

# COMMONWEALTH OF VIRGINIA

## Department of Environmental Quality

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**Subject:** Air Permit Guidance APG-150 – Air Permit Application Fee Guidance  
**To:** Regional Air Permit Managers  
**From:** Mike Dowd, Director, Air and Renewable Energy Division E-signature 10/21/2021  
**Date:** October 21, 2021  
**Copies:** Regional Directors

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### **Summary:**

This policy is intended to provide regional personnel with guidance in the implementation of Chapter 80, Article 10 "Permit Application Fees for Stationary Sources" and replaces the previous APG-150 guidance document. This policy is being updated based upon more than seven years of experience with the actual implementation of the permit application fee program.

### **Electronic Copy:**

Once effective, an electronic copy of this guidance will be available on:

- The Virginia Regulatory Town Hall under the Department of Environmental Quality (<http://www.townhall.virginia.gov/L/gdocs.cfm?agencynumber=440>);

### **Contact Information:**

Please contact Stanley Faggert at 804-698-4424 or [stanley.faggert@deq.virginia.gov](mailto:stanley.faggert@deq.virginia.gov) with any questions regarding the application of this guidance.

### **Certification:**

As required by Subsection B of [§ 2.2-4002.1](#) of the APA, the agency certifies that this guidance document conforms to the definition of a guidance document in [§ 2.2-4101](#) of the Code of Virginia.

### **Disclaimer:**

**This document is provided as guidance and, as such, sets forth standard operating procedures for the agency. However, it does not mandate or prohibit any particular action not otherwise required or prohibited by law or regulation. If alternative proposals are made, such proposals will be reviewed and accepted or denied based on their technical adequacy and compliance with appropriate laws and regulations.**



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482 FAX (804) 698-4178

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Ann F. Jennings  
Secretary of Natural and Historic Resources

David K. Paylor  
Director  
(804) 698-4000

**MEMORANDUM**

**TO:** Regional Directors; Central Office Air Managers; Central Office Enforcement Managers; Regional Air Permit Managers; Regional Air Compliance Managers; Regional Enforcement Managers

**CC:** Jeff Steers, Director – Central Operations

**FROM:** Michael G. Dowd, Director, Air and Renewable Energy Division

**SUBJECT:** APG-150: Air Permit Application Fee Guidance

**DATE:** January 1, 2022 (originally issued July 29, 2005 and revised July 1, 2012)

**Purpose:**

This policy is intended to provide regional personnel with guidance in the implementation of Chapter 80, Article 10 "Permit Application Fees for Stationary Sources" and replaces the previous APG-150 guidance document. This guidance is not intended to cover every possible situation but should be applicable in most scenarios. Check with the regional air permit manager and/or the central office staff if a deviation from the guidance is considered necessary.

**Background:**

In July 2004, regulations were added to the Air Pollution Control regulations to charge application fees to a limited number of newly constructed major sources. In July 2012, this regulation was expanded to include most permit applications. In January 2018, the fee amounts were revised but application fee applicability remained unchanged. This policy is being further updated based upon more than seven years of experience with the actual implementation of the permit application fee program.

**Applicability:**

This guidance applies to air permit applications received on or after July 1, 2012<sup>1</sup>. If a source has submitted an application before July 1, 2012, then the source is not subject to the revised permit application fees. This guidance applies to the following permit types:

1. Sources subject to Title V permitting requirements:
  - a. Major NSR permit (Articles 7, 8, 9)
  - b. Major NSR permit amendment<sup>2</sup> (Articles 7, 8, 9)
  - c. State major permit (Article 6)
  - d. Title V permit (Articles 1, 3)
  - e. Title V permit renewal (Articles 1, 3)
  - f. Title V permit modification (Articles 1, 3)
  - g. Minor NSR permit (Article 6)
  - h. Minor NSR amendment\* (Article 6)
  - i. State operating permit (Article 5)
  - j. State operating permit amendment<sup>2</sup> (Article 5)
2. Sources subject to Synthetic Minor permitting requirements:
  - a. Minor NSR permit (Article 6)
  - b. Minor NSR amendment<sup>2</sup> (Article 6)
  - c. State operating permit (Article 5)
  - d. State operating permit amendment<sup>2</sup> (Article 5)

