

S.34. Anaerobic Digester Exemption from Permit Fee

- Section 6 of S.34 exempts anaerobic digesters from the fee for an air contaminant source.
 - Digesters still must obtain a permit and do what is necessary under the permit.
- The lost revenue is only approximately \$50,000.
 - The revenue is lost not from the General Fund or the Agency of Natural Resources Environmental Permit Fund, but from the Air Pollution Control Fund.
- The Agency has only been collecting these fees for two years—and not because the legislature told them to collect the fees, but because the Agency decided digesters were supposed to pay the fees.
- Federal law requires ANR to pay for its air pollution control program with permit fees and federal funds.
 - Federal law allows a State to set permit fees in its own discretion as long as fees are sufficient to meet the program needs. See 40 C.F.R. 70.9(b)(3).
 - Exempting digesters from permit fees will not put ANR at risk of not paying for the program.
 - Up until 2 years ago ANR paid for its program without the fees from digesters.
 - In those 2 years, ANR has not added new positions to the air pollution control program.
 - 2 years ago, the General Assembly amended the ANR fees for air contaminant permits to require increased fees on other emitters.
 - Thus, ANR should have sufficient money to run the air pollution control program.
- In addition, in the 2 years since ANR started collecting fees from digesters, ANR has not inspected a digester or its emissions.
- In addition, ANR witnesses indicated that they are not collecting the air contaminant fee for other sources (usually small sources).
 - Thus, other emissions are permitted but exempt from the fee.
 - Digesters would be no different.