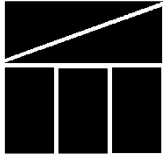


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

9 VAC 5-80 – Regulations for the Control and Abatement of Air Pollution
Department of Environmental Quality
Town Hall Action/Stage: 4724/7867
April 17, 2017 (revised April 30, 2017)

Summary of the Proposed Amendments to Regulation

The Air Pollution Control Board (Board) proposes to raise all of its emissions and maintenance fees, and most of its application fees, for stationary source air pollution permits. The Board also proposes to institute a new maintenance fee for synthetic minor sources of air pollution.

Result of Analysis

Because the program funded by these fees is required by both state and federal law, and the costs of non-compliance would likely be greater than these proposed fee increases, the benefits of the Board's proposed changes likely outweigh their costs.

Estimated Economic Impact

The Department of Environmental Quality (DEQ) and the Board currently manage the stationary source air pollution permitting program required by Title V of the federal Clean Air Act. This program is required by federal law to be self-funding. DEQ staff reports that emissions that are subject to fees per ton have been dropping. While this is beneficial for the environment as it means that air quality is improving, it also means that fee revenue that supports this program has been decreasing. In order to maintain this program as required by law, the Board now proposes to increase the fee per ton of emissions, increase all but one of the permit application

fees and increase all of the annual permit maintenance fees. The Board also proposes to institute a new maintenance fee for synthetic minor source pollution emitters that only emit, or has the potential to emit, a regulated pollutant at less than 80 percent of the threshold that would qualify them as a major source emitter. Board staff reports that this program has been understaffed so fee increases will allow staffing increases in addition to maintaining current oversight on permit holders. Board staff additionally reports that the number of permits has been basically the same over the past several years.

Proposed fee increases will increase costs for permit holders going forward. DEQ reports that large businesses will easily be able to absorb those costs. Small businesses may have a harder time paying increased fees without business disruption; the Board has attempted to minimize any adverse impact of fee increases for small businesses by phasing in some of the larger increases. The costs of these proposed changes are likely outweighed by the benefits to stakeholders of maintaining this state program as the alternative would have the federal government setting up a program in the state to manage Title V permitting. Such a program would likely be more expensive for permit holders and would likely also be less flexible and responsive to their concerns. All current fees and proposed fees are set, as required by federal law, using the Consumer Price Index (CPI) for all urban consumers. Current fees for 2017 and proposed fees for 2018 and going forward are laid out below.

Permit Application Fees:

FEE TYPE	2017 Fee	2018 Fee	\$ INCREASE	% INCREASE
Major NSR permit	\$31,895	\$63,000	\$31,105	97.5%
Major NSR permit amendment (except administrative)	\$7,442	\$10,000	\$2,558	34.4%
State major permit	\$15,947	\$25,000	\$9,053	56.8%
Minor NSR permit (that is not also a state major permit)	\$1,595	\$5,000	\$3,405	213.5%
Minor NSR permit amendment (except administrative)	\$797	\$2,500	\$1,703	213.5%
Title V permit	\$21,263	\$35,000	\$13,737	64.6%

FEE TYPE	2017 Fee	2018 Fee	\$ INCREASE	% INCREASE
Title V permit renewal	\$10,632	\$15,000	\$4,368	41.1%
Title V permit modification (except administrative)	\$3,721	\$4,000	\$279	7.5%
State operating permit	\$7,442	\$10,000	\$2,558	34.4%
State operating permit amendment (except administrative)	\$3,721	\$4,000	\$279	7.5%
Title V General Permit	\$531	\$531	\$0	0.0%
Application fees for sources subject to the requirements of synthetic minor permits				
Minor NSR permit	\$532	\$3,000	\$2,468	464.4%
Minor NSR permit amendment (except administrative)	\$266	\$1,000	\$734	276.2%
State operating permit	\$1,595	\$5,000	\$3,405	213.5%
State operating permit amendment (except administrative)	\$851	\$2,500	\$1,649	193.9%

Going forward this proposal will increase fees by 10% in 2019 and will adjust fees by the CPI for all urban consumers every year thereafter.

Emission Fees:

The emission fee for 2017 is \$61.56 per ton. This fee per ton will increase to \$73.01 for 2018 and to \$83.96 for 2019. Thereafter, the fee per ton will equal the fee for the prior year adjusted for the CPI for all urban consumers for the 12-month period ending August 31 of the prior year.