**Definitions:**

*Administrative amendment* – An administrative change to a permit issued pursuant to Article 1 (9 VAC 5-80-50 et seq.), Article 3 (9 VAC 5-80-360 et seq.), Article 5 (9 VAC 5-80-800 et seq.), Article 6 (9 VAC 5-80-1100 et seq.), Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1605 et seq.), or Article 9 (9 VAC 5-80-2000 et seq.) of 9 VAC 5 Chapter 80. Administrative amendments are very limited in nature and each permit program specifically lists the only uses of the respective administrative amendment processes.

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<sup>1</sup> At this time, there is not a fee associated with general permits for minor sources, except for the biomass pilot test facility general permit.

<sup>2</sup> The air permit application fee does not apply to administrative amendments or true minor sources.

*Major new source review permit (Major NSR permit)* – A permit issued pursuant to Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1605 et seq.), or Article 9 (9 VAC 5-80-2000 et seq.) of 9 VAC 5 Chapter 80.

*Major NSR permit amendment* – A change to a permit issued pursuant to Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1605 et seq.), or Article 9 (9 VAC 5-80-2000 et seq.) of 9 VAC 5 Chapter 80. For the purpose of fee assessment, only minor amendments and significant amendments are included in this category.

*Minor new source review permit (Minor NSR permit)* – A permit to construct and operate issued under Article 6 (9 VAC 5-80-1100 et seq.) of 9 VAC 5 Chapter 80. The minor NSR permit can be used to establish synthetic minor limits for avoidance of state major, PSD, nonattainment NSR, and/or Title V permits. For the purpose of fee assessment, the minor NSR permit also includes (i) exemption determinations for a new stationary sources and (ii) exemption determinations for projects.

*Minor NSR amendment* - A change to a permit previously issued pursuant to Article 6 (9 VAC 5-80-1100 et seq.) of 9 VAC 5 Chapter 80. For the purpose of fee assessment, only minor amendments and significant amendments are included in this category.

*Sources subject to Synthetic Minor permitting requirements* - Stationary sources whose potential to emit exceeds the Title V threshold (see definition of “major source” in 9VAC5-80-60C) but have taken federally enforceable limits, either through a state operating permit or a minor NSR permit, to avoid Title V permit applicability.

*Sources subject to Title V permitting requirements* – Stationary sources that have a potential to emit above the Title V thresholds or are otherwise subject to the Title V permitting program.

*State major permit* – A permit to construct and operate issued under Article 6 (9 VAC 5-80-1100 et seq.) of 9 VAC 5 Chapter 80. State major permits are issued only under the two scenarios described below:

1. New major stationary source: when an application for new stationary source is submitted and the source will have a post-permit Potential to Emit (PTE) over 100 tpy for any Article 6 regulated pollutant and the new stationary source is not subject to permitting under Articles 8 or 9.
2. Major modification: when an application for a project at an already existing state major source is submitted and the project will increase the post-permit PTE for any Article 6 regulated pollutant by a significant amount (defined in 9 VAC 5-80-1110C) and the project is not subject to permitting under Articles 8 or 9 for that pollutant.

*State operating permit (SOP)* – A permit to operate a stationary source, issued under Article 5 (9 VAC 5-80-800 et seq.) of 9 VAC 5 Chapter 80. SOPs are most often used by stationary sources to establish federally enforceable limits on potential to emit to avoid major New Source Review permitting (PSD and Nonattainment permits), Title V permitting, and/or major source MACT applicability. SOPs can also be used to implement emissions trading requirements. The State Air Pollution Control Board, at its discretion, may also issue SOPs to cap the emissions of a stationary source or emissions unit causing or contributing to a violation of any air quality

standard or to establish a source-specific emission standard or other requirement necessary to implement the federal Clean Air Act or the Virginia Air Pollution Control Law.

*SOP permit amendment* - A change to a permit previously issued pursuant to Article 5 (9 VAC 5-80-800 et seq.) of 9 VAC 5 Chapter 80. For the purpose of fee assessment, only minor amendments and significant amendments are included in this category.

