

# Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY  
REVIEW COMMISSION

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Independent Regulatory  
Review Commission

(All Comments submitted on this regulation will appear on IRRC's website)

**(1) Agency**

Environmental Protection

**(2) Agency Number: 7**

Identification Number: 536

**IRRC Number:**

3231

**(3) PA Code Cite:** 25 Pa. Code Chapter 121 and Chapter 127, Subchapters F and I

**(4) Short Title:** Air Quality Fee Schedule Amendments

**(5) Agency Contacts (List Telephone Number and Email Address):**

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**(6) Type of Rulemaking (check applicable box):**

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation

- Emergency Certification Regulation
- Certification by the Governor
- Certification by the Attorney General

**(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)**

This proposed rulemaking amends existing and adds new requirements and fee schedules under 25 Pa. Code Chapter 127, Subchapter I (relating to plan approval and operating permit fees) to ensure that fees are sufficient to cover the costs of administering the plan approval application and operating permit process as required by section 502(b) of the Clean Air Act (CAA) (42 U.S.C.A. § 7661a(b)) and section 6.3 of the Air Pollution Control Act (APCA) (35 P.S. § 4006.3).

The Department of Environmental Protection (Department) is proposing increases for plan approval applications and for both Title V and Non-Title V operating permits, as well as for the annual operating permit administration fee for both Title V and Non-Title V sources. The annual operating permit administration fee is proposed to be replaced with an annual operating permit maintenance fee that would be due on or before December 31 of each year.

The Department is also proposing new fees for applications for the following: plantwide applicability limits (PAL); ambient air impact modeling of certain plan approval applications; risk assessments; asbestos abatement or demolition or renovation project notifications (asbestos notifications); and requests for determination (RFD) or for claims of confidential information. This proposed rulemaking would also give the Department the authority to establish fees for the use of general plan approvals (GPA) and general operating permits (GP) for stationary or portable sources under Chapter 127, Subchapter H (relating to general plan approvals and operating permits).

The Department established the proposed fees by identifying the number of staff required and the approximate time necessary to complete each review or action, including the amount of salaries and benefits. The Department also compared the proposed fees to those of the Commonwealth's approved

local air pollution control agencies (Philadelphia and Allegheny Counties) and to those of surrounding states. See attached Fee Analysis Report.

This proposed rulemaking will be submitted to the United States Environmental Protection Agency (EPA) for approval as a revision to the Commonwealth's State Implementation Plan (SIP) following promulgation of the final-form regulation.

**(8) State the statutory authority for the regulation. Include specific statutory citation.**

This proposed rulemaking is authorized under section 5(a)(1) of the APCA (35 P.S. § 4005(a)(1)), which grants the Environmental Quality Board (Board) the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth, and section 5(a)(8) of the APCA (35 P.S. § 4005(a)(8)), which grants the Board the authority to adopt rules and regulations designed to implement the provisions of the CAA, which, in this case, relate to fees under Title V of the CAA.

The proposed amendments to the fee schedules are authorized under section 6.3 of the APCA. Section 6.3(a) authorizes the Board to establish fees sufficient to cover the indirect and direct costs of administering the air pollution control plan approval process, operating permit program required by Title V of the CAA (42 U.S.C.A. § 7661-7661f), other requirements of the CAA and the indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, the Small Business Compliance Advisory Committee, and the Office of Small Business Ombudsman. This section also authorizes the Board by regulation to establish fees to support the air pollution control program authorized by this act and not covered by fees required by section 502(b) of the CAA.

**(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as any deadlines for action.**

Yes. Section 110(a)(2)(E)(i) of the CAA (42 U.S.C.A. § 7410(a)(2)(E)(i)) requires necessary assurances that the Commonwealth will have adequate personnel, funding, and authority to carry out the SIP, which must provide for the attainment and maintenance of the health-based and welfare-based National Ambient Air Quality Standards (NAAQS) established by the EPA for air contaminants including ozone, fine particulate matter, lead, carbon monoxide, nitrogen dioxide, and sulfur dioxide. In accordance with 40 CFR 51.280 (relating to resources), the SIP must also include a description of the resources available to state and local agencies needed to carry out the plan.

Section 502(b) of the CAA requires the Commonwealth to adopt regulations that the owner or operator of all sources subject to the requirement to obtain a permit under Title V of the CAA pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of Title V.

Section 6.3(a) of the APCA authorizes the Board to establish fees sufficient to cover the indirect and direct costs of administering the air pollution control plan approval process, operating permit program required by Title V of the CAA, other requirements of the CAA and the indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, the Small Business Compliance Advisory Committee, and the Office of Small Business Ombudsman. This

section also authorizes the Board to establish fees by regulation to support the air pollution control program authorized by this act and not covered by fees required by section 502(b) of the CAA.

In accordance with 40 CFR 70.10(b) and (c) (relating to federal oversight and sanctions), EPA may withdraw approval of a Title V Permit Program, in whole or in part, if EPA finds that a state or local agency has not taken "significant action to assure adequate administration and enforcement of the program" within 90 days after the issuance of a notice of deficiency (NOD). EPA is authorized to, among other things, withdraw approval of the program and promulgate a Federal Title V Permit Program in this Commonwealth that would be administered and enforced by EPA. In this instance, all Title V emission fees would be paid to EPA instead of the Department. Additionally, mandatory sanctions would be imposed under section 179 of the CAA (42 U.S.C.A. § 7509) if the program deficiency is not corrected within 18 months after the EPA issues the deficiency notice. These mandatory sanctions include 2-to-1 emission offsets for the construction of major sources and loss of Federal highway funds (\$1.5 billion in 2015 if not obligated for projects approved by the Federal Highway Administration). The increase in the Title V annual emission fee avoids the issuance of a Federal Title V Permit Program NOD; Federal oversight and mandatory CAA sanctions would also be avoided. EPA may also impose discretionary sanctions which would adversely impact Federal grants awarded under sections 103 and 105 of the CAA (42 U.S.C.A. §§ 7403 and 7405).

There are no relevant court decisions.

**(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.**

The proposed new and increased fees are needed to cover the Department's costs to implement the air pollution control plan approval program and operating permit program activities required under the CAA and APCA to attain and maintain the NAAQS for air pollutants, including ozone, particulate matter, lead, carbon monoxide, nitrogen dioxide, and sulfur dioxide. The proposed fees are essential to satisfying other requirements of the CAA, APCA, and regulations promulgated thereunder. Attaining and maintaining air quality standards is in the public interest, because the standards help improve public health and the environment.

