



SPONSOR: Rep. Heffernan & Sen. Hansen

HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE BILL NO. 257

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO CHANGES TO AIR QUALITY  
PERMITTING FEE STRUCTURE FOR NATURAL MINOR PERMITS.

1 WHEREAS, the fees for air quality natural minor permits issued by the Delaware Department of Natural  
2 Resources & Environmental Control have not been updated in almost 3 decades; and

3 WHEREAS, the failure to update air quality natural minor permit fees has gradually moved most of the cost of  
4 operating the program from the holders of the permits to the State General Funds and Federal Grant Funds.

5 NOW, THEREFORE:

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all  
7 members elected to each house thereof concurring therein):

8 Section 1. Amend Chapter 60, Title 7 of the Delaware Code by making insertions as shown by underline as  
9 follows:

10 § 6026A. Division of Air Quality Natural Minor Permitting Fees.

11 (a) The Division of Air Quality Natural Minor Permitting program encompasses the permitting, compliance,  
12 enforcement, and administrative activities associated with permits, not classified as Title V or synthetic minor as described  
13 in subchapter VIII of this chapter. Permits under this section are hereinafter referred to for fee purposes as “natural minor  
14 permits.” Application and annual fees for these natural minor permits issued under this program will be used to support  
15 those activities.

16 (b) (1) The schedule of fees set forth in this section is the first of a phased fee adjustment necessary to establish a  
17 self-sustaining permitting program. The fees set out herein are expected to cover one-half of the costs of the natural minor  
18 permitting program. Prior to July 1, 2024, the program operating costs will be reassessed and the Secretary shall  
19 recommend to the General Assembly that fees be adjusted as necessary to generate 75 percent of program costs. Prior to  
20 July 1, 2027, the Secretary shall conduct an additional program cost assessment and recommend to the General Assembly  
21 any fee adjustment necessary to generate 100 percent of the program costs. After these adjustments, the program costs will  
22 be reassessed every three years to adjust fees to ensure that permit fees from regulated entities fully sustain the costs of the  
23 program.

(2) Any fees collected under this section are hereby appropriated to the Department to administer the Natural Minor Permitting program of this section, which carries out the purposes of this chapter.

(3) The fees set forth in this section supersede all prior fee schedules.

(c) Application fees are as follows for each application:

Fuel Burning Unit \$300

Process Unit \$400

Volatile Organic Compounds Unit \$300

Volatile Organic Compounds Systems-Gasoline Dispensing Facility \$250

Volatile Organic Compounds Systems-Dry Cleaning Facility \$500

Water Tank Lead Paint Removal \$350

Temporary Emergency Variance \$1,750

Variance \$9,000

Permit Amendment \$300

(d) Additional application complexity fees are as follows for each application (with the exception of emergency generators as defined in 7 DE Admin. Code 1144 and natural gas boilers):

Minor New Source Review Applicability \$3,000

Emission Offset Provisions \$12,000

Prevention of Significant Deterioration \$12,000

Maximum Achievable Control Technology \$3,000

National Emission Standards for Hazardous Air Pollutants \$3,000

New Source Performance Standards \$3,000

Distributed Generator \$3,000

(e) Annual Permit Fees are as follows:

Fuel Burning Unit \$125

Process Unit \$200

Volatile Organic Compounds Unit \$125

Volatile Organic Compounds Systems-Gasoline Dispensing Facility \$125

Volatile Organic Compounds Systems-Delivery Vessel \$85

Volatile Organic Compounds Systems-Dry Cleaning Facility \$300

53           (f) Annual fees are due within 60 days of the invoice date. Each source is required to pay its annual fee. The  
54   Department has the authority to revoke a permit on the sole basis that the annual fee has not been paid. Sources that have  
55   not paid their annual fee may be given notice that their permit will be revoked for nonpayment of the fee. A permit may not  
56   be revoked for nonpayment of a fee without 60 days written notice or prior to 3 months past the due date for the fee.  
57   Revocation or cancellation of the permit shall not relieve the source of the obligation to pay the delinquent fees. The  
58   Department shall track payment records of delinquent sources and shall document actions taken to recover delinquent fees.

59           (g) Sources subject to fees pursuant to subchapter VIII of this chapter, who are not delinquent, are exempt from  
60   natural minor permit fees.

61           Section 2. This Act takes effect on January 1 following its enactment into law.

#### SYNOPSIS

This Act modifies the existing fees and supporting fee structure for air quality natural minor permits issued by the Department of Natural Resources and Environmental Control. This Act creates a new subsection establishing fees associated with the natural minor permit program. The existing fees were established in a 1991 bill, but not codified. The fees have not been adjusted in almost 3 decades and as a result the program is not self-sustaining. This Act will allow for a phased approach to increase these fees, with the first increase intended to result in funding 50% of the program costs. Evaluations will occur before July 1 of 2024 and July 1 of 2027 with recommended adjustments to fund 75% and 100% of the program costs respectively. It also requires subsequent evaluations, to occur every three years, to ensure the fees are completely funding the program. Sources subject to fees pursuant to Subchapter VIII of this Chapter, who are not delinquent, are exempt from natural minor permit fees.