*Title V permit* – A federal operating permit issued pursuant to Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of 9 VAC 5 Chapter 80. For the purpose of fee assessment, the Title V permit also includes separate Acid Rain (Article 3) permit applications.

*Title V permit modification* - A change to a permit previously issued pursuant to Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of 9 VAC 5 Chapter 80. For purposes of fee assessment, only minor modifications and significant modifications are included in this category.

*Title V permit renewal* – A renewal of a Title V permit pursuant to Article 1 (9 VAC 5-80-50 et seq.) of 9 VAC 5 Chapter 80 or Article 3 (9 VAC 5-80-360 et seq.) of 9 VAC 5 Chapter 80. For the purpose of fee assessment, the Title V permit renewal also includes separate Acid Rain (Article 3) permit renewal applications.

*True minor source* – A stationary source whose uncontrolled emissions and potential to emit emissions are less than any major source threshold. These emissions are not kept below major source emissions levels by a permit limit or a permit requirement; rather, the source lacks the physical or operational capacity to emit major amounts, regardless of any enforceable limits. For the purpose of fee assessment, true minor sources do not include facilities required to obtain a Title V permit pursuant to Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.)

### **Fee submittal requirements:**

#### **1. When and where do the applicants submit their air permit application fee?**

The permit applicant should submit their air permit application fee concurrent with submittal of the permit application.

- a. Fee: The Air Permit Application Fee Form and a check (or money order) payable to the "Treasurer of Virginia" must be sent directly to:

Department of Environmental Quality  
Receipts Control  
P.O. Box 1104  
Richmond, VA 23218

OR

FOR OVERNIGHT DELIVERY  
Department of Environmental Quality  
Receipts Control  
1111 East Main Street, Suite 1400  
Richmond, VA 23219

- b. Application: The Air Permit Application should be sent to the appropriate regional office along with a copy of the Air Application Fee Form.

If the fee and the fee form are inadvertently submitted with the application to the regional office, they should be given to the regional office manager to be forwarded to the Receipts Control post office box listed above (not sent directly to the DEQ Finance Office).

**Frequently asked questions:**

- 1. Do I have to wait until the permit application fee is paid to consider the application complete?**

Yes. Applications will not be considered complete if the proper fee is not paid and should not be processed until full payment is received. Review of the application may not proceed past the initial permit applicability determination (i.e., 30- or 60-day letter) until the proper permit application fee is received. Note that fee payment is not the sole element for determining application completeness and that other information arriving after fee payment might determine complete date.

For Title V applications, the application is not administratively complete until the fee is received.

- 2. How do I know if the proper permit application fee has been submitted and deposited correctly to DEQ?**

CEDSAir contains an Application Fee tab, where the amount received and processed by Finance updates with data from Finance's system. CEDSAir will prohibit finalizing the permit in the database for any action with a positive balance (balance owed).

- 3. What is the proper action if the air permit application fee was not submitted with the permit application?**

9 VAC 5-80-2290 B states that "review of the application will not proceed past an initial applicability determination (i.e., 30- or 60-day letter) until a permit application fee for the proper amount is received."

This requirement is intended to protect the permit application fee process from abuse, and is not intended to interfere with the regional office's authority to manage its workload. Provided (1) the applicability and amount of the permit application fee is not in dispute, and (2) the regional office is reasonably sure that the proper fee is being submitted concurrently with the review, the regional office may use its discretion in expending man-hours to conduct permit application review beyond the initial applicability determination while awaiting the submission of the application fee. If the permit

application fee deficiency has not been corrected within a reasonable deadline established by the regional office, the office may be justified in returning the application to the applicant determining it inactive, and thereby withdrawing the application from review.

**4. Does a request for additional information require the applicant to pay the permit amendment fee?**

No. Requesting additional information during the permitting process is routine and does not require a source to complete a new application form; therefore, no additional fee is required. This is also the case if the source provides additional information necessary to supplement the active application.