In 1994, the Department established an integrated Air Quality Program that issues plan approval and operating permits for two types of sources – major and non-major. See 24 Pa.B. 5899 (November 26, 1994). Major sources are those that emit air pollution above designated thresholds under the CAA and non-major sources emit air pollution below those thresholds. See 42 U.S.C.A. § 7661. Major sources are subject to the statutory requirements under Title V of the CAA and are called Title V sources. *Id.* Conversely, non-major sources which are subject to the APCA, but not Title V, are called Non-Title V sources. The Department currently regulates approximately 500 Title V and 2,100 Non-Title V facilities. The plan approval application and operating permit fees are codified in §§ 127.702—127.704 (relating to plan approval fees; operating permit fees under Subchapter F; and Title V operating permit fees under Subchapter G). Regulations related to the fee schedules for plan approval application and operating permit activities were last revised in November 1994, with staged increases occurring for the next 10 years. See 24 Pa.B. 5899. The last of the staged plan approval and operating permit fee increases occurred in January 2005. See 25 Pa. Code Chapter 127, Subchapter I.

Since the last fee increase in 2005, the Department has tried to maintain parity between its revenue and expenditures by reducing costs associated with administering the Air Quality Program. In addition to

streamlining the air permitting program through the Permit Decision Guarantee policy, creating the online Request for Determination (RFD) form, developing general plan approvals and general operating permits for 19 source categories, and establishing electronic emissions reporting, the Department has reduced the number of air quality staff by 72 positions from 349 to 277, or 21 percent.

The CAA and its implementing regulations specifically provide that any fees collected under the Title V Operating Permit Program shall be used solely to fund the costs of that program. See 42 U.S.C.A. § 7661a(b)(3)(C)(iii) and 40 CFR 70.9(a). The APCA provides for the establishment of the Clean Air Fund and separate accounts, if necessary, to comply with the requirements of the CAA. The Clean Air Fund consists of two “special fund” appropriations: the Title V Account and the Non-Title V Account. Revenue received from the Title V air quality permitting and emission fees is deposited into the Title V Account. Revenue from the Non-Title V air quality permitting fees, the imposed fines and penalties for both Title V and Non-Title V facilities, and interest is deposited into the Non-Title V Account.

The Title V emission fee under § 127.705 (relating to emission fees) is payable by the owners and operators of Title V-permitted facilities by September 1 of each year for emissions from the previous year and is subject to the permitting provisions of Title V of the CAA. This fee is assessed per ton of regulated pollutant up to 4,000 tons of any regulated pollutant, excluding carbon monoxide and greenhouse gases. The 4,000-ton cap of any regulated pollutant is set by statute under section 6.3(c) of the APCA. The Title V emission fee schedule was last amended by the Board in 2013. See 43 Pa.B. 7268 (December 14, 2013).

The proposed fee structure would ensure the continued protection of public health and welfare of the approximately 12.8 million Commonwealth residents and the environment, and allow the Commonwealth to meet the obligations required by the CAA. This financial support is also necessary to ensure the timely issuance of air quality permits for the regulated community, which could help retain and attract businesses to this Commonwealth. As a result, Commonwealth residents and industries benefit from this proposed rulemaking.

Without an updated fee structure, the Air Quality Program expenditures will need to be decreased by approximately \$10 million per year. Some decrease in spending would come from shrinking the ambient air quality monitoring network, however, this will virtually eliminate air toxics monitoring and leave large portions of rural areas with no air monitoring. Most of the cost reduction would result in significant decreases in air quality staff, at all levels, in both the Bureau of Air Quality and the Department’s six regional offices. Conservatively, a decrease of 80 staff members, an approximately 30% reduction, would be needed. This would severely impact the ability of the Air Quality Program to process and review permit applications; inspect facilities and respond to citizen complaints; initiate compliance and enforcement activities; and develop in a timely manner required regulatory and non-regulatory SIP revisions. Failure to maintain an approved SIP could result in EPA establishing a Federal Implementation Plan (FIP) for the Commonwealth; under a FIP all fees, penalties and other revenue is paid to EPA. This would likely be unacceptable to the regulated industry, local government and the public.

#### Title V Account

A comparison of the revenue and expenditures (in thousands of dollars) for the Title V Account based on the existing fees structure is provided in Table 1 for past years and projected through FY 2022-2023. Revenue includes Title V emission fees, major source plan approval application and operating permit fees, and interest. The expenditures exceeded the revenue in the Title V account in FY 2016-2017, were stable for FY 2017-2018, and are projected to exceed revenues again beginning with FY 2018-2019. Expenditures are projected to exceed revenue in each of fiscal years 2021-2022 and 2022-2023 by more



than \$4 million. The Title V Account is currently projected to have a decreasing ending balance, from \$22.575 million in FY 2015-2016 to \$5.453 million in FY 2022-2023, or a decrease of \$17.122 million, as shown in Table 1.

**Table 1**  
**Title V Account without Fee Amendments**  
(in thousands of dollars)

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
	ACTUAL	ACTUAL	AVAILABLE	BUDGET	PLAN YR.1	PLAN YR.2	PLAN YR.3	PLAN YR.4
Beginning Balance	\$ 19,533	\$ 22,575	\$ 20,189	\$ 21,826	\$ 20,524	\$ 17,640	\$ 14,238	\$ 10,054
Total Revenue	\$ 20,415	\$ 18,614	\$ 20,278	\$ 16,576	\$ 15,352	\$ 15,199	\$ 14,789	\$ 14,751
Total Expenditures	\$ 17,373	\$ 21,050	\$ 18,591	\$ 17,878	\$ 18,236	\$ 18,601	\$ 18,973	\$ 19,852
Ending Balance	\$ 22,575	\$ 20,139	\$ 21,826	\$ 20,524	\$ 17,640	\$ 14,238	\$ 10,054	\$ 5,453

Non-Title V Account

A comparison of the revenue and expenditures (in thousands) for the Non-Title V Account based on the existing fees structure is provided in Table 2 for past years and projected through FY 2022-2023. Revenue includes plan approval application and operating permit fees for Non-Title V sources, penalties, and interest. The expenditures exceed the revenue in the Non-Title V Account beginning with FY 2015-2016. Expenditures are projected to exceed revenue in each of fiscal years 2021-2022 and 2022-2023 by more than \$6.5 million. The Non-Title V Account is projected to have a deficit of \$4.359 million by FY 2019-2020 and \$24.214 million by FY 2022-2023, as expenditures outpace revenue, as shown in Table 2.

