



New Mexico Environment Department

Public Informational Meeting on Updates to Air Quality Emissions & Permit Fees

Cindy Hollenberg, Air Quality Bureau Chief
Brian Polgar, Air Quality Bureau Planning Section Chief
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Overview

- Introductions
- Funding for the Air Program
- Why Fee Increases are Needed
- Collateral Benefits of Increasing Fees
- Proposed Revisions to 20.2.71 NMAC, Operating Permit Emissions Fees
- Proposed Revisions to 20.2.75 NMAC, Construction Permit Fees
- Timeline
- Questions & Answers



NMED Intros/Contacts

- **Environmental Protection Division (AQB)**
 - Michelle Miano, EPD Director
505-479-2596, michelle.miano@env.nm.gov
 - Cindy Hollenberg, AQB Chief
505-699-4608, cindy.hollenberg@env.nm.gov
 - Brian Polgar, Planning Section Chief
505-629-3466, brian.polgar@env.nm.gov
- **Compliance & Enforcement Division (Air C&E)**
 - Bruce Baizel, CED Director
505-490-5427, bruce.baizel@env.nm.gov
 - Bret Anderson, EPCEB Chief
505-618-0086, bret.anderson@env.nm.gov



Funding for Air Regulatory Activities

- According to federal and state statute and regulations, all air quality program activities are funded through fee revenue from air permittees.
 - ▣ Federal grants help offset costs on a very limited basis.
 - ▣ Penalties go to the State General Fund, not to NMED.
 - ▣ Unlike other NMED programs, the General Fund contributes a de minimis amount to air program activities.
- The New Mexico Department of Finance Administration helps oversee NMED's two air program accounts (Special Revenue Funds).
- The EIB's only role is to set a fee schedule to assure sufficient funds are available for NMED to cover direct and indirect costs of implementing its air regulatory programs.



High Level Budget Process and Oversight



- Every year NMED requests a budget over a year in advance
- Executive and Legislative Branches recommend separate budgets in advance of each Legislative Session.
- Negotiation between those branches to develop House Bill 2, which funds NMED (and other agencies).
- NMED works with gov't partners to develop operating budget into different agency financial categories.
- NMED spends operating budget to fulfill mission within all guidelines.
- At times, NMED will request additional budget authority.



Fees Need to Cover Costs

- ❑ Federal and state law require the Environmental Improvement Board (EIB) to establish a schedule of construction permit fees sufficient to cover the reasonable costs of (1) NMED's Construction Permit Program; and (2) the reasonable costs of NMED's Title V Permit Program.
- ❑ Current construction permit and emissions fees do not cover the costs of these programs, thus stunting the work of NMED's air regulatory activities.
- ❑ Program costs include “direct” and “indirect” costs:
 - Some direct costs are labor, equipment, travel, services (including contracted), materials, and some hearing costs.
 - Some indirect costs are rent and utilities for buildings; training; and accounting, administrative and financial help.



Direct Cost Examples

- **Direct costs include, but are not limited to:**
 - Reviewing and acting upon any application for a permit or Notice of Intent.
 - Implementing and enforcing the terms and conditions of issued permits and applicable state and federal regulations.
 - Verifying compliance with representations made in applications for Notices of Intent or permits.
 - Air quality monitoring.
 - Preparing air quality regulations and guidance.
 - Modeling, analysis, and demonstrations.
 - Preparing inventories and tracking emissions.
 - Responding to air quality complaints and public concerns from emitting facilities.



Air Regulatory Program Examples

- ❑ Permitting – all types (funded by permit revenues)
- ❑ Modeling – funded by permit revenues
- ❑ Emissions inventory – funded by permit revenues
- ❑ Regulation and SIP planning – funded by permit revenues
- ❑ Small business assistance – funded by permit revenues
- ❑ Monitoring and data analysis – funded in part by federal grants, which NMED must match (40%)
- ❑ Administrative Services – funded by permit revenues
- ❑ Indirect costs – funded by permit revenues



Current Financial Picture (Two Air Funds)

- For the current fiscal year (FY26) expected costs exceed projected revenue in both programs.
 - For the construction permit program, expected costs are at least \$4 million more than projected revenue.
 - For the Title V permit program, expected costs are at least \$3 million more than projected revenue.
- With no fee increase and continuation of FY26 spending levels, the Title V Permit Program fund will be exhausted in FY28*, and the Construction Permit Program fund will be exhausted in FY30.*
 - Current revenues prevent NMED from implementing a program that protects New Mexico's air quality.