However, if during the permitting process the source submits an application for a different project, then the additional fee is required for this project irrespective of whether one permit document, or two separate permit documents, will be issued. Each separate project requires a separate application and therefore a separate fee to deem that application complete. Administrative processing of a single permit document does nothing to change this requirement.

**5. Under what circumstances does a source have to pay the Title V permit modification fee?**

If a source is required to submit an application for Title V permit modification under the Regulations, the Title V permit modification fee is required. A fee is also required for a complete minor modification application and is necessary for a source to implement any changes under the minor modification provisions. This is the case regardless of the status of any other Title V permit application that may be currently undergoing DEQ review (e.g., a Title V renewal application).

However, there are two exceptions to this requirement.

- A source is required to submit a Title V modification application for each activity that triggers 9VAC5-80-80C.2. If a source can combine multiple modification requests into a single application and satisfy the regulatory timeframes in 9VAC5-80-80C.2 for each project, a single application fee would be paid. An important aspect of this approach is that each of the projects combined into a single application needs to have begun operation.
- If the initial Title V permit has not been issued yet and the modification application is to supplement the original (initial) application, the fee is not required for this additional modification application.

**6. Under what circumstances does a source not have to pay the Title V permit modification fee?**

No application can be considered complete until a fee is received. Where an application is submitted but does not need to be complete, no fee is required; however, DEQ will not work on the application. This scenario may occur where a source submits an application for a modification but realizes the permit does not need to be changed until the next

renewal (e.g., off-permit changes discussed in Chapter 10 of the Title V Manual - APG-200A). In this case, the application does not need to be deemed complete so no fee is required. A letter will be sent noting that DEQ will be waiting to process the request until renewal so no fee is requested at this time. However, if the facility wants a modified permit to reflect these changes prior to Title V permit renewal, a fee is required.

**7. What is the proper action if there are changes in the permit type during the permitting process?**

If the applicability status of the application changes after the initial applicability determination and if DEQ determines that the amount of the permit application fee submitted is insufficient for the new applicability status as a result of that change, then the permit review process should be suspended until the applicant submits the additional permit application fee amount.

- a. Higher fee: When the required permit type changes, the application may become subject to additional fees. If the application is changed during the review process such that a higher fee would be required, the applicant must submit the difference required before DEQ continues with review of the permit application. The revised fee amount is based on the calendar year the initial application was received.
- b. Lower fee: If the application is changed during the review process such that a lower fee would be required, NO refund of the permit application fee will be due to the owner (9 VAC 5-80-2290 A).

**8. If it is determined the application is for an exemption, is the fee refunded?**

No. The application fees were established taking into consideration the time required to process an exemption. Although a permit is not issued, staff time was required to make that determination; therefore, a fee applies.

**9. What is the proper fee amount for exemptions?**

In the context of this question, an “exemption” is considered to be a project at an existing stationary source that does not trigger minor or major NSR and that does not require (and the source has not legitimately requested) a minor or significant amendment to any existing permit. An “exemption” also includes an exempt determination at a new stationary source. The permit fee for the minor NSR permit of the appropriate source classification should be charged for an exemption. Taking a permit to avoid another type of permit (i.e. taking a Minor NSR permit to avoid PSD) should not be classified as an exemption and the applicable fee would be the fee associated with the issued permit action, not the avoided permit action.

**10. If an NSR permit application and Title V permit application are submitted for concurrent processing, is a fee charged for both applications?**

Yes. Although the timing for processing the applications would likely be concurrent, there are two separate permit applications (Form 7 and Form 805) requiring the issuance of two separate permit documents. In order to determine each application is complete, the proper fee for each application must be paid.



**11. What is the proper fee for an Initial Acid Rain permit application?**

The proper fee is the "Title V permit (Articles 1, 3)" fee referenced in 9 VAC 5 Chapter 80 Article 10. If the initial Acid Rain application is later combined with the initial Title V application, only one fee is required. Upon subsequent permit renewals, the Article 3 application fee will be submitted with the Article 3 Acid Rain/Title V renewal application. If the source requests a separate Acid Rain Permit, two fees will be charged. For various scenarios regarding Acid Rain permit application fees, please refer to APG-251: Implementation Guidance for Issuance of Article 3 Federal Operating Permits.

