaware State Chamber of Commerce Environmental Committee have met to discuss the information provided by DNREC regarding the proposed Title V Fees for 2012 and beyond. We have provided some additional questions that we would like to discuss at our next meeting, scheduled for January 20, at 1:30 PM at the Department's Lukens Drive offices.

1. What are the components of the budget? For example, what percentage of total DNREC Division of Air Quality funding, comes from Title V fees, Reg 2 fees, Section 105 Grants, other sources of revenue? How has this percentage changed over the last 3 years?

Response: As captured in the Needs Assessment and Workload Analysis report (Page 24), the DAQ baseline (2010) projected revenue is illustrated in the figure below:

Baseline Revenue Category	Revenue	Fund Type
Reg. 2 Fees	\$141,775.00 / 2.0%	ASF
103 Grant	\$223,539.31 / 3.2%	NSF
General Fund Revenue	\$1,131,800.00 / 16.3%	GF
105 Grant Revenue	\$1,130,359.23 / 16.3%	NSF
Other Federal Revenue	\$16,908.60 / 0.2%	NSF
RGGI	\$175,193.70 / 2.5%	ASF
DelDOT (I&M)	\$87,600.00 / 1.2%	ASF
Title V	\$4,021,511.71 / 58%	ASF
Total Revenue:	\$6,928,687.55	

We have included the current percentages for each revenue source. In summary, General Funds (GF) comprises 16.3%, Appropriated Special Funds (ASF) equals 63.8% and Non-Appropriated Special Funds (NSF) equals 19.8% of the projected revenue. Additionally, Title V makes up 90.8% of our ASF budget.

Over the past three years, the Non-Title V revenue sources have remained relatively constant. We anticipate General Fund revenues to remain stable or possibly decline to levels consistent

with the minimum state matching funds for federal grants. Additionally, we expect future revenue from other sources to fluctuate slightly based on the following pending initiatives:

- *Reduction of federal funding for the 105 Grant*
- *Proposed Reg 2. fee increases*
- *Potential expansion/shrinkage of the RGGI program*
- *End of Federal Stimulus funds*

2. What is the basis for the 16% fee increase? That is, what percentage of the increase is for personnel, equipment, and other expenses?

Response: *The actual fee structure for the 2012 - 2014 billing period has not been determined.*

We suspect that the 16% fee increase suggested in the committee's question is the difference between the current fee structure and the Title V cost share for funding under Option 2. This particular funding option was based on supporting the full need of 78.9 FTEs. However, this was a possible funding option to satisfy the estimated funding need and not a proposal for a final fee.

In the revised workload analysis the employee costs and program support costs have decreased, while the additional support services have remained the same. Although the Small Business Office (SBO) services costs have increased slightly (\$10K salaries) the overall DAQ total operating costs have decreased \$459,871.48. The Title V cost and subsequent fees are determined by the funding option selected and number of FTEs supported.

Once a targeted Title V cost share amount is determined, the actual number of supportable FTEs can be calculated. The supportable FTEs will determine the operational capability of the Division. Based on these results, the Division will prioritize the work activities, and if required, reduce the work effort across multiple programs consistent with our maximum workforce capability.

3. In the DNREC CY-2009 T5 Fees Committee Status Report (published 5/1/2010), it is stated that Gov Markell has reduced the allotted DAQ FTE's to 69 due to budget constraints. Yet in the "Draft" Work Load Analysis dated 10/21/2010 (see p. 21), DNREC not only shows a manpower budget of 61 FTE's and 8 unfilled FTE's (total 69) but adds an additional 9.9 FTE's (a 14% increase!) above and beyond the Governor's recommendations. What specifically will these additional 9.9 FTE's be doing?. Many other state environmental agencies are implementing cost cutting measures, eliminating, reducing or re-evaluating the services they provide in order to be more competitive and effective.

Response: *The 2011 - 2013 Needs Assessment and Workload Analysis does not define the minimum requirements to support our current services or our capability with a full complement*

of staff members (69.0 FTEs).

Like the previous needs assessment, the revised workload analysis defines our mission and all the activities needed to accomplish all of our objectives. The staffing costs, program support costs and other support services costs depicted in the report are the estimated requirements needed to be fully functional and ensure complete mission success.

Like all state agencies we continue to operate during a period of budgetary challenges and we see limited opportunity for personnel growth above our current authorizations (69.0). These budget and personnel limitations led to our past discussion about outsourcing as a potential alternative to deliver the services we need to provide. As previously mentioned, once a target Title V revenue amount is determined, we can further define our operational capability and adjust our level service based on an achievable level of staffing.

