

3-YEAR REGULATORY FEE AND PROGRAM COST ANALYSIS REPORT TO THE ENVIRONMENTAL QUALITY BOARD

BACKGROUND: Noncoal fees were finalized October 13, 2012. The fees support the implementation of the Noncoal Surface Mining Conservation and Reclamation Act (NSMCRA) through permitting and compliance activities. The fees were imposed due to a reduction of the Department's general fund appropriation in FY 2009-2010. All of the costs associated with the Noncoal Mining Program are paid from the NSMCRA Fund. The fee calculations were based on the workload analysis for managing staffing, and salary rates from July 2009. When the fees were proposed in 2010, the total program costs were about \$2,500,000. The fees are subject to review under 25 Pa. Code § 77.106 (d) at least every three years. This report is being completed prior to the three-year deadline since there is a substantial disparity between the program revenue and the costs and the status quo is not sustainable.

The noncoal mining program implements NSMCRA through the review of permit applications for a variety of facilities. This ranges from small mines that produce less than 2,000 tons of material per year to large quarries that produce millions of tons of aggregate per year. Permits are issued for the term of the expected mining activity. Permit revisions are made as plans change. Permitted facilities are inspected for compliance with environmental and safety requirements under Chapters 77 and 209a.

PROGRAM COST ANALYSIS:

Note: the fee collections values include revenue from civil penalties, license fees and interest.

Fiscal Year	FEE COLLECTIONS	PROGRAM COSTS
FY-2 (12-13)	\$1,704,234.96	\$2,815,131.75
FY-1 (13-14)	\$2,452,449.76	\$3,019,992.63
Current FY (14-15)	\$2,500,000.00 (est)	\$3,100,000.00 (projected)
FY+1 (15-16)	\$2,500,000.00 (est)	\$3,200,000.00 (projected)
FY+2 (16-17)	\$2,500,000.00 (est)	\$3,300,000.00 (projected)
FY+3 (17-18)	\$2,500,000.00 (est)	\$3,400,000.00 (projected)

About 60% of the program costs are associated with inspections and enforcement. The remaining 40% is related to reviewing permit and license applications. The revenue for FY 13-14 came from the following sources:

Category	Percentage
Administration Fees	56%
Permit Fees	17%
License Fees	9%
Civil Penalties	6%
Interest	12%

TREND ANALYSIS: The fee to cost ratio for the first fiscal year where all of the fees were in place for the entire year is 0.81. The trend for cost increases is about 3.3%. Without an adjustment to the fee schedule, the gap between the fees and cost will continue to grow since

costs will increase and revenue will remain flat. Revenue from fees is expected to remain consistent with the amount from FY 13-14. Cost increases are due to personnel costs. In three years, the deficit is expected to be about \$900,000 which represents 26% of the program costs. It is also possible that additional costs will be incurred due to the assessment of more operational costs to the NCSMCRA Fund. Efficiencies have been gained by partnering with the coal mining program to reduce overhead costs. Administrative costs that have been charged to the program amount to less than 5% of the total program costs paid for from the NCSMCRA Fund.

Review of expenses reveals that most of the costs are incurred for personnel. When the current fees schedule was developed, a benefit rate of 40% of salaries was used. Actual expenses for benefits for FY 2013-2014 amount to about 87% of salaries.

There are three factors that have been identified which have contributed to the disparity between revenue and expenses. First, the fees were based upon 2009 wage rates. Second, the increased benefit rate was not anticipated. Finally, the number of applications has been decreasing, reducing the revenue from permit application fees. At the same time, applications are becoming more complex.

ADVISORY COMMITTEE REVIEW: The Department has presented revenue and cost data to the PA Aggregate and Concrete Association periodically since the increase fee collections began in the Fall of 2012. The Aggregate Advisory Board (Board) was created by Act 137 of 2014 which was signed by the Governor September 24, 2014. This report was reviewed with the Board at their initial meeting on May 13, 2015.

RECOMMENDATION AND COMMENT: Fees should be increased to cover the program costs. A proposed revised fee schedule, amending 25 Pa. Code § 77.106 (e) and (f) is attached. This fee schedule adds a fee for renewals. When the regulation was proposed, it was not anticipated that renewals would be required.