



Department of
**Environment &
Conservation**

Title V Program Funding Diversification, General Permit Fees, and Miscellaneous Fee Rule Revisions

WEBINAR

July 18, 2023

Agenda

- 1:05 p.m. Welcome
 - *Michelle W. Owenby – Director, Division of Air Pollution Control*
- **1:15 p.m. Title V Program Funding Diversification**
- 1:45 p.m. Q&A
- **2:05 p.m. General Permit Fee Rule Changes**
- 2:15 p.m. Q&A
- **2:25 p.m. Miscellaneous & Administrative Fee Rule Changes**
- 2:40 p.m. Q&A
- 2:45 p.m. Additional Questions & Closing

Introductions

- Facilitator Tara Pedraza, Deputy Director
Office of External Affairs
- Co-Facilitator & Online Host Jan Compton, Regional Director
Office of External Affairs – Johnson City
- Presenter James Johnston, Deputy Director
Division of Air Pollution Control
- Additional TDEC Staff
Michelle W. Owenby, Director
Division of Air Pollution Control

Mary-Margaret Chandler, Budget Administrator
Division of Air Pollution Control

Lacey Hardin, Technical Lead
Division of Air Pollution Control

Olga Jacobsen, Special Projects Lead
Division of Air Pollution Control



Current Title V Program Status

What are the Statutory Requirements that Apply to Title V Fees?