**Table 2**  
**Non-Title V Account without Fee Amendments**  
(in thousands of dollars)

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
	ACTUAL	ACTUAL	AVAILABLE	BUDGET	PLAN YR.1	PLAN YR.2	PLAN YR.3	PLAN YR.4
Beginning Balance	\$ 20,433	\$ 15,670	\$ 10,947	\$ 7,253	\$ 1,644	\$ (4,359)	\$ (10,781)	\$ (17,398)
Total Revenue	\$ 5,379	\$ 6,731	\$ 7,192	\$ 3,760	\$ 3,553	\$ 3,325	\$ 3,325	\$ 3,325
Total Expenditures	\$ 10,142	\$ 11,454	\$ 10,886	\$ 9,369	\$ 9,556	\$ 8,747	\$ 9,942	\$ 10,141
Ending Balance	\$ 15,670	\$ 10,947	\$ 7,253	\$ 1,644	\$ (4,359)	\$ (10,781)	\$ (17,398)	\$ (24,214)

In 2013, when the Board amended the Title V emission fee schedule, the Department projected that the increased emission fee would not be sufficient to maintain the Title V fund and noted that a revised emission fee or other revised permitting fees would be needed within 3 years. See 43 Pa.B. 7272. This is due, in part, because emissions subject to the Title V emission fee have decreased by 41% since 2000 and continue to decrease as more emissions reductions are required to attain and maintain the revised applicable NAAQS established by the EPA. This results in reduced revenue for the program, even with the revised emission fee adopted in 2013. This fee is currently \$93.87 per ton of regulated pollutant up to 4000 tons of any regulated pollutant, excluding carbon monoxide and greenhouse gases, for emissions reported for calendar year 2018. No changes are proposed for this fee as part of this proposed rulemaking.

In considering the decreases in emissions subject to the Title V emission fee, the impact of emission fees and other fees on the regulated community, and the needs of the air quality and operating permit programs, the Department evaluated the establishment of an annual maintenance fee to replace the annual administration fee that is currently required under §§ 127.703(c) and 127.704(c), as well as increases to the other fees required under §§ 127.702—127.704.

The proposed annual maintenance fee for the owner or operator of a Title V facility is \$10,000 for calendar years 2021-2025. This fee would apply to all Title V facility owners and operators and not just to those identified in subparagraph (iv) of the definition of a Title V facility in § 121.1 (relating to definitions). There are approximately 500 Title V facility owners and operators regulated by the Department. This proposed annual maintenance fee is expected to generate revenue of approximately \$5 million from the approximately 500 Title V facility owners and operators for each of calendar years 2021-2025. Table 3 illustrates the revenue generated from existing fees compared to anticipated revenue that would be generated from the proposed fees, including the annual maintenance fee.

**Table 3**  
**Estimated Projected Title V Facilities Fee Revenue for FY 2020-2021**  
 (Approximately 500 Affected Facilities Under the Department’s Jurisdiction)

	Current Fees	Proposed Fees with Annual Maintenance Fee of \$10,000 due by December 31, 2020, for calendar year 2021
<b>Title V Emission Fee per ton</b>	\$93.87	\$93.87
<b>Projected Emission Fee for 2020</b>	\$93.87	\$93.87
<b>Emission Fee Revenue</b>	\$15,230,000	\$15,230,000
<b>Maintenance Fee per year</b>	\$0	\$10,000
<b>Maintenance Fee Revenue</b>	\$0	\$5,000,000
<b>Number of DEP regulated facilities that pay 90% of the combined Title V Emission Fee and Maintenance Fee Revenue</b>	102	310
<b>Other Title V Operating Permit Fee Revenue</b>	\$435,125	\$1,371,800
<b>Total Title V Facility Revenue</b>	\$15,665,125	\$21,601,800

The proposed annual maintenance fee for the owner or operator of a Non-Title V facility that is a synthetic minor is \$2,500. The proposed annual maintenance fee for the owner or operator of a Non-Title V facility that is not a synthetic minor is \$2,000. This proposed fee is expected to generate revenue of approximately \$4.58 million from the 2,100 Non-Title V facility owners and operators for each of calendar years 2021-2025. Table 4 illustrates the revenue generated from existing fees compared to anticipated revenue generated from the proposed fees, including the annual maintenance fee.

**Table 4**  
**Estimated Projected Non-Title V Facilities Fee Revenue for FY 2020-2021**  
 (2,100 Affected Facilities Under the Department's Jurisdiction)

	Current Fees	Proposed Fees with Annual Maintenance Fee of \$10,000 due by December 31, 2020, for calendar year 2021
Plan Approval Application	\$259,000	\$605,500
Operating Permit	\$203,250	\$1,091,300
Annual Administration	\$787,500	\$0
Annual Maintenance	\$0	\$4,577,500
Requests for Determination (RFD)	\$0	\$260,000
Asbestos Notifications	\$0	\$1,500,000
Risk Assessments	\$0	\$10,000
Claims of Confidential Information	\$0	\$1,800
<b>Total Non-Title V Facility Revenue</b>	<b>\$1,249,750</b>	<b>\$8,046,100</b>

The revenue from the proposed increases to existing plan approval application and operating permit fees and establishment of new fees would support: current staffing levels and restoration of some lost staffing positions for Title V plan approval application and operating permit application reviews, compliance inspections, and complaint response activities; the ambient air monitoring network; ambient air impact modeling activities; major source SIP planning and regulatory development activities; emissions inventory and tracking; development and maintenance of an electronic permit application system for general plan approvals and general operating permits; development of an electronic fee payment system; and general administrative costs. The proposed fees were determined by evaluating the estimated work effort and then calculating the approximate total cost for each service. In many cases, the proposed fees were set below the total cost to take into account funding from the Commonwealth's General Fund and from federal grants.

These improvements to the Air Quality Program would benefit the approximately 2,100 Non-Title V-permitted facility owners and operators through continued review and action on plan approval and operating permit applications. Increased revenue would also allow the ambient air monitoring network to better assess and demonstrate that this Commonwealth is attaining and maintaining the NAAQS. The attainment and maintenance of the NAAQS will protect the public health and welfare of the approximately 12.8 million residents and reduce the negative impacts of air pollution on the environment.

The proposed permit fee revisions for Title V and Non-Title V facilities, if promulgated as a final-form regulation, would support the existing operations and activities in the Air Quality Program and operating permit programs. Sustaining the staffing levels and resources for these program activities would benefit the approximately 2,600 permitted Title V and Non-Title V facility owners and operators by ensuring that permitting activities, inspections, and SIP planning activities are completed within a reasonable time. This would allow the regulated owners and operators to quickly and fully use production capabilities or to expand their operations. Sustaining existing and future activities of the air quality program would support the Commonwealth's efforts to attain and maintain the health-based and welfare-based NAAQS and to satisfy other requirements of the CAA, APCA, and regulations promulgated thereunder. Adequate funding

would allow the Department to provide appropriate oversight of the air pollution sources in this Commonwealth and take action, when necessary, to reduce emissions of regulated pollutants to attain and maintain healthful air quality.

The Department acknowledges that the Non-Title V Account is projected to be in deficit by the end of FY 2020-2021 even with the fee revision. The Department will continue to review its expenditure priorities and may re-allocate expenses between the two Clean Air Fund special fund accounts. In addition, the Department will continue to carefully monitor the Clean Air Fund account balances and may propose additional fee amendments in the future, as needed.

