

## **EXECUTIVE SUMMARY**

### **25 Pa. Code, Chapter 77, Noncoal Fees**

This proposed rulemaking includes amendments to 25 Pa. Code, §§ 77.1 (definitions), 77.51 (license requirement), 77.106 (fees), and 77.126 (criteria for permit approval or denial) in order to implement fees to support the Noncoal Mining Program.

The amendments are being proposed to assess fees to fund the noncoal mining program which implements the Noncoal Surface Mining Conservation and Reclamation Act and the Clean Streams Law. With the Commonwealth's most recent budget, funding from the General Fund has been eliminated for this program. The fees have been calculated to provide full funding for the program, which costs \$2,500,000 per year. Existing fees are nominal and have not been adjusted in the history of the program. Many permits currently have no fee.

Without the imposition of fees, the noncoal mining regulatory program will have to be terminated or at least severely curtailed. Without a stable source of funding the Department will not be capable of issuing, administering and enforcing permits required by the Noncoal Surface Mining Conservation and Reclamation Act and the Clean Streams Law. Operators would not be able to obtain permits required by law, and the public's interest in health safety and environmental protection would not be protected.

The proposed regulations implement the statutory authorization to collect a reasonable filing fee through two kinds of fees, the permit application fee and the administrative fee. The permit application fee is intended to cover only the Department's cost to review permit applications. The permit fees have been set according to the type of application submitted. The fee amounts are based on the number of hours typically required to review a specific type of permit application.

The annual administrative fee is intended to cover the Department's cost of administering the permit. These include, among other things, the cost of performing inspections of the operations, compliance assistance, and other compliance related activities, as well as tracking of required reporting and monitoring by permittees. As with the permit fees, the annual administrative fees are set based on workload analyses. The annual administrative fee schedule reflects the differences between types of operations based on the Department's respective administrative workload.

The assessment of the two kinds of fees is necessary to fairly represent the cost to the Commonwealth for reviewing, and administering, a noncoal mining permit.

### **Proposed Regulation Changes**

Section 77.1 is being amended to add definitions of Annual Administration Fee, Large Noncoal Permit, Major Permit Revision, Minor Permit Revision, Permit Application Fee, Permit Status and Small Noncoal Permit. These definitions are needed for clarity in implementing the fee schedules.

Section 77.51, subsection (e) is being amended to require an operator to pay fees in order to be eligible for a renewal of a mining license.

Section 77.106 is being renamed from “Permit Fees” to “Fees” and revised to include fee schedules for the permit application fees and annual administration fees. This section also specifies the intended use of the funds collected from the fees to support the Department’s costs of reviewing applications and administering and enforcing permits.

Section 77.126, subsection (c) is being added to include the requirement that an applicant pay all fees before a permit application may be approved.

There is no advisory board for the Noncoal mining program. However, the Bureaus of District Mining Operations and Mining and Reclamation have initiated outreach with the regulated community. The proposal has been met with some opposition. However, there seems to be an acknowledgement that there is a need for the fees.