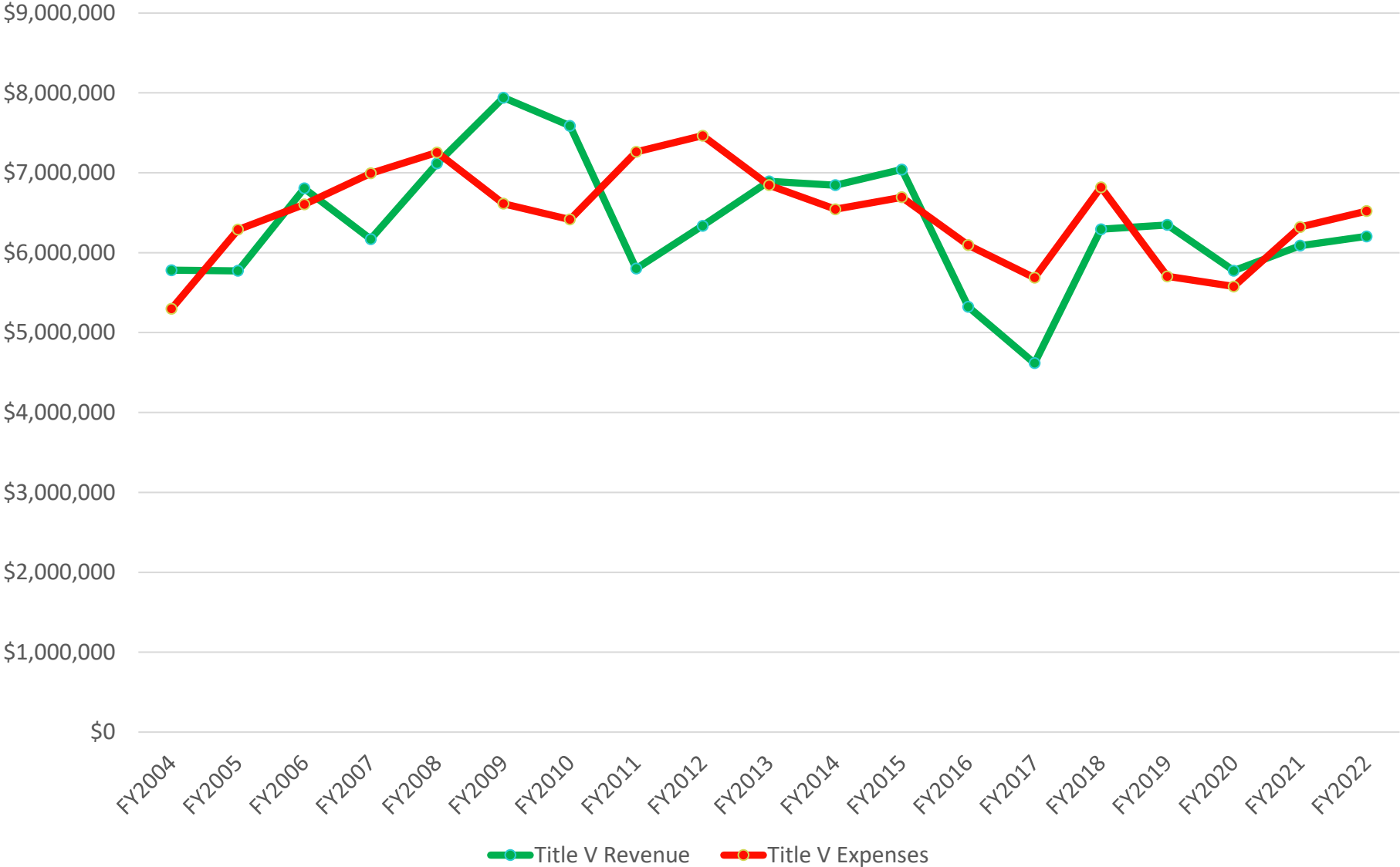
Federal Clean Air Act

§502(b)(3)(A)

.....the owner or operator of **all sources subject to the requirement to obtain a permit** under this subchapter pay an **annual fee, or the equivalent** over some other period, **sufficient to cover all reasonable (direct and indirect) costs** required to develop and administer the permit program requirements of this subchapter...

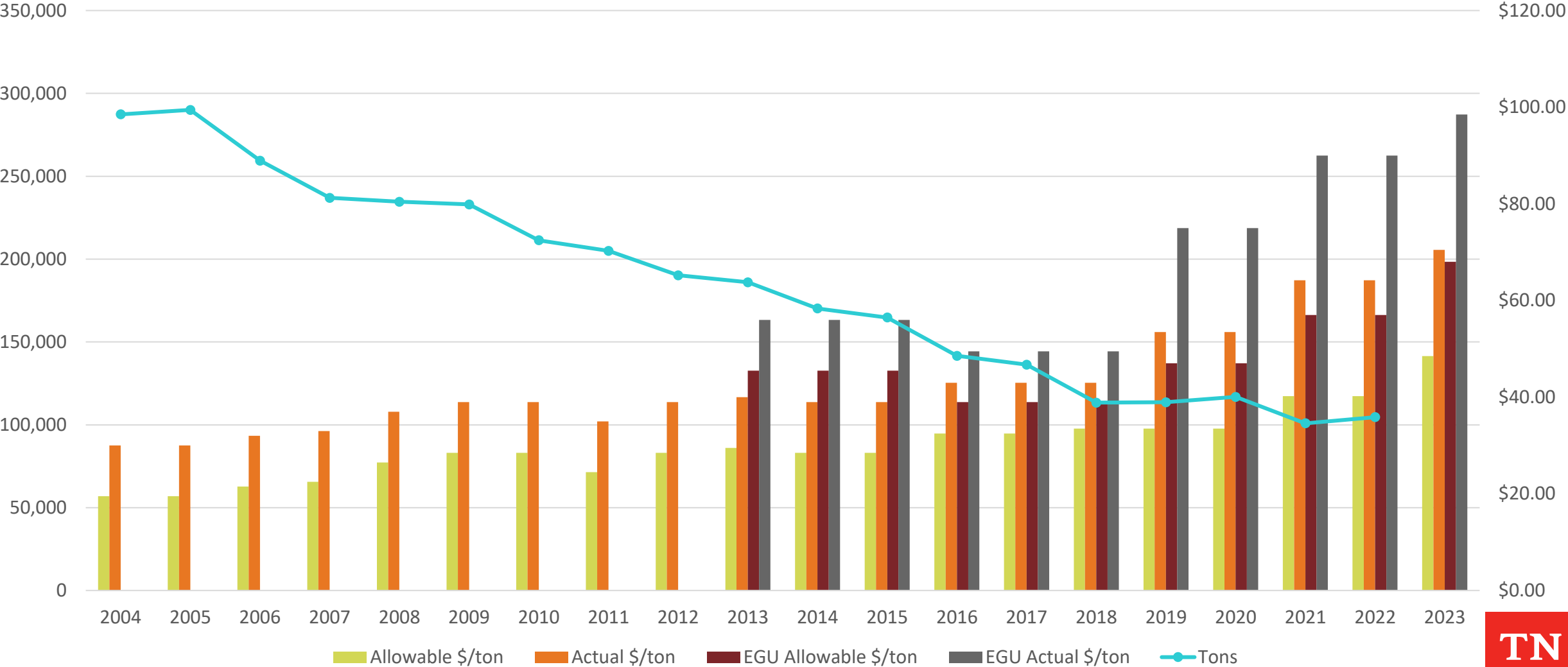
- The Federal Clean Air Act provides further information on what costs are to be included in a Title V program
- There are similar requirements in the Tennessee Environmental Protection Fund Act and in state and federal regulations