The proposed addition to § 121.1 of the term “synthetic minor facility” is needed to clarify which sources are subject to a specific fee.

The proposed amendments to § 127.424(b) and (e) are needed to amend an error in a cross reference.

**(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.**

There are no provisions more stringent than Federal standards.

**(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania’s ability to compete with other states?**

Comparing air quality fees between states is challenging, because every state’s air program is unique. Each state’s air quality program regulates a different number and mix of facilities, has different permitting requirements, defines permitting procedures differently, implements unique permitting fee structures, and maintains different staffing levels to perform the required activities. Further, each state has different infrastructure components required as part of its air quality program, which impose differing costs on each state; for example, the number and type of monitors required to meet the state’s air pollutant monitoring obligations under the CAA. The size and geography of each state also affects the costs of a state’s air quality program, such as the amount of time needed for staff to travel to and between facilities to conduct inspections or respond to complaints, or to service the ambient air monitoring network. The resulting costs vary among state programs.

Even one region of a state could regulate differently than the rest of the state. For example, the southeast region of the Commonwealth is in a severe nonattainment area and has different major source thresholds and applicability and permitting requirements compared to the remainder of the Commonwealth and to neighboring states.

Table 6 compares the fees assessed by the Commonwealth and neighboring states for similar types of plan approval applications (also referred to as construction permits in some states).



**Table 6  
Comparison of Fees Assessed by Pennsylvania and Neighboring States**

Plan approval (construction) application fees	Proposed PA	NJ	OH	WV	DC	VA	MD	DE
Base fee: Source is not subject to NSPS, MACT, PSD or NSR requirements. Section 127.702(b).	\$2,500	\$820	\$400	\$1,000	None	None	\$800	\$165
Source is subject to NSPS and state requirements. Section 127.702(b) and (d).	\$5,000	\$5,054	\$1,000	\$2,000	None	\$524	\$2,000	\$165
Source is subject to NSPS, MACT, NSR and state requirements. Section 127.702(b), (c), and (d).	\$17,500	\$50,000	\$3,750	\$14,500	None	\$31,697	\$20,500	\$1,290
Source is subject to NSPS, MACT, PSD and state requirements. Section 127.702 (b), (d), and (f).	\$42,500	\$50,000	\$3,750	\$14,500	None	\$31,697	\$20,500	\$1,290
Source is subject to NSPS, MACT, PSD, NSR and state requirements. Section 127.702(b), (c), (d), and (f).	\$52,500	\$50,000	\$3,750	\$14,500	None	\$31,697	\$40,500	\$1,290

Table 6 illustrates that the proposed increases to existing plan approval application fees in the Commonwealth would result in fees that are higher or lower than the fees assessed for similar plan approval applications in neighboring states, but overall would be comparable to the fees currently assessed in neighboring states.

The Department is proposing to establish a fee for notifications of asbestos abatement or regulated demolition or renovation projects (asbestos abatement projects or asbestos notifications). Several states have established fees for notifications of asbestos abatement projects. Ohio collects a \$75 fee for each notification and separate fees of \$3 to \$4 per unit of asbestos removed. New York requires the submission of a notification form and collects a fee ranging from \$0 to \$2,000 based on the amount of asbestos removed. New Jersey collects an administrative fee of \$118 for each construction permit issued for an asbestos hazard abatement project. Philadelphia County Health Department, Air Management Services (AMS) collects a project notification fee of \$25 plus a permit fee for major projects of 2.5% for the first \$50,000 and 1.25% of any amount over \$50,000. The Allegheny County Health Department (ACHD) collects fees for asbestos abatement permits ranging from \$150 for projects less than 360 square feet to \$650 for projects greater than 1,000 square feet. In addition, ACHD collects a \$150 fee for asbestos abatement final clearance re-inspections. The Department's proposed fee would be \$300 for notifications filed during calendar years 2021 through 2025; \$375 for notifications filed during calendar years 2026 through 2030; and \$475 for notifications filed during calendar year 2031 and after. This fee is comparable to, and in many instances less than, the fee collected by neighboring states, AMS, and ACHD.

The Department is proposing to establish fees for reviewing risk assessment applications. A risk assessment report prepared by the Department describes the potential adverse effects under both current and planned future conditions caused by the presence of hazardous air pollutants in the absence of any further control, remediation, or mitigation measures. These reviews require extensive staff time to research and to develop the report of potential adverse effects. This cost to the Department is currently borne by the owners and operators of all permitted facilities through the plan approval application and permitting fees that they pay.

New Jersey has established a fee of \$2,527 to review a risk assessment protocol and a fee of \$2,527 to review a risk assessment. The Department has not identified other states that have risk assessment application fees. The Department is proposing a fee for risk assessment applications for projects that only involve inhalation of air emissions beginning with \$10,000 for applications filed during calendar years 2021 through 2025; \$12,500 for applications filed during calendar years 2026 through 2030; and \$15,625 for applications filed for the calendar years beginning with 2031 and thereafter. The Department is proposing the following fee for the application for a multi-pathway risk assessment (air, water, soil) beginning with \$25,000 for applications filed during calendar years 2021 through 2025; \$31,250 for applications filed during the calendar years 2026 through 2030; and \$39,100 for the calendar years beginning with 2031 and thereafter. The Department receives approximately three inhalation only and one multi-pathway applications for a risk assessment per year. The Department's proposal would impose the Department's costs of researching and developing the report of potential adverse effects on the owner or operator requesting the risk assessment rather than assessing and spreading this cost across all permitted owners and operators. This approach enables the Department to propose lower fee increases overall for plan approval application and operating permits and not change the Title V emission fee as a result.

The Department is proposing to establish a fee for reviewing an application for a RFD for changes of minor significance and exemption from a plan approval or exemption from both a plan approval application and an operating permit submitted by the owner or operator of a source which is not a Title V facility. RFDs are used by the owners and operators of facilities to determine whether a plan approval application is required for a specific air contamination source and, if so, is an operating permit required in addition to the plan approval application, as these owners or operators may not be familiar with applicable permitting requirements. The Department reviews the data supplied by the owner or operator to determine if the air contamination source is of minor significance or if a plan approval application or both a plan approval application and an operating permit is required. The RFD process allows any owner or operator to avoid the full cost associated with submitting a comprehensive plan approval application to receive a written determination from the Department. The Department is not aware of any formal procedure similar to the RFD being conducted in other states. The Department receives approximately 1,000 RFD applications per year. This proposed fee would impose the Department's costs of reviewing the RFD application and issuing a determination upon the owner or operator requesting the RFD rather than assessing and spreading this cost across all permitted owners and operators. This approach enables the Department to propose lower fee increases overall for plan approval application and operating permit fees and for the Title V annual emission fee as a result.