*This extreme example is not actually possible under state budgeting rules, so costs would be drastically cut to avoid fund exhaustion, constraining NMED's ability to protect New Mexico's air quality and operate its air programs.



Cutting Costs?

- Should the air regulatory programs need to cut costs, then services would be reduced – to both the regulated entities and the public.
 - Failure to comply with federal funding requirements places state programs at risk.
 - Inability to fill vacancies may lead to reduced staffing.
 - Inability to install additional air monitors leaves vast areas of New Mexico unmonitored.
 - Inability to respond to community concerns places them at risk and degrades the integrity of our mission.
 - Reduced permitting review resources will likely lead to delays.
 - NMED would need to cut services for responding to public complaints filed with NMED on emitting facilities.
 - NMED would need to shortcut collaboration and outreach on environmental planning efforts.



Concerns from the Public

NMED must consider data and input from the public as it implements its air regulatory activities.

Examples of concerns:

- ❑ Concern about ozone levels and air toxics and human exposure.
- ❑ Potential impact of data centers.
- ❑ Cumulative impacts of stationary sources.
- ❑ Concern about greenhouse gas emissions.
- ❑ Lack of ability to ensure compliance with regulations.
- ❑ Lack of air monitors and community appropriate response to community concerns.



Concerns from Regulated Entities

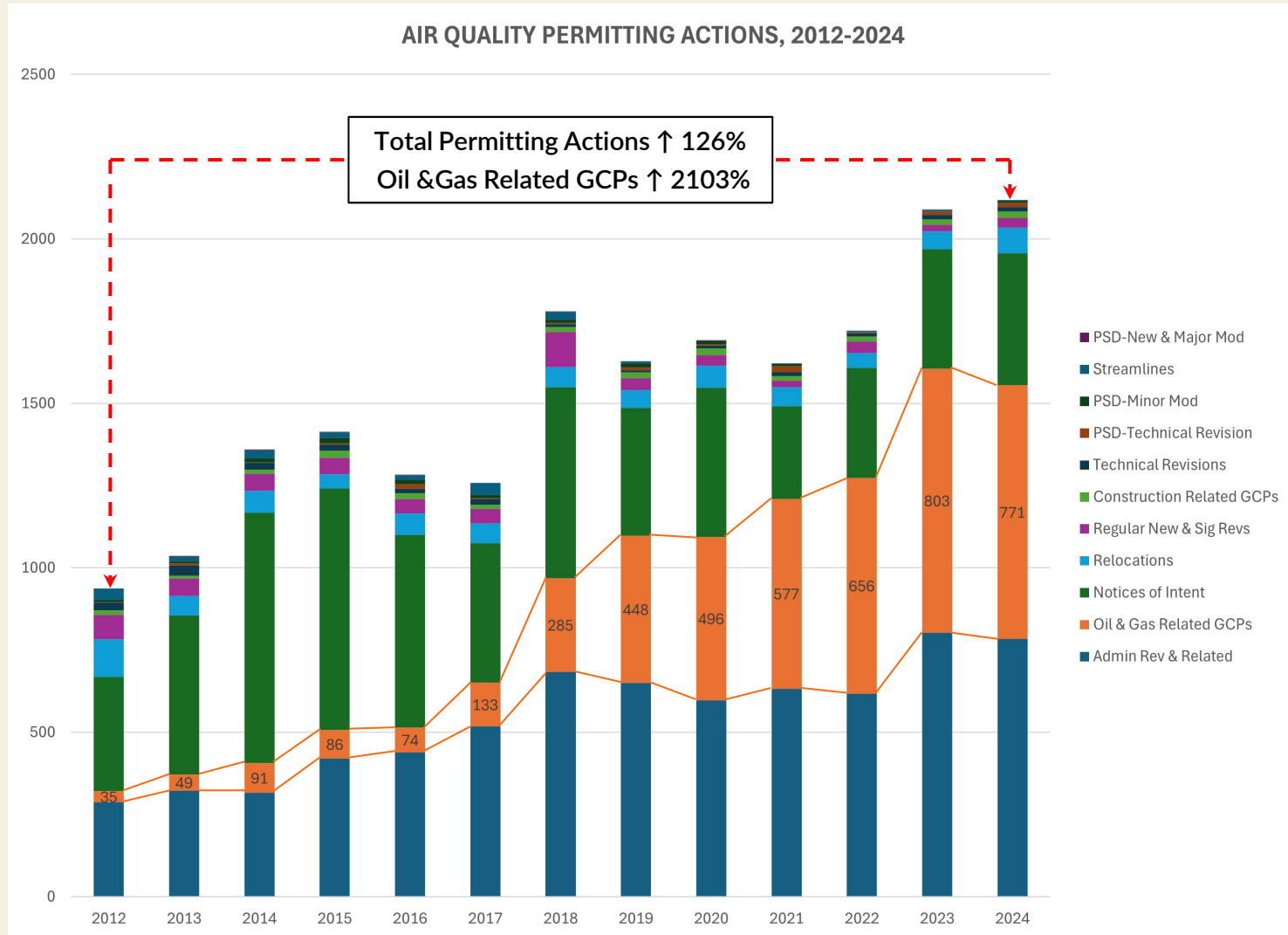
NMED must also consider data and input from regulated entities as it implements its air regulatory activities.

