

Air Permit Fee Information and Request for Fee Increases for Title V Permit Fees

June 15, 2019

This information is being provided in accordance with HEA 1278 and 326 IAC 2-7-19(e) and will be discussed at the August 14, 2019 Environmental Rules Board meeting at 1:30 p.m., at the Indiana Government Center South, 10 North Senate Avenue, Conference Center Room A, Indianapolis, Indiana.



Indiana Department of Environmental Management
Office of Air Quality

Air Permit Fee Information

The Clean Air Act (“CAA”) (Section 502(b)(3)(A)) requires each State to establish air permit fees that fully cover all reasonable costs of funding the Title V air permit program including:

- (i) Reviewing and acting upon any application for such a permit,
- (ii) Implementing and enforcing the terms and conditions of each permit (not including any court costs or other costs associated with any enforcement action)
- (iii) Emissions and ambient monitoring
- (iv) Preparing generally applicable regulations, or guidance
- (v) Modeling analyses, and demonstrations, and
- (vi) Preparing inventories and tracking emissions.

The CAA requires the level of the fee to be either:

- a) \$25 per ton of regulated pollutant emitted (except carbon monoxide) up to 4,000 tons per pollutant per year, and that these amounts be adjusted for inflation based on the increase in the Consumer Price Index (“CPI”) above the 1989 base set by the CAA, or
- b) A lesser amount that the State demonstrates is adequate to meet items (i) through (vi) listed above.

Indiana elected option b and developed a series of permit fees that includes an emissions-based fee, which is currently \$41.25 per ton, with a fee cap that is currently \$187,500 per facility (\$250,000 per facility in serious or severe ozone nonattainment areas – e.g. Lake and Porter Counties). This fee schedule was intended to collect sufficient revenue to fund the Title V program. There is also a provision that if the minimum balance in the fund, once obligated expenditures are subtracted from the fund, exceeds \$3 million; the balance in excess of \$3 million is to be refunded by crediting that amount against the fees billed in the next year. This fee reduction process has occurred once in the history of the fund (FY97).

Since these fees were established in 1995, IDEM has increased the Title V fees only one time, in 2006, and has used both federal grants and state general funds to perform some of the activities listed in CAA Section 502(b)(3)(A). In 2006, IDEM increased Title V fees by 25%, which was approved by the Air Pollution Control Board.

Since 2006, the federal funds to support the air program have been decreasing, and Title V fee revenue, which has been as much as \$13 million, has dropped to approximately \$8.6 million in FY19 and is projected to drop further in the future. In recent years, as emissions from Title V sources have decreased, the corresponding revenue from Title V fees has substantially decreased as well. Since 2006, Title V revenue has dropped from approximately 2% initially, to as much as 5% recently per year. Re-designation of Lake and Porter counties from severe to moderate nonattainment decreased the fee cap, and several Title V sources have closed or transitioned to lower level permits. Revenue has decreased while expenses have increased (See Attachment A). Expenses related to staff have increased, in part due to pay differentials, insurance costs and general employee raises. In addition, operational expenses such as vehicles, copiers, supplies, and expenditures on contracts, have also increased.

IDEM's Office of Air Quality ("OAQ") consistently evaluates and implements efficiency improvements to reduce costs and resource needs. OAQ has conducted multiple process improvement reviews and implemented changes including several reorganizations, staff reallocations, staffing reductions, technological improvements, vehicle fleet reductions, and a conversion to electronic processing of virtually all parts of the document review process in all areas of the program. In addition, OAQ has reduced costs associated with public notice of permits and other program actions by revising the rules to allow for electronic notices, eliminating the cost of publishing in newspapers. All of these improvements have reduced the cost of running the program, but these reduced expenses have not kept pace with the reduction in revenue. OAQ continues to evaluate additional cost-saving opportunities, but is unable to reduce costs sufficiently to make up the difference between expense and revenue without significant degradation of quality and customer service.

The most significant emissions reductions come from new regulations requiring significant reductions in emissions from utility sources and other sources using coal as a combustion fuel. The majority of Indiana's coal-fired facilities have either shut-down, converted to natural gas or installed emission controls which resulted in emissions reductions of approximately 80-90% overall. In addition, a number of smaller facilities have taken advantage of pollution prevention opportunities to opt out of the air regulatory program (and thus are not subject to any fees) or to obtain a lower level permit with smaller fees.

