

Proposed Amendments to 20.11.2 NMAC, *Fees*

Albuquerque Environmental Health Department
Air Quality Division

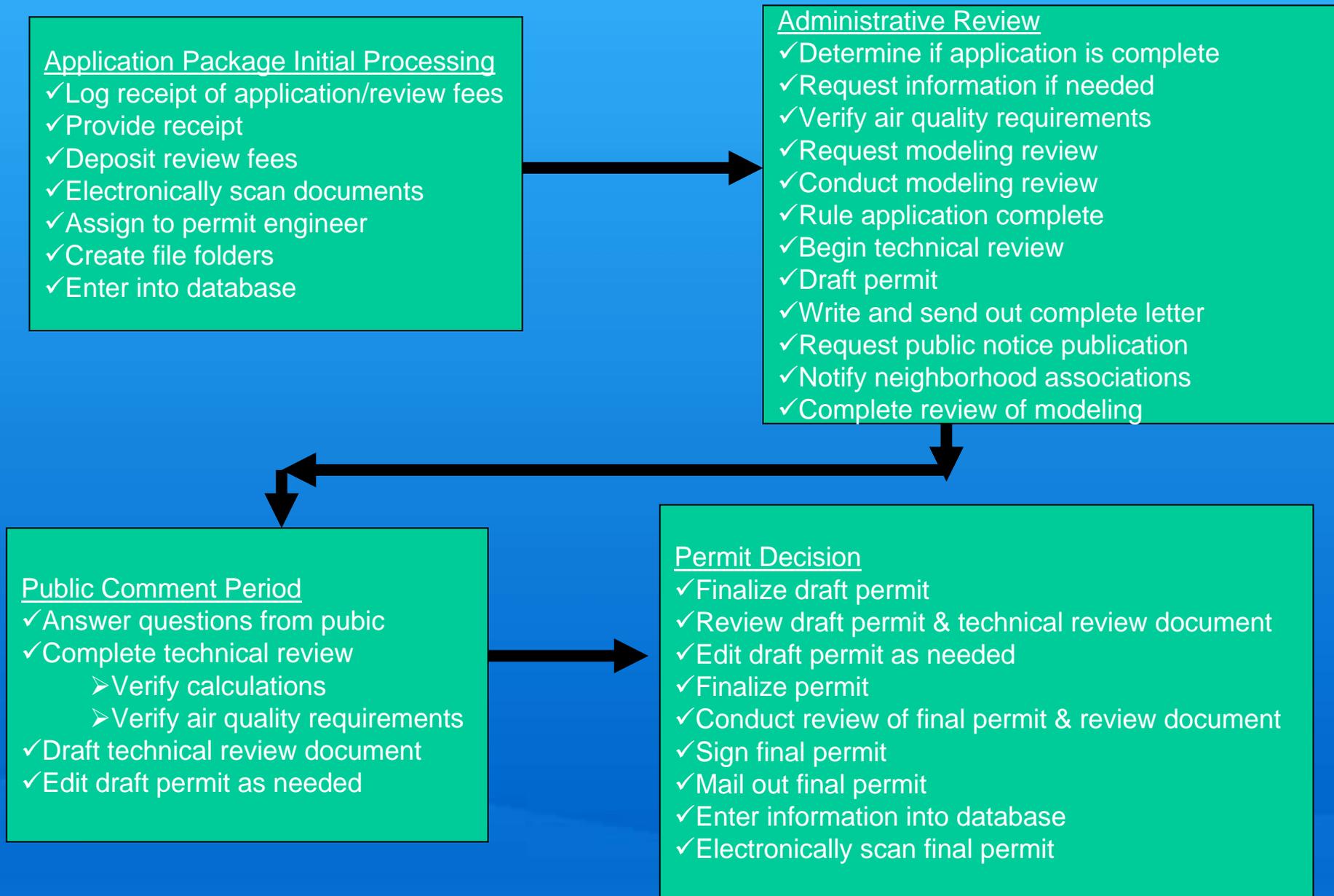
Stakeholder Review Meeting
July 20, 2010