Examples of concerns:

- ❑ Permitting process takes too long.
- ❑ Permitting responses and questions are inconsistent across staff.
- ❑ Permit submission requirements are some of the most complicated in the industry.
- ❑ Approval of plans for the Ozone Precursor Rule (Part 50) takes too long.
- ❑ More outreach from agency to industry is needed from agency on Part 50 requirements and future regulatory planning.
- ❑ Enforcement actions are delayed beyond reasonable time frames.
- ❑ Several regulations need to be revised/updated.
- ❑ All communications should be electronic instead of paper.

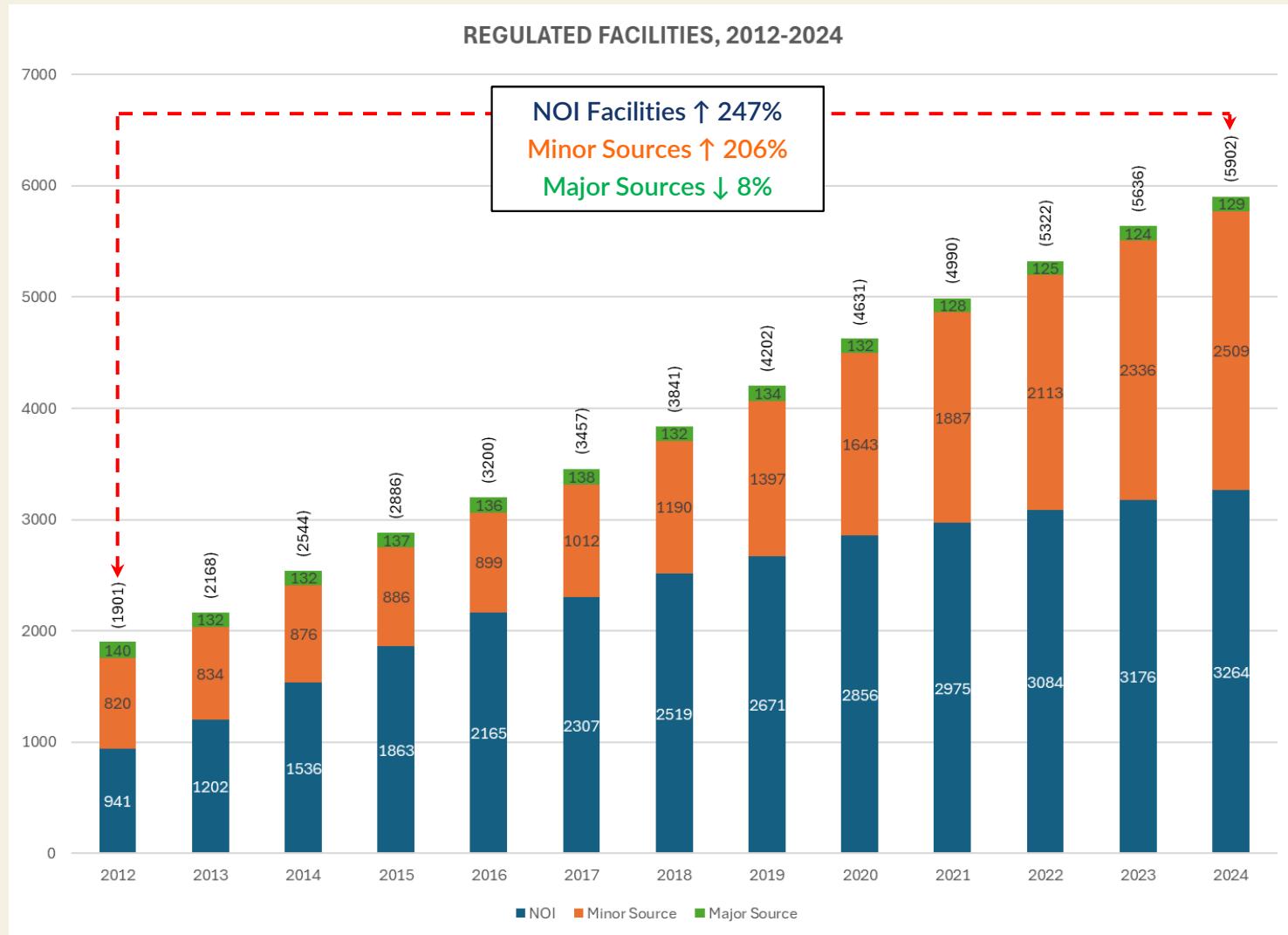


Why? Permitting Actions Over Time





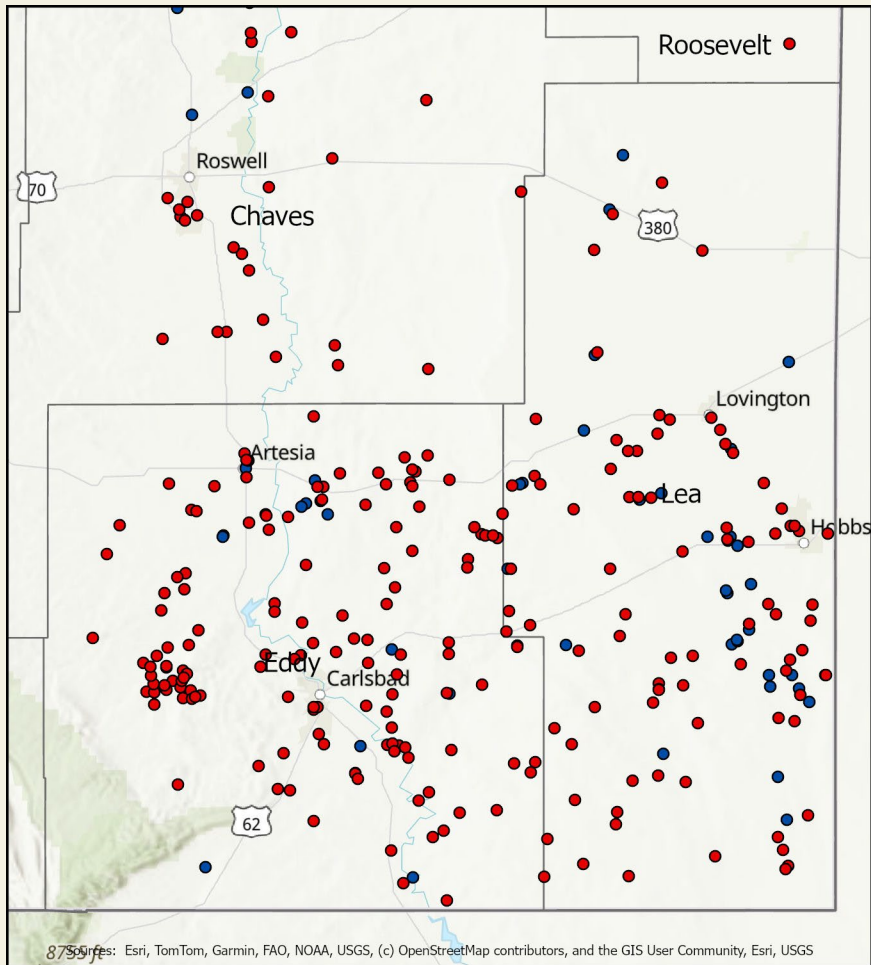
Why? Regulated Facilities Over Time



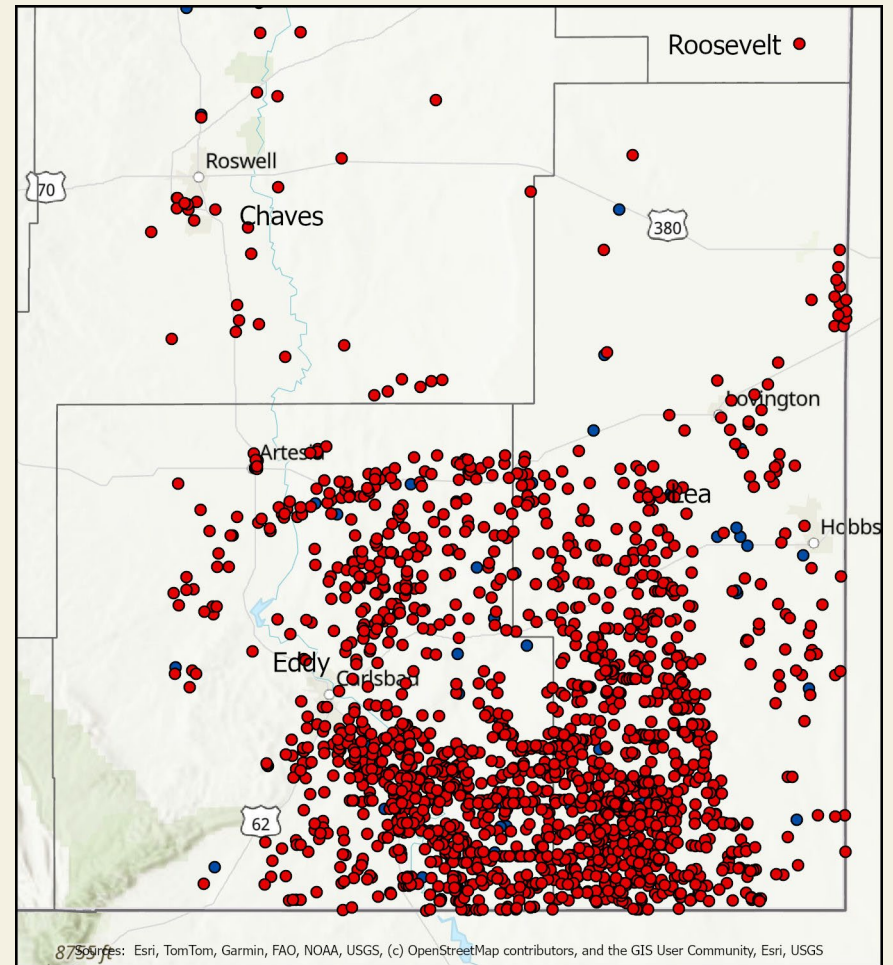