As highlighted in the outsourcing discussion, the additional 9.9 FTEs represent additional data analysis, modeling, refinery support, emissions inventory, and administrative (digital records) activities we identified as essential activities (4.5 FTEs) for optimum service. Considering all activities were not suitable for outsourcing, some activities would require a reduction in work effort equivalent to 5.4 FTEs. The reduction in work effort may include the following activities:

- *Frequency of facility compliance evaluations*
- *Supporting Climate Change and Regional Greenhouse Gas Initiatives (RGGI)*
- *Process improvement initiatives (LEAN/VSM)*
- *Special projects*
- *Workforce Development and Staffing analysis*
- *Capital improvement project activities*
- *Timekeeping system improvements*
- *Grant support activities*
- *Education & outreach*
- *Data analysis activities*
- *Policy analysis*
- *Title V Fee management activities*
- *Participation with EPA Region III*
- *Laboratory management activities*
- *10% reduction in permitting hours (resulting in longer permit issuance timeframes)*
- *Workshop for regulated community on permitting issues*

By combining the outsourced activities and a reduction in effort, the DAQ was able to bring their workload down to the current allocation of 69 FTEs. The 9.9 FTEs represent the difference between what we need to accomplish and what we can accomplish with 100% of our authorized positions.

4. Has DNREC evaluated non value added functions and eliminated them, or transferred those

functions to new initiatives? If so please provide some examples, where this has been done, and/or can be implemented in the future to provide cost savings. What additional other LEAN activities are under consideration?

Response: *DAQ continuously seeks opportunities to improve our work processes. Using LEAN principles (VSM), we are currently participating in a Department-wide effort to improve and optimize our regulatory development process. As with all of the VSM projects, we attempt to eliminate waste and unnecessary delays to reduce the overall processes time for our customers. Although we attempt to combine and eliminate unnecessary processing steps the actual impact on engineering time spent on permitting activities may be limited. Additionally, we are developing systems and procedures to implement the following:*

- *Reg 2 fee automated billing and online payment program*
- *Current natural/synthetic minor permitting VSM project, expanding to Title V permitting activities*
- *Automation of air monitoring stations (web-based communications)*
- *Mobile/portable automotive emissions testing equipment*
- *Telecommuting pilot program*

5. What are DNREC's plans for any increased/decreased needs for monitoring and modeling?

Response: *As identified in the needs assessment, we anticipate needing additional modeling capabilities and no need for additional monitoring personnel.*

The Air Monitoring Program has performed a 5-year assessment of the ambient monitoring network. This plan was required by EPA and is designed to evaluate the monitoring network to ensure that it efficiently (1) provides air pollution data to the public in a timely manner, (2) supports compliance with ambient air quality standards and emissions reductions strategies, (3) supports air pollution research studies. Based upon this assessment, DAQ has concluded that we will need to add an additional SO₂ monitor in Seaford to comply with revised SO₂ National Ambient Air Quality Standards. Further, to meet the demands of the National Core Monitoring Network (N-Core), the DAQ is in the process of upgrading its data transfers from an analog design to a digital design. With a digital transfer of information, we will: (1) have more remote access capabilities at each station, (2) transfer more diagnostic information to the central office, (3) reduce the number of visits required to support each station, (4) enhance data recovery. We also must note that much of the equipment used in the network has or will soon exceed manufacturer recommended life of 7 years. DAQ realizes that this will be a large expense and is preparing strategies to address this situation.

Air quality's current modeling resources fall short of what is needed to fully support the program and we anticipate this gap to grow as new NAAQS set by EPA seem to incorporate a

heavy reliance on modeling. For instance, the new revised SO₂ standard requires attainment demonstration using modeling. Future permitting will also require more sophisticated modeling submittals by the applicants which would necessitate review and approval by the agency. Shortage of resources is impacting timeliness of these reviews and level of modeling support that the Division is able to provide. Regional air quality modeling needed to demonstrate compliance with ozone and fine particles is extremely complex and resource intensive and we rely on regional modeling centers to accomplish much of this task and hope to continue that relationship. Participation in these regional efforts require a minimum level of effort and resources which are captured in the needs assessment document

6. Do you have any additional bench marking or metrics data that we can see regarding productivity?

Response: *The air quality in Delaware continues to improve in all criteria pollutants, reflecting the combined efforts of federal and state air quality professionals and our industry partners.*

VSM projects for Natural Minor and Synthetic Minor permitting activities continues to reflect the anticipated improvements. Air quality's permit tracking system is available online through the Department's Environmental Navigator. The division continues to meet all EPA requirements for SIP development and revisions. Air monitoring programs are modernizing equipment and communications and continue to improve data collection and reporting.