TV Revenue and Expenses



Emissions vs Fee Rates

Chart Title



Goal of Title V Program Fee Diversification Rule Changes

- Providing funding to fully support and operate the Title V program
- Providing a more stable and diversified fee structure
- Relying less on emissions which continue to decrease
 - Preparing for both planned reductions from electric generating units (EGUs) and the general downward trend of emissions from non-EGUs
- Relying less on activities that have great variability
- Reducing the frequency of fee rule revisions

STAGES OF ENGAGEMENT & RULEMAKING SCHEDULE

DATE	ACTIVITY
August 11, 2022 10:30AM-noon Central	Meeting with Tennessee Chamber of Commerce & Industry
August 23, 2022 9:00AM-10:30AM Central	Webinar with Stakeholders to Present Background Information and Consider Many Non-Variable Funding Sources
September 14, 2022 9:30AM Central	Briefing with APC Board Meeting
October 27, 2022 9:00AM-10:30AM Central	Webinar with Stakeholders to Present Refined Fee Structure Diversification Options
November, 2022 – January, 2023	Continued Stakeholder Engagement
February to October, 2023	Begin Formal Rulemaking Process (see end slide for remainder of schedule)
June 14, 2023 9:30AM Central	Briefed APC Board on Proposed Rule
July 18, 2023 1:00-3:00PM Central	Fee Rule Webinar
August 11, 2023 1:00PM Central	Public Hearing
August 11, 2023	Comments due to air.pollution.control@tn.gov
October 11, 2023	Presented to APC Board for Adoption



Proposed Fee Rule Changes for Title V Sources

Annual Title V Fee – Dollar Per Ton and Minimum Fee

- Dollar per ton remains **unchanged** at:
 - Non-EGU Actual - \$70.50 per ton
 - Non-EGU Allowable - \$48.50 per ton
 - EGU Actual - \$98.50 per ton
 - EGU Allowable - \$68.00 per ton
- Minimum Fee proposed to **eliminate**
 - Currently \$10,000

Annual Title V Fee – Base Fee

- Base Fee - Currently \$6,000 per Facility

- Proposal

Number of federal air quality standards	Base Fee
0	\$10,000
1	\$15,000
2 to 3	\$20,000
4 to 5	\$30,000
6 to 10	\$40,000
11 to 20	\$50,000
21 and up	\$75,000

- Alternative Proposal

Number of federal air quality standards	Base Fee
0 to 1	\$15,000
2 to 4	\$20,000
5 to 9	\$40,000
10 and up	\$75,000

Annual Title V Fee – Title V Modification Fee

- Billed with Annual Title V Fee
 - Each Minor Modification Issued - \$2,800
 - Each Significant Modification Issued - \$5,000

Proposed - Application Fees for Title V Sources

1200-03-26-.02(5)(a)2

- Construction Permit Application Fee

Anticipated Maximum Emission Rate	Current Fee (TV & non-TV)	Proposal (TV)	Alternative Proposal (TV)
<10 tons/yr	\$100	\$7000	\$4000
10 to < 100 tons/yr	\$500		
100 to < 250 tons/yr	\$1000		\$8000
250 to < 500 tons/yr	\$2000		
500 to < 1000 tons/yr	\$3000		\$15,000
1000 to < 5000 tons/yr	\$4000		\$30,000
≥ 5000 tons/yr	\$5000		\$40,000
			\$50,000