Commensurate with the Department's cost to review RFDs, the proposed fee is \$600 for RFDs filed during calendar years 2021 through 2025; \$750 for RFDs filed during calendar years 2026 through 2030; and \$940 for RFDs filed during calendar year 2031 and after. Taking into account the ability to pay for some small businesses, the Department is proposing to charge only \$400 for RFDs filed during calendar years 2021 through 2025; \$500 for RFDs filed during calendar years 2026 through 2030; and \$650 for RFDs filed during calendar year 2031 and after for the owner or operator of a source that meets the definition of small business stationary source in section 3 of the APCA (35 P.S. § 4003).

The proposed increases to the plan approval application and operating permit fees and establishment of new fees would not put the Commonwealth at a disadvantage with other states.

**(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.**

This proposed rulemaking amends Chapters 121 and 127; no other Department regulations are affected. Regulations of other Commonwealth agencies are not impacted.

**(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)**

On June 14, 2018, the Department presented the draft proposed Annex A to the Air Quality Technical Advisory Committee (AQTAC). The AQTAC voted to concur with the Department's recommendation to present this proposed rulemaking to the Environmental Quality Board for consideration.

On June 15 and 25, 2018, the Department discussed the draft proposed Annex A with the Citizens Advisory Council (CAC or Council) Policy and Regulatory Oversight Committee. On July 17, 2018, the CAC voted to concur with the Department's proposal to present this rulemaking to the Board for consideration. Comments made were taken under advisement.

On July 25, 2018, the Department presented the draft proposed rulemaking to the Small Business Compliance Advisory Committee (SBCAC). The SBCAC voted unanimously to concur with the Department's recommendation to move this proposed rulemaking forward to the Board.

The AQTAC, SBCAC, and CAC meetings are advertised and open to the public.

**(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?**

This proposed rulemaking would affect the owners and operators of air contamination sources in the Commonwealth, including all Title V and Non-Title V facilities, subject to the plan approval and permitting requirements of the CAA and APCA and implementing regulations, as well as asbestos demolition and renovation contractors. The universe of permitted sources regulated by the Department include approximately 500 Title V permitted facilities, 2,100 permitted Non-Title V facilities, and 7,000 asbestos notifications submitted by approximately 2,000 environmental remediation contractors. State and local government agencies would also be affected if they have a permitted air contamination source.

The Department reviewed its list of Title V-permitted facilities to determine the number of those that potentially meet the definition of small business specified in Section 3 of the Regulatory Review Act, as "in accordance with the size standards described by the United States Small Business Administration's (SBA) Small Business Size Regulations under 13 CFR Chapter 1 Part 121 (relating to Small Business Size Regulations) or its successor regulation." Given the large number of facilities from differing industry sectors affected by this regulation, no precise method exists to determine how many businesses meet the SBA definition of "small business." The SBA small-business-size standards vary between industry sectors; for some sectors it is number of employees, for other sectors it is throughput, and for others it is amount of sales or profits. However, the SBA has a method by which the Department can determine with a reasonable degree of certainty whether a source is a small business – the SBA Dynamic Small Business Search database.

The SBA Dynamic Small Business Search database contains information about small businesses that have registered with the SBA. It is the Department's understanding that this self-certifying database incorporates the small business criteria contained in 13 CFR Chapter 1, Part 121, such as Standard Industrial Classification Code and number of employees, when the owners or operators of the companies register. Registration in this database benefits small business owners and operators because the database assists government contracting officers in determining whether a company is eligible to apply for government contracts as a small business. Therefore, there is a high likelihood that a business that qualifies as a small business will be registered in the database. The SBA does not, however, maintain a definitive listing of small businesses.

The Department reviewed the SBA Dynamic Small Business Search database to determine which of the approximately 500 Title V companies, if any, are registered as a small business with the SBA. In addition, the Department reviewed other data sources including the U. S. Department of Energy, Energy Information Agency database on electric generating to determine whether electric generating units in the Commonwealth meet the definition of small business. The Department also reviewed information available on individual company websites for information that could identify a company as a small business. Based on these reviews, the Department estimates that 76 of the approximately 500 Title V facility owners and operators potentially meet the definition of small business as defined by the SBA.

The Department estimates that the owners and operators of approximately 1,050 of the 2,100 Non-Title V permitted facilities are small businesses as defined by the SBA. The owner and operator of a facility may be classified as a small business while still emitting sufficient quantities of regulated pollutants (nitrogen oxides, sulfur oxides, particulate matter, volatile organic compounds and/or hazardous air pollutants) to be subject to air quality permitting and inspection. This is particularly true as computerization and mechanization enable facilities to produce more product with fewer employees.

The Department expects that most of the 2,000 submitters of asbestos notifications meet the small business size threshold for environmental remediation services (less than 500 employees).

The financial impact on the owners and operators of Title V facilities regulated by the Department is expected to be an additional cost of approximately \$5.9 million per year, collectively.

The financial impact on the owners and operators of all Non-Title V facilities regulated by the Department is expected to be an additional cost of approximately \$6.8 million per year, collectively.

The financial impact on the owners and operators subject to the asbestos notification fee would be approximately \$1.5 million per year, collectively.

The higher fees, however, will maintain current Air Program staffing levels to ensure that permitting activities, inspections, and planning activities are completed in a timely fashion. This will benefit the regulated community by allowing affected source owners and operators to more quickly and fully use production capabilities or to expand their operations, thereby increasing profits through the sale of more products and services. The proposed fee structure would also ensure the continued protection of public health and welfare of the approximately 12.8 million Commonwealth residents and the environment and would allow the Commonwealth to meet the obligations required by the CAA. As a result, both the residents and industries of the Commonwealth will benefit from this proposed rulemaking.

Please see Question 17 for additional detail.



**(16) List the persons, groups or entities, including small businesses, which will be required to comply with the regulation. Approximate the number that will be required to comply.**

The owners and operators of approximately 500 Title V facilities in this Commonwealth would be subject to the proposed increases to the plan approval application and operating permit fees. (Please see the response to Question 15 for a description of the types of companies.) Approximately 76 of these facilities may meet the definition of small business under the SBA size regulations.

The Department estimates that the owners and operators of the 2,100 Non-Title V permitted facilities would be subject to the proposed increases to the plan approval application and operating permit fees. The Department estimates that the owners and operators of approximately 1,050 Non-Title V facilities meet the definition of small business as defined by the SBA.

The Department estimates that most of the 2,000 submitters of asbestos notifications would meet the SBA small business size threshold for environmental remediation services (less than 500 employees).

**(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.**

The financial impact on the owners and operators of all Title V facilities regulated by the Department, collectively, would be additional plan approval and operating permitting costs of approximately \$900,000 per year as well as approximately \$5 million in annual maintenance fee costs. The Department estimates that Title V small businesses, in total, will pay an additional \$800,000 annually.