The specific accomplishments of our planning, surveillance and engineering and compliance branches are captured in our 2008 and 2009 annual Title V status reports.

7. Some facilities are in disbelief at the number of hours logged by DNREC staff for their Title V permitting activities. Why are there such variations? Is this due to a turnover of staff or assigning additional staff to certain projects to learn about a facility?? We would like to see some way to have totals for each facility published annually (during 1st quarter of the following year) so that a facility can see the data and understand better when data come out year by year. (It is hard to remember 5 years as to level of permitting for their facility).

Response: *The total hours committed to each Title V facility captures the engineering, compliance, enforcement, and other related services under the Title V program and not only the hours spent issuing a Title V permit.*

The DAQ staff tracks the hours for each source, including a 5-year history, and provides an annual Title V Status Report. The data used to develop this report is collected and validated during the first quarter of each year. The report is written and published, as required by legislation, no later than May 1st of each year. The required data entry, collection and validation prevents any earlier report publication.

Upon request, the DAQ staff will gladly provide a detailed analysis and accounting of the hours for any facility.

8. Where in the budget does penalty money go? For example, for sources that undergo enforcement actions there is typically a separate assessment for the administrative cost. Where are these dollars going? Where in Air Management are these dollars going?

Response: *Penalty monies collected by the Department are used to support the Community Environmental Penalty Fund (CEPF or “Fund”). The Fund, established in 2004 by House Bill 192 (HB 192, Attachment 1), consists of 25 percent of all penalty monies collected by the Department. Monies from the Fund are available for Community Environmental Projects. The Fund is administered by DNREC.*

The remaining 75% goes into the penalty fund. See 7 DE Admin. Code 6005 (d) which states: (d) Any expenses or 75 percent of civil or administrative penalties collected by the Department under this section are hereby appropriated to the Department to carry out the purposes of this chapter; however any expenditure or transfer must be approved by the Director of the Office of Management and Budget and the Controller General. The Department shall submit quarterly reports on the progress of the expenditures and/or projects. All expenditures must be recommended by the Department and approved by the Secretary. All penalty funds will be deposited in the Penalty Fund Account. All of the penalty fund expenditures made by the Department of Natural Resources and Environmental Control shall be reported annually to the Joint Finance Committee in the Department's annual budget presentation.

9. What projects or initiatives are new in the budget for this year and coming years?

Response: *During the next billing period (2012-2014) the Division continues to assess, develop and potentially implement many of following projects:*

- *Grantham Lane HVAC replacement (no cost to the program)*
- *Grantham Lane phone system upgrade*
- *Potential expansion of climate change and RGGI program*
- *Low Carbon Fuel Initiative*
- *CO₂ permitting*
- *Vehicle emissions remote sensing and potential clean screen program*
- *Coastal wind power generation on the outer continental shelf*
- *Air monitoring sensing equipment upgrades and automated data collection*
- *Permitting workshop for sources*
- *VSM review of the Title V permitting program*

10. Has DNREC looked at items like extending permit durations, automating Title V Compliance Forms, etc.? For example, a number of sources have indicated that their Title V Permits have not been issued for the full 5 year time period. They have been told that these shorter time periods allow DNREC personnel to better “sync” work load for assigned

facilities or to sync the Title V permit with other air permits. Yet, any premature expiration before the full five year term requires sources and the Department to expend significant resources sooner than would be the case. How many sources have had their Title V permits issued for less than a full 5 year term, and for each permit issued, how long of a time period was it issued for? Please provide any data for the last three years of permit issuance.

Response: *The law does not allow issuance of a Title V permit for a period longer than 5 years. In the past three years, we issued 13 Title V permits with less than a five-year term.*

Six of these facilities are Acid Rain sources and have separate Acid Rain permits. Acid Rain permits are required, by regulation, to be issued for a five-year term. The Acid Rain permits are renewed on their expiration date. The Title V permit is required, by regulation, to expire on the same date as the Acid Rain permit. Therefore, if the Title V permit does not get renewed on time, the permit term ends up being less than 5 years in order to coincide with the expiration date of the Acid Rain Permit.

Three of the facilities all have the same environmental contact at the Company. The expiration dates were staggered so that the Company did not have three Title V applications and renewals being processed at the same time.