Proposed Amendments to 20.11.2 NMAC, *Fees*

- **Stationary Sources**

- Changes basis for application review fee calculations from “potential to emit” to “proposed allowable emission rate”.
- Raises application review fees based on increased level of effort required to review applications and issue permits (see diagram on next slide).
- Increases annual fees for most stationary source permits from \$31/ton to \$44/ton, which is EPA’s presumptive minimum (based on CPI).
- Increases annual fees for sources not subject to a \$/ton fee from \$150 to \$210 flat rate per year to address the increased effort required.
- Increases annual fees for gasoline dispensing facilities and emergency generators from \$250 to \$308 flat rate or from \$31/ton to \$44/ton.

Stationary Source Application Review Process



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- Fugitive Dust Program – adjustments based on application of CPI from 2004 to 2010
 - Increases fugitive dust construction permit per acre inspection fee from \$100/acre to \$115/acre.
 - Increases the fugitive dust programmatic permit annual fee.
 - No immediate changes for fugitive dust filing and review fees, but CPI adjustments will be applied, effective January 2011.

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- Asbestos Program

- Fees remain at the current level, but CPI adjustments will be made annually, effective January 2011.

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- Expands scope and objectives to be consistent with New Mexico Air Quality Control Act.
- Clarifies refund and appeal processes.
- Going forward, CPI will be applied to all annual fees.
- Provides fees to cover the reasonable cost of operating our local air quality program.

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See “Summary of Proposed Fee Increases” document for a table that summarizes major changes.

Why are these changes being proposed?

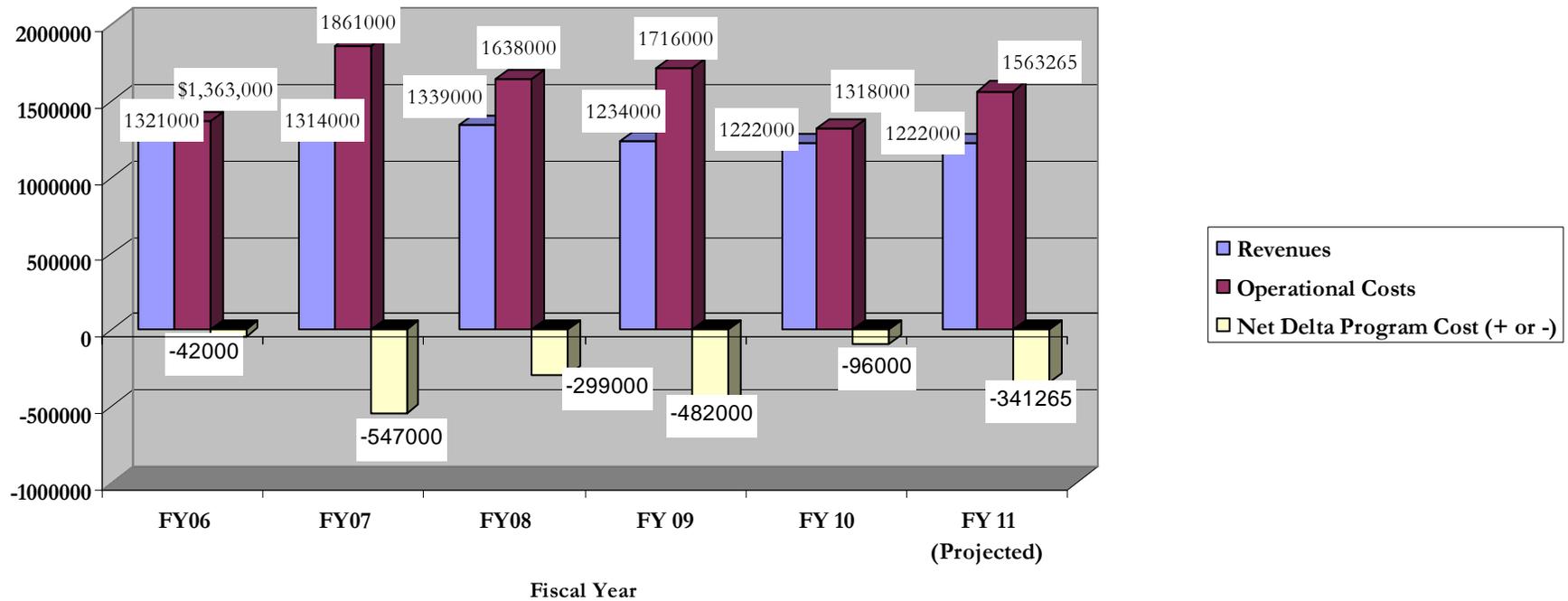
1. Federal and New Mexico laws require or authorize (depending on type of permit) collection of fees to cover specific costs. Current fees are insufficient and resulted in a projected budget deficit in FY/10 of \$290,780.