**12. What is the proper action if the source doesn't know which fee to send in with their application?**

The source should pay the lowest amount for their facility type category (i.e. Title V vs. synthetic minor). For example, if the source has an existing permit and is subject to synthetic minor permitting requirements, they should submit the amount of the minor NSR amendment within that category since it is the lowest amount. If agency review confirms the applicant has improperly identified the permit action type and a higher fee is required, it would be requested by the reviewing office, at the appropriate time

**13. What is the proper action if the air permit application fee was submitted in error?**

In accordance with 9 VAC 5-80-2290 A, permit application fees are non-refundable. The single exception to this rule is for true minor sources. True minor sources are not required to pay application fees. If a true minor source submits an application fee with their application, that fee should be refunded unless the requested permit action involves a project that would result in the true minor source becoming a synthetic minor or major source as a result of the project.

However, if the source has paid a higher fee for a particular application, the additional amount could be used to satisfy a fee for a second application, if there is one currently active. Under no circumstance (except for a true minor source) is an application fee refundable.

**14. If a refund is determined by DEQ to be appropriate, what is the refund process?**

If a source requests a refund and it is determined by regional office that one should be considered, the Regional Air Permit Manager should request the refund on behalf of the source. The request for refund process is an internal procedure maintained by the Office of Air Permit Programs.

**Examples:**

**1. Example: Avoided PSD by netting**

Question: A source with an existing PSD permit submits an application to add equipment but can demonstrate by netting that PSD is not triggered. A Minor NSR permit is issued to make the netting results enforceable. What type of fee should be charged?

Answer: The fee is for a minor NSR permit (Sources subject to Title V permitting requirements). Although the purpose of the netting exercise and the Minor NSR permit is to avoid PSD, the agency action necessary to address the application is to issue a minor NSR permit.

## **2. Example: Avoided PSD through Minor NSR Permitting**

Question: A source with an existing PSD permit submits an application for a minor NSR permit to establish a limit to avoid PSD. What type of fee should be charged?

Answer: The fee for a minor NSR permit (Sources subject to Title V permitting requirements). Although the purpose of the minor NSR permit is to avoid PSD, the agency action necessary to address the application is to issue a minor NSR permit.

## **3. Example: PSD Source Exemption determination**

Question: A PSD source submits an application for an exempt determination for a project. The project is exempt from PSD and minor NSR permitting. There is no need to amend existing permit or/and issue any new minor NSR permit. What type of fee should be charged?

Answer: The fee for a minor NSR permit (Sources subject to Title V permitting requirements). Although no permit or permit amendment was ultimately needed, the exemption determination involved evaluating the proposed change for minor NSR applicability, thus the minor NSR permit fee is charged.

## **4. Example: PSD Amendment**

Question: A source submits an application to amend a PSD condition in its PSD permit. The proposed changes do not trigger major modification under Article 8. What type of fee should be charged?

Answer: The fee for a major NSR permit amendment.

## **5. Example: PSD/minor NSR Permit**

Question: A source submits an application for a new stationary source. The source is subject to PSD (Article 8) for NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> and subject to minor NSR permitting (Article 6) for SO<sub>2</sub> and VOC. Only one permit document will be issued with two different sections: one for Article 8 requirements and another for Article 6 requirements. What fee should be charged?

Answer: The fee for a major NSR permit. Even though the review of this application involves two separate evaluations under two separate permit articles (PSD evaluation of the project under Article 8 and a minor NSR permitting evaluation under Article 6), the agency action necessary to address the application is only the issuance of a single permit document. Therefore, only one application fee should be charged. The higher of the two potential fees should be charged (in this case, the fee for a major NSR permit).

## 6. Example: Permit Application Withdrawal

Question: A source with an existing PSD permit submits an application to make a process change and believes they can net out of PSD. The application is processed and staff determines the netting exercise does not get the source out of PSD applicability and therefore a PSD permit is required. At that point, the source abandons the project and withdraws the permit application. Does the source get a refund?