Four of these facilities were given expiration dates from 4 to 4.75 years. With a reduced number of engineers, facilities have been reassigned and expiration dates were staggered to evenly distribute individual engineers' work assignments.

11. DNREC should look for streamlining some of the more routine work practices such as deciding to spot check stack test and annual RATA testing instead of observing each and every one. Virtually all stack and RATA test take 2-3 days each and are performed by independent third party contractors. Spot checks would reduce DNREC staff time and allow them to focus on other high priority task. Comments from members of our group indicate that every other state the sources deal with do not have a 100% "must observe testing" policy.

Response: *The Source testing oversight service that DAQ provides has already made modifications and adjustments, when appropriate, to streamline and improve efficiency in its procedures. For example, to better accommodate sampling schedules, DAQ will allow spot checking on certain tests, provided that DAQ has established an effective and trusted working history with the source-testing firm. Further, DAQ has cut one full-time position from this group. We believe that our presence during a source test provides a value-added service since it allows: (1) quick and immediate response to questions when they occur, (2) immediate corrective action, should it be needed, (3) a reduction to the likely hood that a test would need to be repeated, resulting in cost savings to the source.*

Lastly, the DAQ has recently submitted a funding proposal to EPA to enhance the source-testing data flow process. The Emissions Information Exchange (EIEX) will be an application designed

to report, transfer, and share emissions data collected between sources and state agencies using the Electronic Reporting Tool (ERT), or similar system using the Central Data Exchange (CDX). Consistent with the goals and objectives of the National Environmental Exchange Network Grant Program, DAQ envisions that the EIEX will:

- Provide a unified electronic flow of source testing data, where states can receive, review, store, search, and retrieve source test reports that are submitted electronically.
- Be an efficient use of resources by building off the existing capabilities of USEPA's Electronic Reporting Tool, ERT, or similar system, as the primary software tool to perform input source testing data and perform calculations.
- Use EPA's Central Data Exchange (CDX) as a single centralized access point to receive test plans and reports.
- Develop sufficient customization and flexibility to meet project partner's data submittal needs.

12. Have any facilities implemented emission reduction measures which should impact the fees paid by the owner or operator. How are these reductions reflected in the proposed fees?

Response: *The Title V fee structure is established to generate revenue to operate the entire Title V program. Unless specifically noted, the base and user fee are established and remain fixed for the entire billing period. Facilities are assigned to a base fee and user fee category for the entire three-year period. A facility's base fee (hours) and user fee (emissions) may change during the fee renewal process. However, the total revenue from all sources must still be sufficient to operate the entire program. We believe that maintaining this stability is important in any fee structure that is ultimately decided upon.*

It is noteworthy that emission reduction measures implemented at facilities often trigger major permitting efforts which require expenditure of Title V resources. We anticipate that the facilities that have made drastic emissions reductions which can be reflected in the 2008 inventory may fall within a different emissions ban if the same fee methodology is used again.

13. Has DNREC looked into consolidating the Department to one office for further cost reductions?

Response: *Consistent with the Governor's guidance and the recent Department organizational transformation, DNREC is currently developing Department-wide plans to consolidate offices, reduce leased space and shrink our office space requirements. Please note that establishing a new office requires investments of roughly \$5,000 per person not including the building lease expenses.*

Within the Division, the Dover office, temporary located in the Blue Hen Corporate Center, is expected to relocate and consolidate with other Department offices in the Dover area. When finalized, this consolidation should create a rental cost savings. The DAQ efforts to expand

telecommuting will further reduce our office space requirements, energy costs and cost share of a new facility.

The Grantham Lane office is a state-owned building, and the DAQ New Castle office occupies the facility rent free. Any effort to consolidate the Dover and New Castle offices will require a larger facility and significantly increase our office leasing costs.

14. Has DNREC completed a comparison to fees per ton - as compared to current Fee Structures located in other states?

Response: *During the 2008 Needs Assessment and Workload Analysis, we collected budget data for the Mid-Atlantic states and compared our Title V program funding to all other states. This data is available @ <http://www.awm.delaware.gov/Pages/TitleVCommitteeArchives.aspx>.*

Although Delaware does not directly calculate fees on a per ton basis and currently uses a system of billing based upon hours committed to a source and air emissions from each source a calculation of \$/ton would be different for each source and would not be directly comparable to other states. However, additional analysis and comparisons of surrounding states was completed in late 2010. This data is will also be posted on the website.

If you require any additional information related to these questions please contact me at (302) 739-9402 or anthony.manson@state.de.us.

Sincerely,

//Signed//

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Division of Air Quality