For FY11 current fees cover

- 68% of Title V program costs and
- 82% of other permitting program costs.

Why are these changes being proposed?

**Air Quality Division - Permit Program
FY 2006 - FY 2011 Program Costs vs Revenues**



Why are these changes being proposed?

2. In past years, the Fees fund balance has covered program cost deficits. The fund balance is now depleted.
3. Personnel and operating costs have increased steadily since the current fee structures were put in place between 1997 and 2004.
4. Current annual fee/ton rates for stationary sources have not changed since 1997;
Application review fees for stationary sources have not changed since 2001;
Fugitive dust fee \$/acre rate has not changed since 2001;
Programmatic fugitive dust annual fees have not changed since 2004.
5. To date, fees have not been adjusted for CPI, although CPI adjustments are authorized in the Clean Air Act.

Why are these changes being proposed?

6. Programs have increased in both volume and complexity.
 - Federal requirements have increased in stringency, complexity and volume.
 - Local programs, such as 311 calls and community involvement have increased public access to staff which results in higher demands on staff.
 - Application review process involves more steps for staff and more staff than are currently supported by application review fees.

Why are these changes being proposed?

7. To bring scope and objectives sections into conformity with language in the New Mexico Air Quality Control Act.
8. To provide needed clarification of some language and procedures.
9. To provide funding to cover the reasonable cost of operating the Albuquerque-Bernalillo County Air Quality program.

How do proposed fees compare with those in other jurisdictions?

See “Annual Emission Fee Comparisons”, attached at end of presentation.

It is difficult to make a fair comparison, as jurisdictions vary in source types, number of sources, size, density, pollutant challenges, types of jurisdictions, basis for calculations, whether other fees are added, climate and topography, etc. This table is our best attempt to compare our rates with those of other “comparable” jurisdictions in the southwest.

Next Steps?

- 6/25 to 7/26/10 Stakeholder Review draft released to stakeholders for comments; stakeholder review period is from 6/25 to 7/26.
- 7/20/10 Stakeholder meeting held to present and review proposed draft, ask and respond to questions, receive stakeholder input.
- 7/26/10 Stakeholder comments considered and incorporated into draft; EPA is notified if any changes made to Stakeholder Review draft.
- 7/18 to 9/18/10 EPA review draft is sent to EPA for review and comment. EPA comments considered and incorporated into draft, which then becomes the Public Review Draft and the Division's proposal to the Air Quality Control Board (AQCB).

Next Steps?

- 9/28/10 AQD files petition for hearing, including the Public Review Draft with Board Hearing Clerk.
- 10/14 to 12/8/10 Public Review Draft released to the public on 10/14. Public review and comment period from 10/14 to 12/8.
- 11/23/10 Notice of Intent (NOI) to present technical testimony required to be filed with the Board Hearing Clerk.
- 12/8/10 AQCB hears the proposed amendments to 20.11.2 NMAC, *Fees* at 5:30 pm during a public hearing which will immediately precede the regular monthly AQCB meeting.

