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Sent: Monday, December 21, 2009 3:26 PM
To: EP, RegComments
Subject: Comments on the Proposed Rulemaking [25 PA Code CHS. 121, 127 and 127
Attachments: Fee Schedule.doc

Sunoco, Inc. endorses and supports comments on the proposed rule submitted by Pennsylvania Chamber of Business and Industry on behalf of its members. In addition, Sunoco, Inc. submits the attached comments for your consideration

<<Fee Schedule.doc>>

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REVIEW COMMISSION

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December 21, 2009

Via email: RegComments@state.pa.us

The Honorable John Hanger
Secretary
Department of Environmental Protection &
Chairperson, Environmental Quality Board
Rachel Carson State Office Building, 16th Floor
400 Market Street
Harrisburg, PA 17101

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DEC 23 REC'D

INDEPENDENT REGULATORY
REVIEW COMMISSION

Subject: **Comments on the Proposed Rulemaking, Environmental Quality Board
[25 PA Code CHS. 121, 127 AND 139], Air Quality Fee Schedule]**

Dear Secretary Hanger:

Sunoco, Inc. endorses and supports comments on the proposed rule submitted by Pennsylvania Chamber of Business and Industry on behalf of its members. In addition, Sunoco, Inc. submits the following comments for your consideration.

Preamble - Benefits, Cost and Compliance

In the preamble to the proposed rulemaking document the Environmental Quality Board (EQB) indicates that the Commonwealth would benefit from the amendments because the Department of Environmental Protection (DEP) would be able to maintain the needed staffing level in the air quality program. Under the present economic conditions numerous federal, state and local agencies and private enterprises are implementing significant cost cutting measures, eliminating, reducing or reevaluating the services they provide in order to be more competitive and effective.

Many facilities have installed expensive control technologies and implemented other control measures in order to reduce emissions. Because emissions reductions result in lost revenue to the air program, DEP is proposing to penalize these facilities by substantially increasing and adding new emissions fees. These increases would in effect be a disincentive for implementing further reductions. As facilities continued to reduce emissions and/or cease operation, the revenue to the air program would be reduced accordingly. This in turn would result in the necessity for even more fee increases.

As an alternative to fee increases, EQB should consider potentially more effective and sustainable options for supporting the air program. Such options include:

- Conducting a through evaluation of the services being provided by DEP, and consideration of eliminating programs that offer only marginal environmental or public benefits relative to their cost;
- Increasing the use of technology and standardized process (i.e. electronic reporting, issuing more general permits);
- Consolidation of offices, and increased efficiencies within the office environment;
- Adopting EPA regulations rather than spending limited available resources developing state-specific rules and regulations

§127.701 General Provisions

In spite of the fact that the fee increases under 127.702 are being proposed for 2010 to 2020, new paragraph (d) under this section would allow DEP to revise those fees (presumably upward) every five years. Discretionary and frequent revisions of a regulatory fee program authorized by statute are not an appropriate method to address shortfalls in DEP's budget due to reductions in the Commonwealth's budget. Clear guidelines defining when and how the fees may be increased are necessary.

§127.702 Plan Approval Fees

The revised paragraph (h) should indicate that the additional fees are payable only when the affected modifications to the plan approval application are initiated by the owner or operator, and not when DEP requires the application be modified. Otherwise, the plan approval process could be seen as a fee generation tool rather than the compliance tool it was created to be.

§127.704 Title V operating permit fees under Subchapter G

The proposed fees should not apply to activities that do not require significant DEP action or intervention, such as administrative amendments, minor modifications and transfer of ownership. In addition to requiring relatively minimal effort and resources, these activities can occur frequently during the term of a permit and have no adverse environmental impact. Yet, under the proposed rule, these activities would result in significant cost to the permit holder.

Sampling and testing

§139.201 General Provisions

The fees schedule described on Table 1 covers the years 2010 to 2020. However, paragraph (e) would allow DEP to revise those fees every five years. As stated before, this creates more uncertainty for the regulated community. There must be clear guidelines defining when and how the fees may be increased. This may be perceived as way of balancing the program budget due to reduction in the Commonwealth resources, and could be a disincentive for facilities to implement emission reduction measures.

§139.202 Schedule for testing, auditing and monitoring fees

The proposed fee schedule results in a significantly disproportionate impact upon facilities, such as Sunoco, that are required to install numerous CEM systems and conduct frequent stack samplings, regardless of the facilities' relative impact upon the environment. This could result in significant additional expense for facilities that have installed many CEMS. Facilities that rely on less onerous and/or accurate compliance tools such as parametric monitoring, work practices and periodic sampling would be affected less, even where those facilities have equal or greater environmental impact.

In addition, these proposed new fees are very complicated and may be perceived as a revenue enhancement program. The proposed fees under §139.202 should not be included in the final rule, and instead DEP should consider relying solely on reasonable emission fees under §127.705 to supplement the air program costs. Should DEP opt not to eliminate the proposed fees, the fees should at a minimum be limited to one fee per activity; there should be no fees for subsequent submittals.

Thanks again for affording Sunoco the opportunity for submitting these comments.

Sincerely,

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