The financial impact on the owners and operators of Non-Title V facilities regulated by the Department, collectively, would be additional plan approval and operating permitting costs of approximately \$2.0 million per year as well as approximately \$4.6 million in annual maintenance fee costs. The Department estimates that Non-Title V small businesses, in total, will pay an additional \$2.5 million annually.

Approximately \$1.5 million in asbestos notification fees will be collected from 2,000 submitters, most of which will be small businesses.

The revenue from these proposed new and increased fees would contribute to the public health and social well-being of the approximately 12.8 million Commonwealth residents by maintaining or increasing Air Quality Program staffing levels for the timely and complete processing of plan approval applications, operating permit reviews, source testing protocol reviews, air quality monitoring, planning activities, and facility inspection programs. For example, operation and maintenance of the ambient air monitoring network is fundamental to documenting and demonstrating that the Commonwealth is attaining and maintaining the air quality standards set to protect the public health and welfare and is meeting its obligations under the Federally approved SIP.

Implementation of new fees for risk assessment applications would allow for resources to address this important area of public health and social well-being by evaluating the risks associated with observed levels of contaminants. The proposed fees for asbestos abatement or regulated demolition or renovation project notifications would provide revenue to maintain staffing to review these notifications and inspect these projects. The proposed new fees for processing request for determination applications of whether a plan approval application or permit application, or both, are needed for a proposed modification or change at a facility would provide the revenue to maintain staffing to review and issue determinations.

Sustaining the activities and resources of the Department's Air Quality Program provides the tools to attain and maintain the NAAQS, satisfy the Commonwealth's obligations under the CAA, APCA, and regulations promulgated thereunder, and avoid punitive actions by the EPA, including the imposition of 2-to-1 emission offset sanctions for the construction of major new and modified stationary sources as well as the loss of Federal highway funds (\$1.5 billion in 2015 if not obligated for projects approved by the Federal Highway Administration). Sustaining the Air Quality Program benefits the citizens and environment of this Commonwealth by maintaining the gains in healthful air quality that have been made since the mid-90s through reductions of emissions of regulated air pollutants from major and non-major permitted sources.

According to the PA Department of Health *2015 Asthma Prevalence in Pennsylvania Fact Sheet*, 9.6 percent or 955,374 adults and 10.2 percent or 269,423 children currently suffer from asthma. This is significantly higher than the national average of 8.3 percent for both children and adults. A 2018 report from the Asthma and Allergy Foundation of America lists Philadelphia as the 4<sup>th</sup> most challenging U.S. metropolitan city for people with asthma to live in based on air quality, the portion of residents with asthma and the number of asthma-related medical incidents. Scranton ranked 21<sup>st</sup> and Allentown ranked 27<sup>th</sup>. Without sufficient funding of the Department's Air Quality Program, the air pollution and the prevalence of asthma in the Commonwealth is likely to increase.

Sustaining the Clean Air Fund maintains the Department's plan approval application and operating permit program as well as the associated activities. Loss of Department staff could result in delays in expanding permitted facility operations or ramping up production, industry employee layoffs, and loss of revenue to the regulated industry and through the inability to increase sales of products or services and tax revenue to the Commonwealth.

There are no costs associated with the proposed revisions to §§ 121.1 and 127.424.

**(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.**

The anticipated revenue to be generated from implementation of these proposed new and increased fees is estimated to be \$15.5 million in FY 2020-2021. This revenue for the Commonwealth's Air Quality Program would be a cost to the regulated industry; however, this revenue would provide the resources for the Department to continue to carry out its obligations under the CAA and APCA to assure healthful air quality for the citizens and environment of the Commonwealth.

In comparison to the annual costs of \$15.5 million to the regulated industry, the EPA has estimated that the monetized health benefits of attaining the 2008 8-hour ozone NAAQS of 0.075 ppm range from \$8.3 billion to \$18 billion annually on a National basis by 2020.<sup>1</sup> Prorating that benefit to Commonwealth residents, based on United States Census Bureau 2015 population estimates, results in an annual public health benefit of \$332 million to \$720 million.

Similarly, the EPA has estimated that the monetized health benefits of attaining the 2015 8-hour ozone NAAQS of 0.070 ppm range from \$1.5 billion to \$4.5 billion annually on a National basis by 2025.<sup>2</sup> Prorating that benefit to Commonwealth residents, based on United States Census Bureau 2015 population estimates, results in an annual public health benefit of \$60 million to \$180 million. These EPA estimates

<sup>1</sup> *Regulatory Impact Analysis, Final National Ambient Air Quality Standard for Ozone*, July 2011.

<sup>2</sup> *Regulatory Impact Analysis of the Final Revisions to the National Ambient Air Quality Standards for Ground-Level Ozone*, September 2015.

are indicative of the health benefits to Commonwealth residents of attaining the 2008 and 2015 8-hour ozone NAAQS and maintaining healthful air quality throughout the Commonwealth.

The monetized health benefits to Commonwealth residents achieved in part through reduced emissions of regulated pollutants, are considerable in comparison to the costs of paying new and increased fees incurred by the owners and operators of permitted facilities and environmental remediation contractors.

**(19) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.**

The current Title V annual emissions fee, due September 1, 2018, for emissions that occurred in calendar year 2017, is \$93.87 per ton for emissions of up to 4,000 tons of each regulated pollutant, except greenhouse gas and carbon monoxide. This proposed rulemaking retains the existing Title V annual emission fee, as adjusted by the Consumer Price Index, for the regulated pollutants except greenhouse gas and carbon monoxide.

The additional costs starting in FY 2020-2021 for the owners and operators of Title V facilities are expected to be approximately \$5.9 million per fiscal year. These costs include permit applications, permit renewals, permit revisions, and the proposed annual maintenance fee.

The Department is also proposing amendments to the Non-Title V plan approval application and operating permit fees and establishment of fees for processing requests for determination applications and asbestos project notification fees. This revenue would be deposited in the Non-Title V Account of the Clean Air Fund. Total revenue in FY 2020-2021 from these proposed new and amended fees is estimated to be \$6.8 million per year. Revenue was estimated based on the average number of plan approval applications, operating permit applications, requests for determination applications, and asbestos notifications received per year.

The additional costs were estimated by calculating the anticipated future fee revenue from the proposed new and amended fees.

No new legal, accounting or consulting procedures would be required.

**(20) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.**

Of the total regulated community, approximately 160 facilities that would be subject to this proposed rulemaking are owned or operated by government agencies. Of these, there are approximately 11 Federally-owned or operated installations, 52 state-owned or operated facilities, and 97 local government-owned or operated facilities.