Proposed Amendments to 20.11.2 NMAC, *Fees*

The proposed increase in fees does not expand the program. It allows the Division to:

- collect adequate funds to maintain the program at current levels without a budget deficit,
- meet its obligations under the Federal Clean Air Act, and
- continue to provide activities that protect the public health and the environment.

Annual Emission Fee Comparisons

Air Agency	Year		Notes
	2003	2010	
Clark County, Nevada	\$40.00 / Ton	\$47.70 / Ton	Most like Albuquerque, similar source types and pollution challenges, county program
Arizona	\$11.75 / Ton	\$39.96 / Ton	Collect higher fee during application process
Maricopa County, Arizona	\$11.75 / Ton	\$38.25 / Ton	Larger volume of Title V sources as revenue base
City of Albuquerque	\$31.00 / Ton (1997 rate)	\$31.00 / Ton	Proposed rate \$44 /ton based on EPA presumptive minimum and program cost need
New Mexico (outside of Bernalillo County)	\$10.50 / Ton - Title V Sources	\$23.07 / Ton - Title V Sources	Larger volume of Title V sources as revenue base
		\$1,734.00 Flat Rate - Non-Title V Sources	
Pima County, Arizona		Based on Source Type:	Effort based rather than per ton fees
		General Permit Type Sources (Non-Federal) - \$540.00 - \$3,250.00	
		Non-Federal Minor to Federal Synthetic Minor - \$560.00 - \$11,510.00	
		Major Source Examples:	
		Compressor Station - \$9,940.00	
		Cement Plant or Copper Smelter - \$49,710.00	

Application Review Fees for New and Existing Stationary Sources

Source Type	Current Rate	Proposed Rate	% Increase	Basis
Equal to or greater than 1 ton/yr and less than 5 tons/yr	\$ 500.00	\$ 750.00	50%	Effort based
Greater than 5 tons/yr and less than 25 tons/yr	\$ 1,000.00	\$ 1,500.00	50%	Effort based
Greater than 25 tons/yr and less than 50 tons/yr	\$ 2,000.00	\$ 3,000.00	50%	Effort based
Greater than 50 tons/yr and less than 75 tons/yr	\$ 3,000.00	\$ 4,500.00	50%	Effort based
Greater than 75 tons/yr and less than 100 tons/yr	\$ 4,000.00	\$ 6,000.00	50%	Effort based
Greater than 100 tons/yr	\$ 6,000.00	\$ 7,500.00	25%	Effort based

Annual Emission Fees for Major and Non-Major Stationary Sources

Source Type	Current Rate	Proposed Rate	% Increase	Basis
Sources subject to cost/ton annual emission fee	\$ 31.00	\$ 43.83	41%	Program Costs; utilized EPA's presumptive minimum rounded from 43.83 to 44.00/ton
Sources subject to flat annual emission fee	\$ 150.00	\$ 185.00	23%	Effort Based
Sources subject to flat annual emission fee for emergency generators and fuel dispensing facilities	\$ 250.00	\$ 308.00	23%	Effort Based

Fugitive Dust Control Permits

Permit Type	Current Rate	Proposed Rate	% Increase	Basis
Construction Permit Inspection Fee	\$ 100.00	\$ 115.00	15%	Applied CPI from 2004 to 2010
Programmatic Permit - Low Impact	\$ 11.00	\$ 13.00	18%	Applied CPI from 2004 to 2010
Programmatic Permit - Moderate Impact	\$ 55.00	\$ 64.00	16%	Applied CPI from 2004 to 2010
Programmatic Permit - High Impact	\$ 99.00	\$ 114.00	15%	Applied CPI from 2004 to 2010