

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of the Environment
(DLS Control No. 16-083)**

Overview and Legal and Fiscal Impact

This regulation reduces the permit to construct application fee for charbroilers, pit barbeques, and specified fuel-burning equipment.

The regulation presents no legal issues of concern.

Special fund revenues for the Maryland Clean Air Fund decrease by an estimated \$14,200 annually beginning in fiscal 2017 due to the reduction in application fees for specified permits to construct. Special fund expenditures are not materially affected.

Regulation of COMAR Affected

Department of the Environment:

Air Quality: Permits, Approvals, and Registration: COMAR 26.11.02.17

Legal Analysis

Background

On September 15, 2015, Governor Larry Hogan announced a plan to reduce or eliminate a number of fees across State government. Governor Hogan announced a second round of fee reductions or eliminations on May 12, 2016. This regulation is part of the second round of reductions or eliminations. Additional information regarding Governor Hogan's fee reduction initiative may be found [here](#).

Summary of Regulation

The regulation reduces the fees below that are assessed by the Department of the Environment for various permits to construct.

Type of Permit To Construct	Current Fee	Proposed Fee
Charbroiler	\$200	\$100
Pit barbeque	\$200	\$100
Fuel-burning equipment with rated heat input capacity of < 10 million Btu/hr	\$500	\$400

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 1-404, 2-103, 2-301 through 2-303, and 2-401 through 2-404 of the Environment Article as statutory authority for the regulation. More specifically, § 2-401 authorizes the department to adopt regulations that require a permit or registration before a person constructs, modifies, operates, or uses a source that may cause or control emissions into the air. Section 2-403(a) requires the department, by regulation, to require and collect a fee for each permit issued under § 2-401. Section 2-403(b)(1) requires the amount of the fees to cover (1) the reasonable cost of reviewing and acting on permit applications; (2) the reasonable costs incurred in implementing and enforcing the terms and conditions of the permits, exclusive of any court costs or other costs associated with any enforcement actions; and (3) costs identified in a specified section of the federal Clean Air Act Amendments of 1990. Section 2-403(b)(2) requires the fees to be used exclusively for the development and administration of the permit program. The remaining cited authority is not relevant to this regulation.

The relevant cited authority is correct and complete. However, if the fee reductions result in insufficient revenue to cover permit program costs, the regulation may not reflect the legislative intent of the law.

Fiscal Analysis

Special fund revenues for the Maryland Clean Air Fund decrease by an estimated \$14,200 annually beginning in fiscal 2017 due to the reduction in application fees for specified permits to construct. Special fund expenditures are not materially affected.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation decreases special fund revenues minimally due to the reduction in application fees for specified permits to construct. The department estimates that the reduction in the one-time application fees for charbroilers, pit barbecues, and specified small fuel burning equipment reduces special fund revenues by \$14,200 annually. (See **Exhibit 1**). This estimate is based on calendar 2015 permit activity and assumes a similar number of applications in future years. The Department of Legislative Services concurs. The department further notes that the decrease in revenue is negligible compared to the program's total revenues and that there is a sufficient fund balance to continue program operations.

Exhibit 1
Impact of Fee Reductions

<u>Type of Permit to Construct</u>	<u>Number of Applications</u>	<u>Current Fee</u>	<u>Proposed Fee</u>	<u>Revenue Change</u>
Charbroiler or Pit Barbeque	51	\$200	\$100	(\$5,100)
Small Fuel Burning Equipment	91	500	400	(9,100)
Total				(\$14,200)

Impact on Budget

Special fund revenues for the Maryland Clean Air Fund decrease by an estimated \$14,200 annually beginning in fiscal 2017; however, there is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State because the regulations merely result in a \$100 one-time benefit to affected small businesses. The Department of Legislative Services concurs.

Contact Information

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