- Fee for Non-TV Sources Remain the same

Proposed - Application Fees for Title V Sources (continued)

1200-03-26-.02(5)(a)2

- Other Application Fees (replaces regular construction fee)
 - PSD and Nonattainment NSR Permit - \$70,000
 - PAL (initial or renewal) - \$10,000 **per pollutant**
 - Added deadline of 18 months (1200-03-26-.02(5)(e)3.)
 - Title V to Conditional Major Permit - \$18,000
 - Added deadline of 18 months (1200-03-26-.02(5)(e)4.)
- All application fees are due upon submission of the application

Summary – Title V

- Rely less on emissions, which are decreasing
- Continue to comply with funding requirements
- The proposal reflects feedback from stakeholders and meets the goal of fee diversification
- TDEC is taking comments on the proposal (including alternate language specified in the public notice) until August 11, 2023
 - Submit comments electronically: Air.Pollution.Control@tn.gov

Questions



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General Permit Fee Rules

What is a General Permit?

- Voluntary option for specific sources
 - Single Permit issued by APC for a specific type of facility
 - Looks like a traditional permit but not issued to specific facility
- A general permit acts as both a construction and an operating permit

How do General Permits Work?

- APC Issues a General Permit for the source category
 - 30-day public notice required
- Only requires one Notice of Intent (NOI) from the source to be covered
- Lists of facilities that have submitted NOIs for construction or modification under a general permit will be published on TDEC's website at least monthly
 - 30-day comment period
- Technical Secretary will issue a Notice of Coverage (NOC)
 - Provide copy of General Permit

General Permit Advantages

- Uniform permit conditions
- Faster issuance of a permit
 - Possible time savings
- Less confusion
 - Only one permit application is needed, rather than two
 - Uniform permit conditions resulting in uniform reporting and recordkeeping

General Permit Status

- Two available issued 2/2/2017
 - G00001 – Perchloroethylene Dry Cleaners
 - G00002 – Petroleum Solvent Dry Cleaning
- One under development
 - Concrete Batch Plants with emissions < 10 tpy
- Soon to be developed:
 - Concrete Batch Plants with Emissions \geq 10 tpy
 - Portable Rock Crushers at True Minor Facilities
 - Portable Rock Crushers at Conditional Major Facilities
 - Asphalt Plants
 - Air Curtain Incinerators
 - Construction Permit
 - General Title V Operating Permit

General Permit - Related Changes

- 1200-03-26-.02(j) – removes fee exemption for General Permits
- 1200-03-26-.02(5)(a)4 – fees for General Permits that serve as construction permits
 - Dry Cleaners - \$100
 - Concrete Batch Plants - \$100
 - Portable Rock Crushers - \$100
 - Asphalt Plants - \$250
- 1200-03-26-.02(6)(f) – annual fees for General Permits (non-Title V fees)
 - Dry Cleaners - \$0
 - Concrete Batch Plants with Emissions < 10 tpy - \$0
 - Concrete Batch Plants with Emissions >= 10 tpy - \$400
 - Portable Rock Crushers at True Minor Facilities - \$1,000
 - Portable Rock Crushers at Conditional Major Facilities - \$1,500
 - Asphalt Plants - \$1,500

Summary – General Permits

- General permits are for specific types of facilities common across the state
- General permits are an alternative to traditional permits
- Several general permits are being developed
- This rule establishes construction and annual fees that would apply to the existing general permits and to new ones as they are developed

Questions



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Miscellaneous & Administrative Fee Rule Changes

Administrative & Miscellaneous Changes

- Chapter 12000-3-02-.01
 - Definition of “Hazardous Air Pollutant” moved from Chapter 26, Administrative Fees Schedule, to Chapter 2, Definitions
- Paragraph 1200-03-26-.02(2), Definitions
 - Definition of “Synthetic Minor” removed
 - Note: Tennessee uses the term “Synthetic Minor” only for fee purposes. Many other states and EPA use the term “synthetic minor” for what the Air Division calls “conditional major”. This change does not change any provisions regarding conditional major permits or sources.
 - Definition of “Permit Amendment” added
 - Added definitions of “Anticipated Maximum Emission Rate (AMER)” and “Anticipated Maximum Increase in Emissions”