Why? Permian Growth

2009

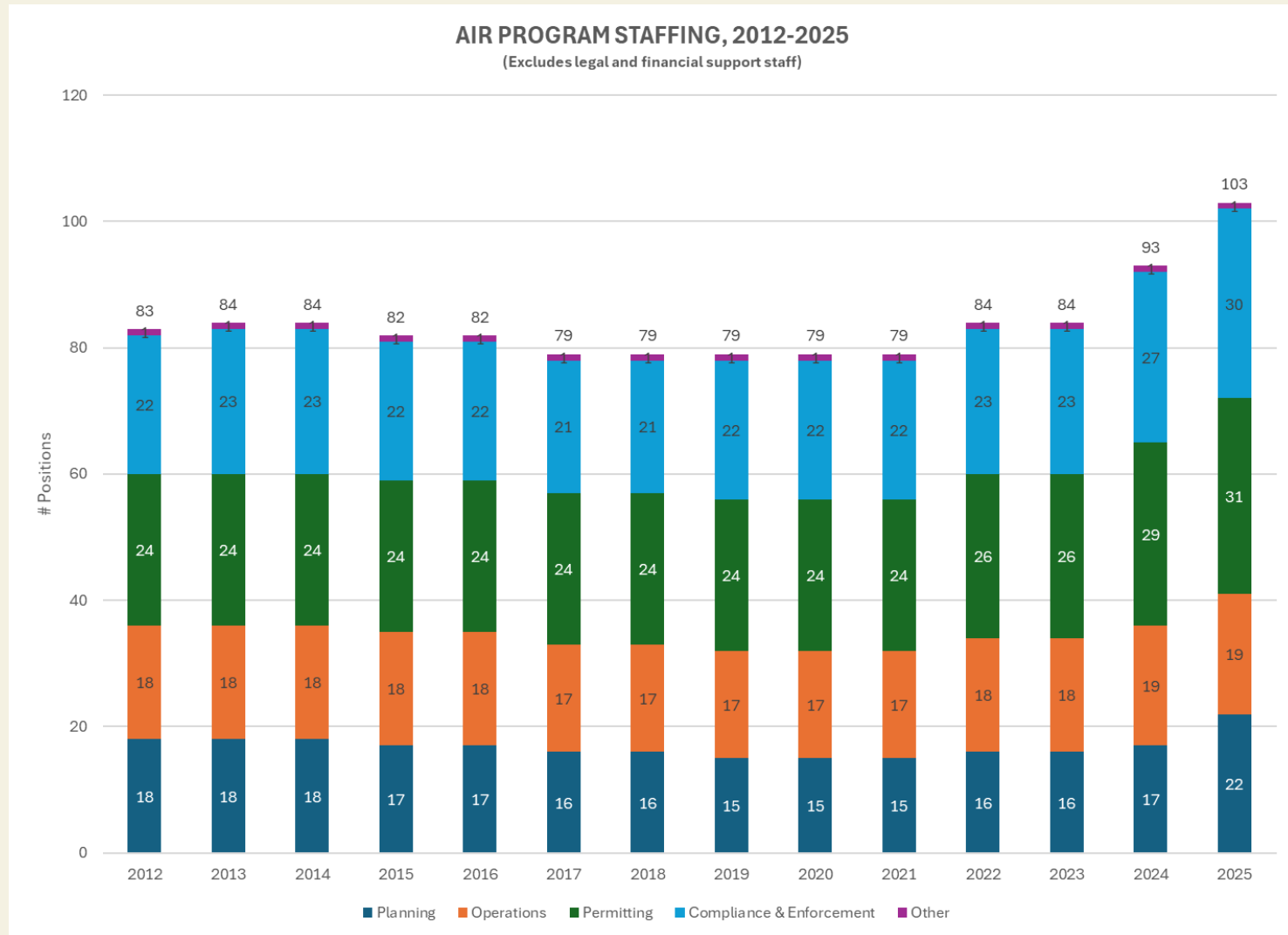


2024



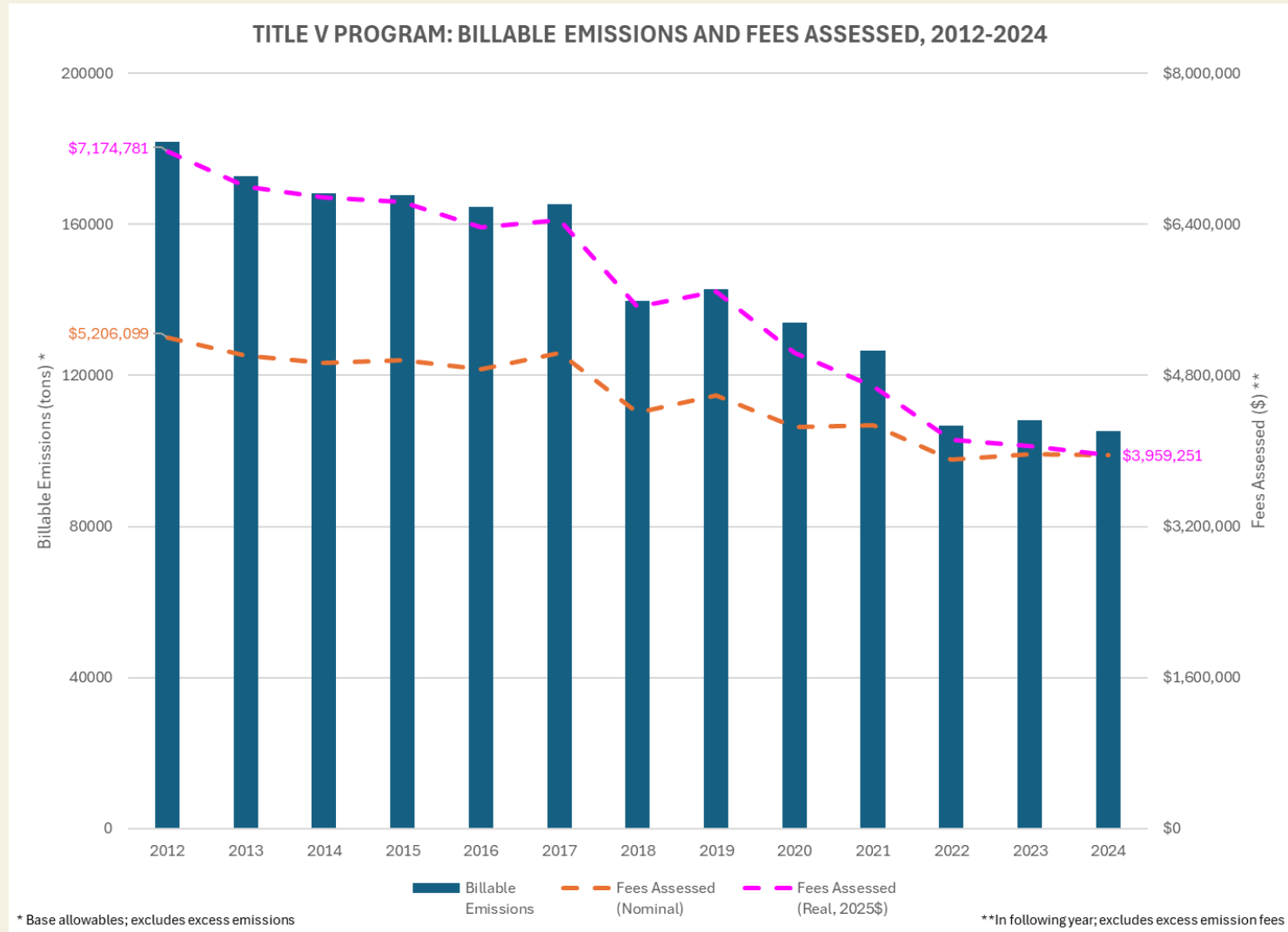


Why? Air Program Staffing





Why? Decreasing Title V Revenue





Why Fee Increases Are Needed

- ❑ Additional staff and resources are needed to keep pace with the higher workload, resulting primarily from increased oil and gas production, but also from complexity of facilities and an increase in application deficiencies.
- ❑ In addition to increased permitting needs, more regulated facilities means more non-permitting costs, such as compliance, planning, monitoring, and administration.
- ❑ More financial resources to offer competitive salaries, which will increase staff recruitment and retention.
- ❑ Air program costs have increased in FY26 due to the use of outside contractors to address increasing program needs for which the program does not have staff.
