

Background Paper

Natural Minor (Reg. 1102) Permitting Fee Increase Initiative

Background: In late 2019, the Division of Air Quality (DAQ) presented a well-received Natural Minor (Reg. 1102) Fee Increase Initiative (“NM Fee Increase”) to the regulated community. This NM Fee Increase was intended to be incorporated with the 2021-2023 Title V air permitting fee renewal legislation but was postponed in April 2020. Over the past year, DNREC has continuously monitored the program needs and considers it essential to reevaluate this proposal and potentially reintroduce stand-alone legislation to increase the Natural Minor air permitting fees. Any proposed legislation must be accepted and advanced by the General Assembly during the 2021 session, and if implemented, would be effective for 2022 billing. Essential to this effort is a proactive Communication and Outreach Plan to inform and address questions from the regulated community.

Purpose: As a result of stagnant fees, first established and unchanged since 1991, the program revenue from current fees is equivalent to 25% of the program costs. The program requires significant supplemental funds from federal grants and state general funds to cover the costs of the Natural Minor program. As the gap between program revenue and costs increases and supplemental funding sources become more strained, an increase to program fees is essential.

Given the current 75% revenue shortfall, a one-time fee increase to cover all program costs is unrealistic. In conjunction with a consolidation, simplification and restructuring of existing fee categories, DNREC recommends a three-phased approach to transition to a self-sustaining program. Each phase, a three-year period, will increase the current revenue by 25% until program revenue and program costs are equivalent. The first three-year phase period, projected for 2022-2024, will provide budget stability and an opportunity for costs assessment and fee adjustment before subsequent phased increases. The fee increases in phase one will create revenue equivalent to 50% of current program costs. Additional provisions in any proposed legislation would provide the Department Secretary the opportunity to present updated program cost factors and recommend necessary fee adjustments during the legislative sessions in 2024 and 2027. The program costs and fees will be reassessed and adjusted every three years to ensure that permit fees from regulated entities fully sustain the costs of the program in the future.

The proposed strategy will define our requirements, measure and analyze program costs and provide the necessary flexibility to adjust our fee program to achieve a self-sustaining fee structure. Furthermore, as the program’s dependency on supplemental funds is reduced, state general and federal funds will be reallocated to their intended programs and activities.

Phase One Fee Increase: This initiative will simplify the permit fee structure through the consolidation of 38 current fee types to 15 proposed application and annual fee categories. Considering the processing time and level of effort associated with the application process, the proposed fee schedule applies a greater percentage increase to application fees and less of a fee increase to annual permit fees. Additionally, this initiative establishes complexity fees for permit applications that trigger different levels of regulatory review. See Table on reverse:

| Natural Minor (Reg,1102) Fee Proposal, Phase I Only | | | |
|--------------------------------------------------------------------|-----------------------|---------------------|------------------------------|
| Fee Description | Fee Occurrence | Current Fees | Phase I Proposed Fees |
| Application Fees | | | |
| Fuel Burning - Consolidated | Each Application | \$165 | \$300 |
| Process Units - Consolidated | Each Application | \$215 | \$400 |
| VOC Unit | Each Application | \$180 | \$300 |
| VOC Sys. – Gasoline Disp. Facility | Each Application | \$120 | \$250 |
| VOC Sys. – Dry Cleaning Facility | Each Application | \$265 | \$500 |
| Water Tank Lead Paint Removal | Each Application | \$215 | \$350 |
| Temp. Emergency Variance | Each Application | \$1,000 | \$1,750 |
| Variance | Each Application | \$5,000 | \$9,000 |
| Amendment to Permits | Each Application | \$175 | \$300 |
| Application Complexity Fees | | | |
| MNSR (Minor New Source Review) | Each Application | N/A | \$3,000 |
| EOP (Emission Offset Provisions) | Each Application | N/A | \$12,000 |
| PSD (Prevention of Significant Deterioration) | Each Application | N/A | \$12,000 |
| *MACT (Maximum Achievable Control Technology) | Each Application | N/A | \$3,000 |
| *NESHAP (National Emission Standards for Hazardous Air Pollutants) | Each Application | N/A | \$3,000 |
| *NSPS (New Source Performance Standards) | Each Application | N/A | \$3,000 |
| Distributed Generator Regulation 1144 | Each Application | N/A | \$3,000 |
| Annual Fees | | | |
| Fuel Burning-Consolidated | Annual | \$75 | \$125 |
| Process Units - Consolidated | Annual | \$125 | \$200 |
| VOC Unit | Annual | \$75 | \$125 |
| VOC Sys. – Gasoline Disp. Facility | Annual | \$75 | \$125 |
| VOC Sys. – Delivery Vessel | Annual | \$50 | \$85 |
| VOC Sys. – Dry Cleaning Facility | Annual | \$175 | \$300 |
| Advertisement Fees | | | |
| **Advertisement | Each Application | \$325 | \$325 |

* Emergency generators and Natural Gas Boilers not included.

** Advertisement fees established by other code/policy. Not included in fee proposal.