



To: Mr. Garry Kaufman, Director, Air Pollution Control Division, CDPHE
From: CACI Air Quality Committee
Date: January 16, 2018
Re: Stationary Source Fund Fee Issue

The Colorado Association of Commerce & Industry (CACI) is the state chamber of commerce, representing hundreds of businesses across the state, as well as trade associations, economic development organizations, and local chambers of commerce.

On November 16, 2017, representatives of the Colorado Department of Public Health and Environment (CDPHE) Air Pollution Control Division (APCD) presented information on the Stationary Sources Fund issue to the CACI Energy and Environment Council. Then on December 4, 2017, you and several members of your staff sponsored an open public meeting to further discuss the issue and present two proposed fee increase structures. Subsequently, on December 13, 2017, the APCD issued a survey soliciting input from the regulated community on the proposed fee increase structures. During this time, CACI members have been engaged and have been discussing topics related to the shortfall in the Stationary Sources Fund account, the information you and your staff have presented, and how to move forward. These discussions have included a range of topics, including efficiency improvements that could be implemented and other options to ensure long term stability of the fund. While CACI understands that it is unlikely that the funding shortfall can be rectified solely by efficiency improvements, we believe that such improvements are an integral part of determining funding levels and should be considered and discussed.

CACI recognizes and appreciates the efforts that you and your staff have undertaken to reach out to the regulated community to provide information about this funding issue and possible options to increase fees on stationary sources to address the issue. Given that there has not been an increase in the permit processing or emission fees in the past ten years and due to many of the issues you have raised, it does appear that some increase in these fees is warranted. While we appreciate the discussions so far, CACI believes it would be beneficial to both industry and the APCD to continue the conversations prior to introducing any proposed legislation to increase these fees. We propose meeting in the very near future to continue the conversation and address comments and ideas for efficiency improvements raised by members to find common ground.

Many of the CACI members that have been involved in these discussions have received the survey distributed by the APCD and this letter is submitted on their behalf in lieu of them making a response to the survey. CACI members have found it difficult to respond to the survey given the comments and recommendations identified below that we would like to discuss. CACI respectfully submits this memo with the following questions, comments, and recommendations for your consideration and for further discussion.

- 1) There is concern that the accounting error of approximately \$3.3M took years to accrue and was only noticed by chance when implementing a new accounting system. We suggest that accounting process changes and QA/QC procedures should be identified to prevent errors from occurring in the future and to identify them sooner, such as implementing a periodic audit, public review, and any other processes designed to prevent such error from occurring in the future.
- 2) Did this accounting error impact any other department?

- 3) During the December 4, 2017 stakeholder meeting, APCD provided fee values for nearby states and information on increases in Colorado staff time required for various activities. To adequately compare fees and identify efficiency measures used by other states, we suggest that a benchmarking study be incorporated into any fee increase legislation. This study would compare the effort EPA and other states expend on enforcement/inspection, permitting, and planning activities and compare those to Colorado's. These comparisons would be done on a per activity basis where possible: per inspection, per permit, and per nonattainment area. The study should also identify cost effective efficiencies and ongoing and periodic efficiency improvement programs that other states may employ, and discuss the possibility of implementation in Colorado. This study should be conducted after a phase 1 fee increase and before any subsequent fee increases.
- 4) We suggest that APCD standardize or create template permit text for source types, or improve the use of standardized text where it has already been created. APCD has stated in the past that they are working towards this goal, but the regulated community continues to see this as an issue. The same or similar pieces of equipment should have the same or similar permit terms, even at different locations. Additionally, we suggest that permit engineers be directed to not revise permit terms during permit renewals if nothing has changed. We also suggest developing better management of the information permit engineers already have, so that we can limit the requests for information that new permit engineers make when that information is in the application, is in the facility file, or is not needed for permit processing and approval.
- 5) We suggest that APCD look for efficiencies in the permitting and permit modification process by considering the following:
 - a) Create a streamlined process for small sources and small modifications (such as a registration, waiver, or permit by rule) to reduce permit processing time.
 - b) Update the permitting database to improve efficiency in the permitting process from application log in through permit issuance.
 - c) Do not process Construction Permits for sites that are deemed to be exempt from Construction Permitting where the Operator does not voluntarily request a Construction Permit (i.e., APEN-only sources at a site that is exempt from Construction Permitting). Currently, the General APEN notice form is combined with the Application for Construction Permit, which leads to confusion about whether APEN-only sources are applying for a Construction Permit and results in unnecessary permit processing.
- 6) We suggest that APCD provide permit application guidance for non-O&G construction permit applications, Title V permit applications, and Title V permit modification applications that specifies the application components that are required for a complete application. This could also specify the preferred format and order, and perhaps include a checklist like the O&G guidance. Receipt of better and more complete applications should reduce the effort needed for permit issuance.
- 7) We suggest that APCD standardize emission testing protocol requirements to reduce staff time spent on protocol review and approval. The same or similar equipment across multiple facilities that are subject to the same regulatory requirements for testing should be able to use the same emission testing protocol. Additionally, if there is no change to the regulatory requirement for testing of a particular piece of equipment, we suggest that staff be directed to not change the protocols for testing from one test to the next.
- 8) We request the APCD provide more information on the cause for the increase in the average time for facility inspection and report preparation from 23 hours to 40 hours. We acknowledge that there are more requirements and that some of them are complicated, but please consider the following suggestions to reduce inspection and report preparation time:
 - a) Create a checklist for the field inspections for each industry type that could be completed on site.
 - b) Create a checklist for inspection records requests for each industry type to expedite the inspection process.

- c) For companies with good compliance history or a voluntary construction permit, only conduct a records review instead of a site visit and records review.
 - d) Re-evaluate the application of risk-based inspections to reduce the number of facilities receiving the most resource-intensive inspections.
 - e) Only prepare the narrative inspection reports when noncompliance is identified; otherwise, only return the completed field inspection and/or records request checklists to the Operator as record of the inspection.
 - f) Look for other efficiencies in the inspection and reporting process.
- 9) We suggest that APCD create a procedure to streamline response to voluntary self audits to reduce the resources spent evaluating self audit submittals.
- 10) We suggest that APCD evaluate methods to improve efficiency within the modeling step of permit applications (e.g., the assumptions that are being required in modeling analyses that tend to stack conservative assumptions). For example:
- a) Approved modeling protocols should not be changed to explore unrealistic scenarios.
 - b) A method to spot check a portion of modeling analyses should be identified to avoid APCD staff fully remodeling all analyses, if the analysis was prepared by APCD pre-approved third party contractors.
- 11) We suggest that APCD consider using a scale of permit processing rates for new versus experienced permit engineers.
- 12) We suggest that APCD combine permit application fees (the APEN fees and the permit processing fee) into a single fee payment to reduce the number of payment transactions and improve administrative efficiency in the billing and tracking process.
- 13) CACI would be open to discussing incorporating into any fee increase legislation a CPI (or similar) index adjustment that sunsets, perhaps after ten years, combined with a decrease in the fee increase that was proposed on December 4th.

CACI appreciates the opportunity to work with you on this Stationary Source Fund issue that you have raised. CACI believes this is an important issue and that further discussion is necessary regarding the suggestions above. We will continue to consider this issue and potential recommendations for discussion. We suggest setting up an additional meeting in the very near future to discuss the above comments and continue our dialogue. Thank you again for your effort to engage our members on this important issue.