Answer: No, **the regulation does not provide for refunds.** Although the source submitted the application in good faith, significant staff time was spent evaluating the proposed process change and netting scheme to determine PSD applicability.

## 7. Example: Permit Application Withdrawal

Question: Source submits minor NSR application and then withdraws the application before DEQ issues the 30-day review letter. Does the source get a refund?

Answer: The source gets a refund only if it is a true minor source. In accordance with 9 VAC 5-80-2290 A, the permit application fees are non-refundable.

## 8. Example: Correct Fee Amount (Title V Source)

Question: A Title V source is applying for a permit but is not sure if they will be required to get a PSD, SOP, or minor NSR permit. Which application fee amount should they submit with the application?

Answer: Whichever fee is lower, in this case the Title V Source minor NSR fee. When unsure of the fee, assume the minimum amount and if the classification changes and a higher fee is applicable, DEQ will request that the source submit any additional fee amount. The permit application cannot be deemed complete until the correct fee amount has been received.

## 9. Example: Title V permit modification fee

Question: A source submits an application to incorporate a recently-issued minor NSR permit into its Title V permit. What fee should be charged?

Answer: The Title V permit modification fee. This fee is required regardless of status of any Title V Permit application that may be currently undergoing DEQ review (e.g., a Title V renewal application).

## 10. Example: Title V permit modification fee for second Title V modification application

Question: A source submits an application (Application #3) to incorporate a recently issued minor NSR permit into the Title V permit. There is already a Title V renewal application (Application #1) and Title V modification application (Application #2) in-house. What fee should be charged?

Answer: A Title V permit modification fee for Application #3. This fee is required because the source is required to submit an application for Title V permit modification under the Regulations.

In this example, if the source was able to submit only one Title V modification application meeting the regulatory submittal requirements for both applications, only one fee will be charged. Such a circumstance could occur when two separate NSR permits were issued for two separate projects. If both projects commence operation within 10 months of each other, a single application could be submitted for both projects within the 12 month regulatory requirement (9VAC5-80-80C.2). If the projects commence operation 14 months apart or if the source submitted the first application without including the second project, two separate applications would be required to meet the regulatory requirement applicable to each project

#### **11. Example: Initial Title V application and Title V modification application**

Question: A source has submitted an initial application to obtain a Title V permit. The Title V permit has not been issued yet. In the meantime, the facility has obtained a new minor NSR permit. The facility has updated the initial Title V application to incorporate recently issued minor NSR permit. What fee should be charged for this updated TV application?

Answer: No fee should be charged as the initial Title V permit has not been issued yet.

#### **12. Example: Title V/Synthetic Minor**

Question: An existing major Title V source submits an application for an amendment to its existing minor NSR permit. After the permit amendment, the source will become a synthetic minor source. What fee should be charged?

Answer: Since the source is considered a Title V source at the time the application is submitted, the application cannot accurately be described as for “source(s) subject to the requirements of a synthetic minor permit”. In order for an application to qualify for “source(s) subject to the requirements of a synthetic minor permit” as provided in 9 VAC 5-80-2280, the applicant must begin and end the permitting process as a synthetic minor source. Therefore, the minor NSR amendment fee for a Title V source should be charged.

#### **13. Example: State major/Title V**

Question: A source submits an application for a new stationary source at an undeveloped site and the source will have a post-permit PTE over 100 tpy for any Article 6 regulated pollutant and the new stationary source is not subject to permitting under Articles 8 or 9<sup>3</sup>. What fee should be charged?

Answer: The fee for a State major permit. A Title V application cannot be combined with a minor or major NSR permit application.

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<sup>3</sup> If an Article 7 permit is required, a separate application with the Article 7 permit application fee is required.

**14. Example: State major/Title V**

Question: An existing state major source submits an application for a project that will increase the post-permit PTE for any Article 6 regulated pollutant by a significant amount (as defined in 9 VAC 5-80-1110C) and the project is not subject to permitting under Articles 8 or 9<sup>4</sup> for that pollutant. What fee should be charged?