Thirteen (13) of the 97 facilities owned and operated by local government agencies are permitted Title V facilities. The local government owners and operators of these facilities are exempt from paying Title V emissions fees as provided in section 6.3(f) of the APCA. The owners and operators are required to pay the plan approval application and operating permit fees. The Department estimates that the owners and operators of these facilities would pay Title V annual permit maintenance fees totaling \$130,000 (\$10,000 x 13 facilities = \$130,000). In addition, every 5 years these owners and operators would pay a permit

renewal application fee of \$4,000 per application for an estimated total of \$52,000 (\$4,000 x 13 facilities), with an average of 2 to 3 renewals each year for a range of \$8,000 to \$12,000 per year. Other fees may apply to the owners and operators of these facilities depending on the facility-specific permit application.

The Department estimates that there are approximately 84 local government facilities that are classified as Non-Title V (natural minor or synthetic minor) that would be subject to the proposed fee schedule. The fees include an annual permit administration fee of \$2,000 – \$2,500 per facility (\$168,000 - \$210,000 for all facilities). In addition, every 5 years these owners and operators would pay a permit renewal application fee of \$2,100 per application or estimated total \$176,400, with an average of 16 to 17 renewals each year for a range of \$33,600 to \$35,700 per year. Other fees may apply to these facilities depending on the specific application.

The Department estimates the total annual cost for all the local government owned and operated facilities would be approx. \$360,000 depending on the number and type of permit renewals.

**(21) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.**

Of the total regulated community there are approximately 52 state-owned facilities subject to this proposed regulatory change.

Twenty-one (21) of the 57 facilities owned and operated by state government agencies are permitted Title V facilities. The owners and operators of these facilities are exempt from paying Title V emissions fees as provided in section 6.3(f) of the APCA. The owners and operators are required to pay the plan approval application and operating permit fees. The Department estimates that the owners and operators of these facilities would pay Title V annual permit maintenance fees totaling \$210,000 (\$10,000 x 21 facilities = \$210,000). In addition, every 5 years these owners and operators would pay a permit renewal application fee of \$4,000 per application for an estimated total of \$84,000, with an average of 4 to 5 renewals each year for a range of \$16,000 to \$20,000. Other fees may apply to these facilities depending on the specific application.

The Department estimates that there are approximately 36 state-owned or operated Non-Title V permitted facilities (natural minor or synthetic minor) that would be subject to the proposed fee schedules. The fees include an annual permit administration fee of \$2,000 - \$2,500, per facility (\$72,000 - \$90,000 total for 36 facilities, per year). In addition, every 5 years these owners and operators would pay a permit renewal application fee of \$2,100 per application or an estimated total \$54,000 (\$2,100 x 36 facilities), with an average of 7 to 8 renewals each year for a range of \$14,700 to \$16,800 per year. Other fees may apply to these facilities depending on the specific application.

The Department estimates the total annual cost for all state government owned and operated facilities will be \$325,000 depending on the number and type of permit renewals.



**(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.**

The proposed amendments do not add to or change the existing reporting, recordkeeping, or other paperwork requirements for the regulated community.

**(22a) Are forms required for implementation of the regulation?**

Yes. The application forms and instructions must be updated with the new fee amounts.

**(22b) If forms are required for implementation of the regulation, attach copies of the forms here. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

See attached forms.

**(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.**

	<b>Current FY Year 18/19</b>	<b>FY+1 Year 19/20</b>	<b>FY+2 Year 20/21</b>	<b>FY+3 Year 21/22</b>	<b>FY+4 Year 22/23</b>	<b>FY+5 Year 23/24</b>
<b>SAVINGS:</b>						
<b>Regulated Community</b>	0	0	0	0	0	0
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Savings</b>	0	0	0	0	0	0
<b>COSTS:</b>	<b>Current</b>	<b>Proposed starting 1/1/2020</b>	<b>Proposed</b>	<b>Proposed</b>	<b>Proposed</b>	<b>Proposed</b>
<b>Regulated Community</b>	\$16,886,375	\$22,915,637	\$28,944,900	\$28,944,900	\$28,944,900	\$28,944,900
<b>Local Government</b>	\$12,000	\$186,000	\$360,000	\$360,000	\$360,000	\$360,000
<b>State Government</b>	\$16,500	\$170,750	\$325,000	\$325,000	\$325,000	\$325,000
<b>Total Costs</b>	\$16,914,875	\$23,272,387	\$29,629,900	\$29,629,900	\$29,629,900	\$29,629,900

<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	0	0	0	0	0	0
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Revenue Losses</b>	0	0	0	0	0	0

**(23a) Provide the past three-year expenditure history for programs affected by the regulation.**

<b>Program</b>	<b>FY-3 (15/16)</b>	<b>FY-2 (16/17)</b>	<b>FY-1 (17/18)</b>	<b>FY (18/19) Budget</b>
<b>Title V (215-20077)</b>	\$17,373,000	\$16,931,000	\$17,480,000	\$17,878,000
<b>Non-Title V (233-20084)</b>	\$10,142,000	\$8,228,000	\$8,727,000	\$9,369,000

**(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:**

**(a) An identification and estimate of the number of small businesses subject to the regulation.**

The Department estimates that 76 of the approximately 500 Title V facilities may meet the definition of small business as defined by the Small Business Administration that will be subject to this proposal.

The Department is estimating that the owners or operators of approximately 1,050 facilities that are not Title V facilities meet the definition of small business. In addition, the Department estimates that most of the owners and operators of businesses that submit asbestos notifications meet the definition of small business for environmental remediation contractors (approximately 2,000 businesses). These businesses submit approximately 7,000 asbestos notifications per year. However, some of these notifications are not required or are submitted multiple times with changes. The Department estimates that the number of notifications will drop to approximately 5,000 when the fee is in place. Though reporting is anticipated to drop, remediation measures are not expected to necessarily decrease. Imposing the fee is anticipated to curtail overreporting, not remediation measures.

**(b) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.**

No changes to reporting, recordkeeping, or other administrative procedures are included as part of this proposed rulemaking. The owners and operators of subject facilities are familiar with the existing requirements for reporting and recordkeeping for their entity and have the professional and technical skills needed for continued compliance with these requirements.

**(c) A statement of probable effect on impacted small businesses.**

The owners and operators of approximately 500 Title V facilities which include the estimated 76 small businesses in this Commonwealth are affected by the proposed amendments to existing plan approval

application and operating permits fees and proposed new fees. The number of affected facilities was determined by a review of the Department's database of Title V-permitted facilities.

While approximately 76 Title V and 1,050 Non-Title V facilities may meet the definition of small business under the SBA size regulations cited by the Regulatory Review Act (71 P.S. §§ 745.1–745.15), the owners and operators of these facilities have historically been subject to the plan approval application and operating permit fees; further, the Title V facilities are classified as major sources of air pollution under section 501 of the CAA and are subject to the permitting provisions of Title V of the CAA.