In response to IDEM's declining revenues, the Indiana General Assembly ("IGA") passed House Enrolled Act ("HEA") 1278 during the 2019 legislative session, which included, in part, the following provision:

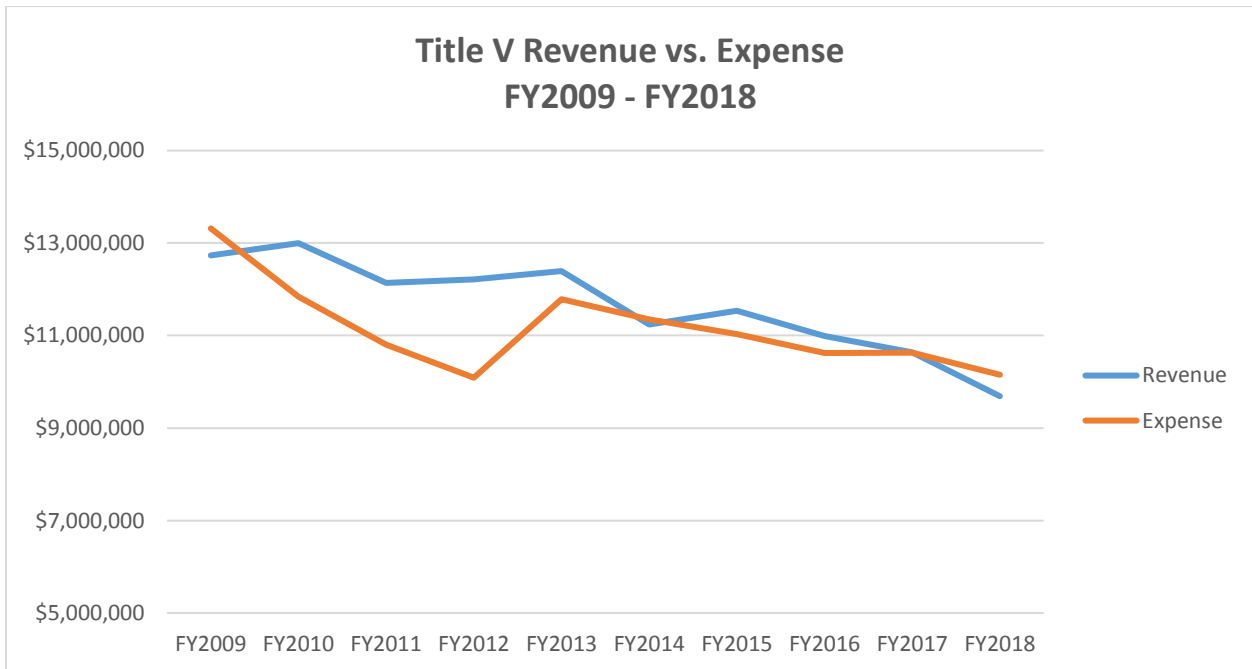
The board (referring to the Environmental Rules Board) shall increase the fees established by IC 13-17-8 to the extent calculated to cause annual aggregate fee revenue after the fee increase under this subsection to be two million dollars (\$2,000,000) greater than the aggregate fee revenue actually received from the fees established by IC 13-17-8 in the year immediately preceding the fee increase under this subsection.

Therefore, after extensive consideration, and consistent with the provisions of the IGA's HEA, IDEM has concluded that in order to continue to provide quality permit service in the air permit program and to ensure that IDEM has sufficient revenue to maintain the air program, it has become necessary to request an increase in the annual operating fees.