Answer: The fee for a State major permit. A Title V application cannot be combined with a minor or major NSR permit application

**15. Example: Synthetic Minor/Title V**

Question: An existing synthetic minor source submits an application for a project that will have a 100 tpy increase of an Article 6 regulated pollutant. The project is not subject to permitting under Articles 8 or 9. What fee should be charged?

Answer: The fee for a minor NSR permit (Sources subject to Title V permitting requirements). Please note that this is not a state major permit and hence the state major permit fee should not be charged.

**16. Example: Incorporating Minor NSR into a State Operating Permit (SOP)**

Question: A synthetic minor source with a SOP submits an application for a project (including increased emissions from both new and modified emission units). In order to meet tight construction goals, the source requests a stand-alone minor NSR permit to allow construction to commence on the project and an SOP amendment to raise the emission limits for the modified emission units and to incorporate the requirements of the minor NSR permit for the project. What fee should be charged?

Answer: Since the agency action necessary to address the application is the issuance of two separate permits in two separate permit documents, both application fees (SOP amendment and minor NSR permit) should be charged.

**17. Example: Incorporating Minor NSR into a State Operating Permit (SOP)**

Question: A synthetic minor source with a SOP submits an application for a project. DEQ evaluates the application and determines that Article 6 is applicable to the project. Because of existing emission limits in the SOP for emission units to be modified as part of the project, the source has also requested (in the same application) that the SOP be significantly amended (raising the emission limits). DEQ and the source agree that the Article 6 permit for the project can be incorporated into the amended SOP without the need for a stand-alone permit. What fee should be charged?

Answer: Even though the review of this application involves two separate evaluations under two separate permit articles (NSR evaluation of the project under Article 6 and a SOP significant amendment under Article 5), the agency action necessary to address the application is the issuance of a single permit document. Therefore, only one

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<sup>4</sup> If an Article 7 permit is required, a separate application with the Article 7 permit application fee is required.

application fee should be charged. In these type of cases, the higher of the two potential fees i.e. minor NSR permit fee should be charged.

#### **18. Example: NSR/Title V Concurrent Processing**

Question: A source submits an application for an NSR action which must be incorporated into the Title V permit and requests concurrent processing. The source must submit both a Form 7 for the NSR change and a Form 805 for the Title V change. What fee should be charged?

Answer: The source must pay the fee for both the NSR action and the Title V action. Although the processing is concurrent, there are two separate applications requiring the issuance of two separate permit documents.

#### **19. Example: Correct Fee Amount (Synthetic Minor Source)**

Question: A synthetic minor Source is not sure what fee amount they should submit with their application. They are unsure if it will be an amendment to an existing permit or if they will need a new permit. Which application fee amount should they submit with the application?

Answer: The lowest fee, in this case the Synthetic Minor NSR Amendment fee. As stated in Example 8, when unsure of the fee, assume the minimum amount.

#### **20. Example: Correct Fee Amount (Higher level review)**

Question: A synthetic minor Source submitted an application to amend its existing minor NSR permit in 2019 and paid the 2019 fee for a minor NSR amendment. During the permit processing, in 2020, DEQ determined that the proposed project is subject to minor NSR permitting. What is the correct fee amount that they should submit?

Answer: The applicant must submit the difference required based on the 2019 fee schedule.

#### **21. Example: Exemption/Amendment**

Question: An existing synthetic minor source submits an application for a project at an existing stationary source. The application maintains that the project is exempt from NSR permitting, but it requests a significant amendment to the existing permit to accommodate the project. What fee should be charged?

Answer: Whether the source requests DEQ concurrence with their exemption determination or not, it is necessary for DEQ staff to determine whether or not NSR permitting is triggered prior to amending the permit. Since a NSR applicability (exemption) evaluation is being performed by DEQ staff as a result of the application, the minor NSR permit fee should be charged since it is the higher of the two potentially applicable fees (the other potentially applicable fee would be the minor NSR amendment fee).

## 22. Example: Exemption/Amendment

Question: An existing synthetic minor source submits an application requesting a significant amendment to the requirements of an emission unit in an existing Article 6 permit. No action that qualifies as an Article 6 project is taking place. An example of such an action would include relaxation of monitoring, reporting or recordkeeping requirements in the existing Article 6 permit. What fee should be charged?