- ❑ Recent changes in federal and state air regulations have increased the complexity of both permitting and compliance.



Why Fee Increases Are Needed Cont.

- ❑ Current deregulatory push at the federal level increases the resources needed for state-level planning and action.
- ❑ Current construction permit points schedule and fees do not accurately reflect costs associated with modeling reviews, nor application reviews for NOIs and GCP-O&G registrations.
- ❑ Ongoing costs (compliance, planning, etc.) associated with NOIs have increased, with no associated ongoing revenue.
- ❑ Within the Title V program, revenue has decreased.
- ❑ Continue the momentum of fulfilling NMED's mission: Within the last 18 months, NMED has created and filled around 35 new air program positions; started work on needed database updates; initiated complex ozone modeling; initiated the purchase of a new mobile monitoring trailer (partially outside-funded); and evaluated new compliance monitoring technologies for industry usage.



Collateral Benefits for Industry

- Increased permitting program capacity, which:
 - Supports continued growth of New Mexico's economy.
 - Decreases the time required to process permit applications.
 - Allows NMED to provide enhanced technical assistance to permit applicants because permit writers will be able to devote more time to each application.
 - Allows NMED to provide added assistance to small businesses through its Small Business Environmental Assistance Program.
- Increased monitoring capability – may help reduce any nonattainment area should a designation occur.
- Increased compliance & enforcement assistance for Part 50 alternative plans, audits and inquiries.
- Additional capacity for robust outreach in planning efforts.



Collateral Benefits for the Public

- Increased resources allow more monitoring and planning for criteria pollutants and air toxics and an increase in community response.
- Increased compliance and enforcement program capacity, which:
 - Allows for more frequent audits and inspections, as well as quicker and more comprehensive complaint response
 - Reduces overall emissions through increased oversight of compliance
- Greater incentive for facilities to voluntarily reduce allowable emissions to minimize their fees.
- Support for growth of lower-emitting industries.