Maintenance Fees:

FEE TYPE	2017 Fee	2018 Fee	\$ INCREASE	% INCREASE
Title V Complex Major Source	\$10,632	\$21,263	\$10,631	100.0%
Title V Major Source	\$3,721	\$7,442	\$3,721	100.0%
Title V Source By Rule	\$1,595	\$2,392	\$797	50.0%
Synthetic Minor 80% Source	\$1,063	\$1,594	\$531	50.0%
Minimum Synthetic Minor	None	\$500	\$500	New Fee

For 2019, the Board proposes maintenance fees of:

FEE TYPE	2019 Fee	\$ INCREASE over 2018	% INCREASE over 2018
Title V Complex Major Source	\$23,389	\$2,126	10%
Title V Major Source	\$8,186	\$744	10%
Title V Source By Rule	\$2,790	\$398	17%
Synthetic Minor 80% Source	\$1,860	\$266	17%
Minimum Synthetic Minor	\$550	\$50	10%

For 2020, the Board proposes to raise the “Title V Source By Rule” fee to \$3,189 and the “Synthetic Minor 80% Source” fee to \$2,126 (both increases are about 14.3%). All other maintenance fees in 2020 and all maintenance fees after 2020 will be equal to the fee for the prior year adjusted for the CPI for all urban consumers for the 12-month period ending August 31 of the prior year.

Businesses and Entities Affected

These proposed regulatory changes will affect all holders of stationary source air pollution permits that are subject to the Title V fee program. Board staff reports that 560 permit holders were billed for Title V program fees in 2016, 85% of which are likely small businesses. Board staff also reports as many as an additional 1,115 sources may be affected by the new fee for synthetic minor air pollution; about 94% of these new affected sources will likely be small

businesses. Board staff reports that most permit holders are manufacturers. Some localities, as well as some state sites¹ and federal sites², also have Title V permits.

Localities Particularly Affected

The Counties of Albemarle, Augusta, Brunswick, Fairfax, Franklin, Henrico, Loudoun, Prince William, King and Queen, Shenandoah, Frederick, Gloucester, Grayson, Page, Rockingham, Shenandoah and Smyth, and the Cities of Virginia Beach, Bristol, Chesapeake, Galax, Hampton, Manassas, Norfolk and Harrisonburg, have permits that are subject to Title V program fees. Additionally, the township of Leesburg and the Roanoke Valley Resource Authority³ have permits that make them subject to Title V program fees. These localities will be particularly affected by increasing Title V permit fees.

Projected Impact on Employment

Increased permit fees will likely marginally decrease profits for affected businesses. For affected businesses that are only marginally profitable under current fees, the proposed fee increases may cause business owners to close the businesses for which they have air pollution permits and move their capital into other endeavors that may be more profitable.

Effects on the Use and Value of Private Property

Increased permit fees will likely marginally decrease profits for affected businesses. For affected businesses that are only marginally profitable under current fees, the proposed fee increases may cause business owners to close the businesses for which they have air pollution permits and move their capital into other endeavors that may be more profitable.

Real Estate Development Costs

These proposed regulatory changes are unlikely to affect real estate development costs in the Commonwealth.

¹ State sites that have permits subject to Title V program fees include some a state run training center, nine state-run universities, several community colleges, some prisons and four state-run mental health hospitals.

² Federal sites that currently hold permits subject to Title V program fees include several National Aeronautics and Space Administration installations, several Veteran's Administration medical facilities, 31 military installations throughout the state, a federal correctional facility, a Central Intelligence Agency installation in Fairfax County and a US Geological Survey site in Fairfax County.

³Roanoke County, the City of Roanoke and the township of Vinton are part of this Authority which runs the Smith Gap Regional Landfill.

Small Businesses:**Definition**

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

Costs and Other Effects

Affected small businesses will incur costs on account of increasing permit fees.

Alternative Method that Minimizes Adverse Impact

There are likely no alternative methods that would be less costly for affected businesses while still meeting the Board’s legal mandate to fund this program through program fees.

Adverse Impacts:**Businesses:**

Affected businesses will incur costs on account of increasing permit fees.

Localities:

Localities that are affected will have to pay higher permit fees under this proposed regulation.

Other Entities:

State sites listed in footnote 1 and federal sites listed in footnote 2 have permits that are subject to Title V program fees and will see increased costs under this regulatory proposal.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant

adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

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