Answer: The minor NSR amendment fee. It should be noted that the “minor” designation applies because the permit in question is a “minor” NSR (Article 6) permit; the minor NSR amendment fee (for Article 6 permits) is the same for both minor and significant amendments. Since there is no new source or project to assess for NSR applicability, the fee charged is based on the permit action required as a result of the application: the minor NSR amendment fee.

## 23. Example: Synthetic Minor Source Exemption determination

Question: An existing synthetic minor source submits an application for an exemption determination for a project. The project is exempt from PSD and minor NSR permitting. There is no need to amend an existing permit or issue a new minor NSR permit. What type of fee should be charged?

Answer: The fee for a minor NSR permit (Sources subject to synthetic minor permitting requirements), since DEQ must evaluate the proposed change for minor NSR applicability to make an exemption determination.

## 24. Example: Synthetic Minor/True Minor

Question: An existing synthetic minor source submits an application for an amendment to its existing minor NSR permit. After the permit amendment, the source will become a true minor source. What fee should be charged?

Answer: Since the source is considered a synthetic minor source at the time the application is submitted, the application cannot accurately be described as “for...a true minor source”. In order for an application to qualify as “for...a true minor source” as provided in 9 VAC 5-80-2250 C3, the applicant must begin and end the permitting process as a true minor source. Therefore, the minor NSR amendment fee for a synthetic minor source should be charged. It should be noted that future projects and permit changes at this source would not be assessed application fees, unless they propose projects whereby they would return to synthetic minor status, or become major source.

## 25. Example: Synthetic Minor/True Minor

Question: An existing true minor source submits an application for a project consisting of two new emission units. It is determined that the project is subject to Article 6 and that the source will become a synthetic minor source once the new Article 6 permit is issued. What fee should be charged?

Answer: Since the source will become a synthetic minor source at the time the permit is issued, the application cannot accurately be described as “for...a true minor source”. In order for an application to qualify as “for...a true minor source” as provided in 9 VAC 5-80-2250 C3, the applicant must begin and end the permitting process as a true minor source. Therefore, the minor NSR permit fee for a synthetic minor source should be charged.

#### **26. Example: Synthetic Minor for PM /True Minor**

Question: An existing source (synthetic minor for PM and true minor for PM10 and all other pollutants) submits an application for a project. After the permit is issued the source will be still a synthetic minor for PM and true minor for PM10 and all other pollutants. What fee should be charged?

Answer: Article 10 (Permit Application Fees for Stationary Sources) defines true minor source based upon Title V classification, and PM is not a Title V pollutant. Accordingly, the subject source is True Minor for application fee purposes and no fee is charged. It should be noted there are situations where PM is still considered a regulated pollutant, even if it is not a fee-applicable pollutant.

#### **27. Example: True Minor Sources**

Question: A source submits an application and a fee and it is determined the source is a true minor – PTE or Uncontrolled Emissions can never be over major-source thresholds. Should the fee be refunded? The source is not in a category required to obtain a Title V permit regardless of emission rate.

Answer: Yes. True minor sources are not required to pay application fees. The fee should be refunded following the guidance in this document.

#### **28. Example: True Minor/Title V**

Question: An existing true minor source submits an application for a project that triggers minor NSR permitting applicability. After the project is completed, the source will become a Title V major source. What fee should be charged?

Answer: Since the source will become a Title V major source, the application cannot accurately be described as “for...a true minor source”. Therefore, the minor NSR permit fee for sources subject to Title V permitting requirements should be charged.

#### **29. Example: True Minor/Title V**

Question: An existing landfill (true minor source) submits an application for a project that triggers minor NSR permitting applicability. The landfill is in a category required to obtain a Title V permit regardless of emission rate (i.e. Title V by rule). What fee should be charged?

Answer: The minor NSR permit fee for sources subject to Title V permitting requirements should be charged. For purposes of fee assessment, true minor sources do not include facilities required to obtain a Title V permit pursuant to Article 1 (9 VAC 5-80-50 et seq.).



Questions or comments on this guidance should be directed to the Office of Air Permit Programs.