Since the inception of the Title V rules, IDEM has had the regulatory authority to increase Title V fees every year using the Consumer Price Index ("CPI"). Since 2006, IDEM has not increased Title V operating fees because IDEM has been able to adequately fund the program at the current levels. Because IDEM delayed the Title V fee adjustment until it was necessary to adequately fund program costs, Title V sources have benefited by paying lower annual fees in the past than what would have been assessed had the fees been adjusted annually by the CPI. In fact, assessed fees for the majority of sources have gone down as emissions decreased. Therefore, OAQ is requesting a 27% fee increase at this time, which would increase the annual aggregate fee revenue by approximately \$2 million over FY 2018 fee revenue. This 27% increase is consistent with the HEA and the calculated allowable CPI increase, which is 27.1%, from 2006 through April 2019 (See Attachment B).

Attachment A

Title V Revenue vs. Expense										
FY2009 - FY2018										
	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018
Revenue	\$12,736,722	\$12,997,894	\$12,135,394	\$12,217,825	\$12,393,008	\$11,236,490	\$11,536,411	\$10,989,073	\$10,638,441	\$9,688,175
Expense	\$13,315,931	\$11,841,940	\$10,804,683	\$10,089,137	\$11,784,643	\$11,346,385	\$11,033,986	\$10,624,037	\$10,627,520	\$10,149,830



Attachment B

Consumer Price Index (CPI) Percent Change in CPI Calendar Years 2006 through April 2019

Brief Explanation of the CPI:

The Consumer Price Index (CPI) is a measure of the average change in prices over time of goods and services purchased by households. The Bureau of Labor Statistics published CPIs for two population groups: (1) the CPI for Urban Wage Earners and Clerical Workers (CPI-W), which covers households of wage earners and clerical workers that comprise approximately 32 percent of the total population and (2) the CPI for all Urban Consumers (CPI-U) and the Chained CPI for All Urban Consumers (C-CPI-U), which cover approximately 87 percent of the total population and includes in addition to wage earners and clerical worker households, groups such as professional, managerial, and technical workers, self-employed, short-term workers, the unemployed, and retirees and others not in the labor force.

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	AVE
2006	4.0	3.6	3.4	3.5	4.2	4.3	4.1	3.8	2.1	1.3	2.0	2.5	3.2
2007	2.1	2.4	2.8	2.6	2.7	2.7	2.4	2.0	2.8	3.5	4.3	4.1	2.8
2008	4.3	4.0	4.0	3.9	4.2	5.0	5.6	5.4	4.9	3.7	1.1	0.1	3.8
2009	0.0	0.2	-0.4	-0.7	-1.3	-1.4	-2.1	-1.5	-1.3	-0.2	1.8	2.7	-0.4
2010	2.6	2.1	2.3	2.2	2.0	1.1	1.2	1.1	1.1	1.2	1.1	1.5	1.6
2011	1.6	2.1	2.7	3.2	3.6	3.6	3.6	3.8	3.9	3.5	3.4	3.0	3.2
2012	2.9	2.9	2.7	2.3	1.7	1.7	1.4	1.7	2.0	2.2	1.8	1.7	2.1
2013	1.6	2.0	1.5	1.1	1.4	1.8	2.0	1.5	1.2	1.0	1.2	1.5	1.5
2014	1.6	1.1	1.5	2.0	2.1	2.1	2.0	1.7	1.7	1.7	1.3	0.8	1.6
2015	-0.1	0.0	-0.1	-0.2	0.0	0.1	0.2	0.2	0.0	0.2	0.5	0.7	0.1
2016	1.4	1.0	0.9	1.1	1.0	1.0	0.8	1.1	1.5	1.6	1.7	2.1	1.3
2017	2.5	2.7	2.4	2.2	1.9	1.6	1.7	1.9	2.2	2.0	2.2	2.1	2.1
2018	2.1	2.2	2.4	2.5	2.8	2.9	2.9	2.7	2.3	2.5	2.2	1.9	2.4
2019	1.6	1.5	1.9	2.0									1.8
	28.2	27.8	28.0	27.7									27.1

Using the annual percentage change in CPI-U for years 2006 through April 2019 and compounding these per cent changes annually (13 year 4 month period) equates to 27.1. This calculation can be supported by using the BLS on-line inflation Calculator at <http://data.bls.gov/cgi-bin/cpicalc.pl>.

All CPI information was gleaned from the Bureau of Labor Statistics (BLS) web site http://www.bls.gov/schedule/archives/cpi_nr.htm#2005.