

In the Matter of Petition to Amend 20.11.2
NMAC, Fees, and Incorporate an
Amended 20.11.2 NMAC into the New
Mexico State Implementation Plan (SIP)
for Air Quality (AQCB Petition No. 2010-3)

Environmental Health Department
Air Quality Division

Presentation to Albuquerque-Bernalillo County Air
Quality Control Board

December 8, 2010

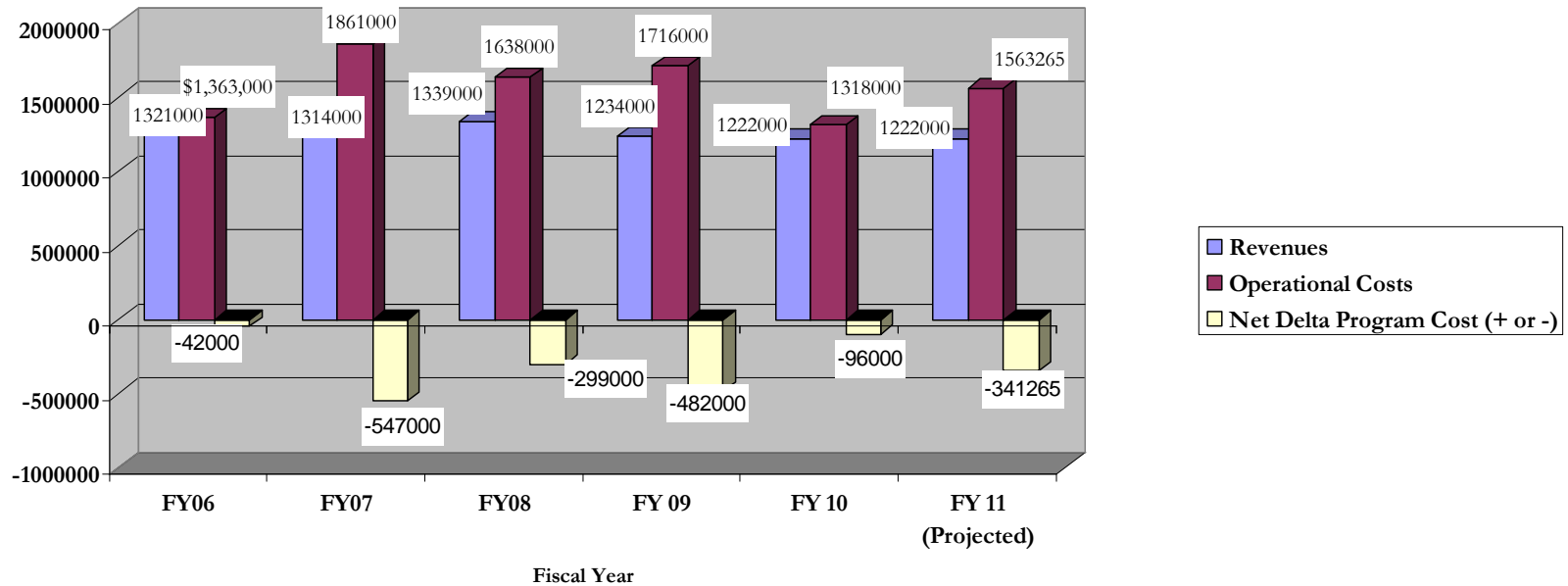


Reasons for Proposed Amendments to 20.11.2

1. Federal and New Mexico laws require or authorize (depending on type of permit) collection of fees to cover specific costs.
2. Current fees are insufficient and resulted in a projected budget deficit in FY/10 of \$290,780.
For FY/11 current fees cover
 - 68% of Title V program costs and
 - 82% of other permitting program costs.
3. In past years, the Fees fund balance has covered program cost deficits. The fund balance is now depleted.

Reasons for Proposed Amendments to 20.11.2

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



Reasons for Proposed Amendments to 20.11.2

4. Personnel and operating costs have increased steadily since the current fee structures were put in place between 1997 and 2004.
 - 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.
 - To date, fees have not been adjusted for CPI, although CPI adjustments are authorized in the Clean Air Act.

Reasons for Proposed Amendments to 20.11.2

5. 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 which results in higher demands on staff.
- Increased technical complexity of permitting process requires more staff than is currently supported by application review fees.

Reasons for Proposed Amendments to 20.11.2

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

What are the Proposed Changes and How Were They Derived?

Proposed fee increases apply to:

- Stationary sources – application review fees, emissions fees
- Fugitive Dust – construction permit inspection fees, programmatic permits for low, moderate and high impact areas
 - Asbestos removal
 - Miscellaneous fees

What are the proposed Changes and How Were They Derived?

- 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
- 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 \$185 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, whichever is greater.

What are the proposed Changes and How Were They Derived?

- 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.

What are the proposed Changes and How Were They Derived?

- Asbestos Program
 - Fees remain at the current level, but CPI adjustments will be made annually, effective January 2011.
- Administrative Fees
 - Professional services fees and public records fees will increase from \$50 and \$75/hour to \$92/hour. Proposed staff amendment to combine the two categories.
 - Proposed staff amendment deletes reference to Air Quality Impact Analysis fee because the requiring ordinance has been repealed.

What are proposed changes and how were they derived?

Other changes:

- Expands scope to be consistent with Federal and State Law
- Clarifies refund and appeal processes
- Applies CPI to all annual fees going forward.

How do these fees compare with other jurisdictions?

Please refer to AQD exhibit #6c.

How long has it been since these fees were updated?

- 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.
- To date, fees have not been adjusted for CPI, although CPI adjustments are authorized in the Clean Air Act.

What kind of outreach was conducted in developing these changes?

- A stakeholder meeting was conducted on 7-20-10.
- Presentations were made to the City Council, City Council staff, and were offered to Bernalillo County Commission.
- Article published in the City of Albuquerque Neighborhood News newsletter to solicit comments.
- Comments were received and responded to, some resulting in changes to the draft regulation.

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.

Technical Panel

- Isreal Tavaréz, Environmental Engineering Manager
- Christella Armijo, Management Analyst II
- John Liberatore, Environmental Health Supervisor, Small Business Program
- Damon Reyes, Environmental Health Supervisor, Enforcement Section

Proposed amendments to 20.11.2 NMAC, *Fees*

Questions?