Revisions to 20.2.71 NMAC

□ Definition of Fee Pollutants

- Removed total suspended particulate matter (TSP) and mercury; added PM_{10} and $PM_{2.5}$
- Mercury being removed (fees also) because there are no longer major sources with mercury emissions in New Mexico.
- In the past, Title V permits contained allowable TSP emissions and operators were billed for TSP. This changed in 2017 and Title V permits no longer contain TSP, but have allowable emissions for PM_{10} and $PM_{2.5}$.
 - Due to this change and oversight, no emission fees have been collected for any particulate matter since 2018.
 - Between 2020-2024, not billing for particulate matter resulted in average annual forgone revenue of ~\$350,000.
 - Applied to 2019-2025 (7 years), this adds up to \$2.45 million in lost revenue.



Revisions to 20.2.71 NMAC Cont.

□ Emissions Fees

- Fee for non-HAPs increase from current inflation-adjusted amount of \$40.59 per ton to \$85 per ton
- Fee for HAPs reset to current inflation-adjusted amount of \$258 per ton
- Cap for fee calculation decreased from 6,000 tons per year per pollutant to 3,000 tons per year per pollutant
- Fees will be assessed for PM10 or PM2.5, not both

□ Fee Payment

- Electronic payment option added
- Provisions added regarding late fees and administrative compliance costs



Revisions to 20.2.75 NMAC

- **Filing Fees**
 - ▣ Filing fee eliminated for Notices of Intent; NOIs will now be charged an application review fee instead
- **Application Review Fees (formerly permit fees)**
 - ▣ Cost per point increased from \$539 to \$585
 - ▣ Points increased for modeling reviews (15 to 30) and GCP-Oil & Gas registrations (10 to 30)
 - ▣ Points added for Notices of Intent (10)
 - ▣ Provision added to clarify when NMED may assess additional fees



Revisions to 20.2.75 NMAC Cont.

- Annual Fees
 - ▣ Annual fee for construction permits increased from \$2,564 to \$2,800
 - ▣ Annual fee of \$700 added for Notices of Intent
- Fee Payment
 - ▣ Provisions regarding invoicing and payment of application review fees updated to reflect differences based on application type
 - ▣ Electronic invoicing and payment options added
 - ▣ Provisions added regarding late fees and administrative compliance costs



Current vs. Proposed Fees

Type of Facility	Type of Fee	Current Fee ¹	Proposed Fee
All	Cost Per Point	\$539	\$585
Regular NSR	Modeling Review	\$8,085	\$17,550
GCP-Oil & Gas	Application Review Fee	\$5,390	\$17,550
All Other GCPs	Application Review Fee	\$5,390	\$5,850
NOI	Application Review Fee	None (\$500 Filing Fee)	\$5,850
Regular NSR	Annual Fee	\$2,564	\$2,800
NOI	Annual Fee	None	\$700
Title V	Emissions Fee (non-HAPs)	\$40.59/ton	\$85/ton
Title V	Emissions Fee (HAPs)	\$258/ton	\$258/ton

¹ After January 1, 2026, CPI adjustment. Fees have not been amended by EIB since 2009 for Title V and 2003 for Construction Permit Program.



Timeline

- ❑ 12/3/2025 – NMED submitted rulemaking petition to the Environmental Improvement Board (EIB)
- ❑ 12/4/2025 – Public comment portal open (comments to agency):
<https://nmed.commentinput.com/?id=dM4UeKV73>
- ❑ 12/19/2025 – EIB scheduled a hearing starting 03/23/2026
- ❑ By 12/30/2025 – Public comment portal open (comments directly to EIB): <https://nmed.commentinput.com/?id=t8BRr4m76>
- ❑ 1/13/2026 – Hearing notice published in the New Mexico Register (<https://www.srca.nm.gov/nmac-home/new-mexico-register/volume-xxxvii-issue-1/notices-of-rulemaking-issue-1/>)
- ❑ 1/15/2026 – NMED virtual public informational meeting
- ❑ 1/22/2026 – NMED virtual “office hours” 6-8 p.m.
- ❑ 2/20/2026 – Deadline to file a Notice of Intent to provide technical testimony or Entry of Appearance
- ❑ 3/23/2026 – Start of hearing before the EIB



Questions and Discussion

- ❑ Questions or comments from the meeting attendees?
- ❑ Are there concerns or issues you've identified and would like to bring up at this point?
- ❑ NMED welcomes the opportunity to discuss specific concerns with groups, organizations or individuals. To ask questions or request a meeting, contact:
 - Eric Peters, AQB Control Strategies Manager,
eric.peters@env.nm.gov
 - Brian Polgar, AQB Planning Section Chief,
brian.polgar@env.nm.gov
 - <https://www.env.nm.gov/request-a-meeting/>