Administrative & Miscellaneous Changes

- Paragraph 1200-03-26-.02(3), General Provisions
 - Clarified that emissions from exempt sources are not excluded from fees if included in the facility-wide limit
 - Removed provision of crediting construction application fee to the annual fee if it is determined that a construction permit is not needed
 - Combined “HAP with a standard” and “HAP without a standard” to “HAP”
 - Clarified that construction application fees are due upon submission of the application

Administrative & Miscellaneous Changes

- Paragraph 1200-03-26-.02(5), Construction Fees
 - Clarifies that when an existing source needs a new construction permit, new fee is due
 - Clarifies that fees due upon submission of application
 - Clarifies that revisions to an application (except during initial completeness review) that result in an increase in allowable or actual emissions requires payment of one-half or the application fee
 - Extends issuance/denial deadline when agreement letter required – 7 days after receipt of agreement letter
 - Extends issuance/denial deadline when compliance schedule required to be placed in permit
 - 21 if no public comment period required
 - 60 days if comment period required and no public hearing held
 - 60 days if comment period required and public hearing announced with comment period
 - 90 days if comment period required, public hearing requested during comment period, and hearing held after close of comment period

Administrative & Miscellaneous Changes

- Paragraph 1200-03-26-.02(6), Annual Fees for Minor and Conditional Major Sources
 - Sources issued a combined construction and operating permit required to pay annual fees upon issuance of combined construction and operating permit
 - Clarifies that annual non-Title V fee are based on allowable emissions “at the time of the fee assessment by the Division based on the current active permit(s)”
 - Fees for “synthetic minor” sources with allowable emissions below 10 tons/year removed
- Paragraph 1200-03-26-.02(8), Late Fees – Failure to Pay
 - Clarification that no permit or permit renewal will be issued until all fees required by APC Fee rules have been paid
 - Add provision that total penalty & interest shall not exceed three times original fee
 - Remove provision about consulting with Dept. of Finance & Administration to determine interest rate.

Administrative & Miscellaneous Changes

- Paragraph 1200-03-26-.02(9), Annual Fees for Major Sources and Sources Subject to Paragraph (11) of Rule 1200-03-09-.02 (i.e., Title V Fees)
 - Due date for facilities who determine fee based on **actual** or combination of **actual** and allowable on **fiscal year** (July 1 to June 30) – moved from July 1 to August 1
 - Extension for **actual** & **actual**/allowable on **fiscal** year changed from 90 days to 60 days (will still be September 28th)
 - Clarify that fee for sources that pay initial annual fee based on fraction of a calendar year shall pay no less than base fee.
 - Eliminate “Once-In-Always-In” Fee Provision

Administrative & Miscellaneous Changes

- Grammatical corrections
 - PM10 to PM₁₀
 - Several changes to non-Title V construction fee Schedule A
 - Change 5% to “five percent”

Summary – Administrative & Miscellaneous Changes

- Create consistency and clarification
- Streamline certain existing processes
- Make some provisions consistent with current practice
- Grammatical corrections

Questions



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RULEMAKING SCHEDULE

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June 14, 2023 9:30AM Central	Briefed APC Board on Proposed Rule
July 18, 2023 1:00-3:00PM Central	Fee Rule Webinar
August 11, 2023 1:00PM Central	Public Hearing
August 11, 2023	Comments due to air.pollution.control@tn.gov
October 11, 2023	Presented to APC Board for Adoption
October, 2023, to June, 2024	<ul style="list-style-type: none">• Governor's Office Approval• Attorney General's Review• File with Secretary of State• Review by Joint Government Operations Committee
July 1, 2024	Effective Date of Rule Revision <ul style="list-style-type: none">• For Construction Fees due After 7/1/2024• For Title V Annual Fees due in 2025 & Beyond

Questions



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TN

Thank you!

Submit written comments by August 11, 2023,
by email to Air.Pollution.Control@tn.gov or mail to:

TN Department of Environment & Conservation
Division of Air Pollution Control
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 15th Floor
Nashville, Tennessee 37243

TDEC thanks you for your attendance and participation throughout this process!