The Department assumes that the majority of the owners or operators responsible for the submission of asbestos notifications are small businesses as defined by the Regulatory Review Act. The Department currently does not collect a fee for the processing of the asbestos notifications that are required by 40 CFR Part 61, Subpart M (related to national emission standards for hazardous air pollutants; Asbestos) or the Pennsylvania Asbestos Occupations Accreditation and Certification Act (Act 1990-194, 63 P.S. § 2101). With a proposed fee of \$300 per notification, the Department is estimating an annual cost to small businesses of approximately \$1.5 million. However, many of the asbestos abatement contractors have worked in Philadelphia, Allegheny County and surrounding states and are familiar with paying fees for this type of activity.

The potential impact on the owners and operators of small businesses collectively may be approximately \$4.8 million in increased plan approval application, operating permit and asbestos notification costs.

The Department is proposing a reduced fee for small businesses when submitting requests for determination. The Small Business Compliance Advisory Committee specifically requested this reduced fee when the Department originally proposed such a fee in 2010. The fee was not adopted at that time.

**(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.**

The least burdensome acceptable alternative has been selected. The Department reviewed the plan approval application and operating permit fees and is proposing reasonable fees to cover the indirect and direct costs of the application review, permit issuance and inspection services provided to the regulated entities.

**(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.**

The Department has established a reduced fee for small business owners and operators that submit RFDs as provided in §§ 127.702(i), 127.703(d), and 127.704(d). The RFD is used by the small businesses to assist them in determining if a proposed project is subject to plan approval application or operating permit application submission requirements. The small businesses, through the Small Business Compliance Advisory Committee, have requested that the Department provide a reduced fee for this procedure for small businesses. A reduced fee is authorized under Section 7.7(h) of the APCA.

Section 4.1 of the APCA exempts the production of agricultural commodities from regulation.

All owners or operators of permitted facilities will be impacted by the proposed amendments. However, the Department does not track minority ownership or operation of facilities. These owners and operators are treated the same as other owners and operators.

Minorities, elderly, small businesses, and farmers who are not owners or operators of a facility which does not require an air quality permit based on the equipment used or the type or amount of pollution emitted are not affected by this proposed rulemaking.

**(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.**

The least burdensome acceptable alternative has been selected.

Section 6.3(c) of the APCA provides that the Board shall establish by regulation a permanent annual air emission fee as required for regulated pollutants by section 502(b) of the CAA to cover the reasonable direct and indirect costs of administering the operating permit program required by Title V of the CAA, other related requirements of the CAA, and the reasonable indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, the Small Business Compliance Advisory Committee, and the Office of Small Business Ombudsman. The emission fee shall not apply to emissions of more than 4,000 tons of any regulated pollutant.

Section 6.3(d) of the APCA further provides that, unless precluded by the CAA, the Board shall establish a permanent air emission fee which considers the size of the air contamination source, the resources necessary to process the application for plan approval or an operating permit, the complexity of the plan approval or operating permit, the quantity and type of emissions from the sources, the amount of fees charged in neighboring states, the importance of not placing existing or prospective sources in this Commonwealth at a competitive disadvantage, and other relevant factors.

The Department considered these factors when it established the existing plan approval application and operating permit program in 1994. For this current proposed rulemaking, the Department reconsidered the section 6.3(d) factors along with analyzing actual spending data in amending the fee schedules. Federal regulations do not impose fees. Federal regulations under 40 CFR Part 70 (relating to state operating permit programs) require that states demonstrate that the fees established by the state or local permitting agency are sufficient to support the plan approval application and operating permit program. The EPA established a “presumptive minimum” approach for fees to be collected for each ton of a regulated pollutant as one approach for consideration by the permitting agencies. Use of the presumptive minimum approach allows the EPA to quickly determine if the fees are sufficient to support the Title V permitting program. In the alternative method known as the “detailed accounting” approach, the EPA allows the state or local permitting agency to establish appropriate fees and demonstrate through detailed accounting that the revenue is sufficient to support the Title V permitting program.

The current Title V emission fee, due September 1, 2018, for emissions that occurred in calendar year 2017, is \$89.17 per ton of emissions up to 4,000 tons of each regulated pollutant, except greenhouse gas (GHG). The fee is projected to increase to \$93.87 per ton of regulated pollutant (except GHG) in FY 2020 due to the CPI adjustment. Approximately 90% of the current Title V emission fee revenue of approximately \$15.230 million is generated from emissions at 102 Title V facilities as illustrated in Table 7.



The Department will seek public comment on its recommendation to amend the fees payable by the owners and operators of Title V facilities. The recommended option included in this proposed rulemaking Annex A is to leave the Title V emission fee at § 127.705 unchanged and collect an annual maintenance fee of \$10,000 from the owners or operators of all affected Title V facilities. Table 7 illustrates that approximately 90% of the combined Title V emission fee revenue and annual maintenance fee revenue for this recommendation (Option 1 for purposes of this report and Table 7) would be paid by the owners and operators of 310 Title V facilities. The recommended option spreads the burden for supporting the Title V Operating Permit Program across three times as many Title V facility owners and operators as the current fee structure (310 versus 102).

**Table 7**  
**Fee Options Considered for Title V Facility Owners and Operators**

	Projected Revenue			
	No Amendments to Current Emission Fee or Fee Structure	<b><u>PROPOSED OPTION</u></b> <b>Option 1</b> No Increase to Current Emission Fee; Annual Maintenance Fee of \$10,000	Option 2 Increased Emission Fee; Annual Maintenance Fee of \$5,000	Option 3 Increased Emission Fee; Emission Fee Floor; No Annual Maintenance Fee
<b>Title V Emission Fee per ton in 2020</b>	\$93.87	\$93.87	\$110.00	\$118.00
<b>Emission Fee Floor</b>	\$0	\$0	\$0	\$5,000
<b>Emission Fee Revenue</b>	\$15,230,000	\$15,230,000	\$17,846,000	\$19,145,000
<b>Annual Maintenance Fee per year</b>	\$0	\$10,000	\$5,000	\$0
<b>Annual Maintenance Fee Revenue</b>	\$0	\$5,000,000	\$2,500,000	\$0
<b>Number of DEP regulated facilities that pay 90% of the combined Title V Emission Fee and Annual Maintenance Fee Revenue</b>	102	310	206	129
<b>Other Title V Operating Permit Fee Revenue</b>	\$435,125	\$1,371,800	\$1,371,800	\$1,371,800
<b>Total Title V Facility Revenue, FY 2020-2021</b>	\$15,665,125	\$21,601,800	\$21,717,800	\$20,516,800

Two other options were considered by the Department in developing this proposed rulemaking. The second option would increase the Title V emission fee to \$110 per ton up to the 4,000-ton cap per regulated air pollutant and collect an annual maintenance fee of \$5,000 from the owners or operators of all affected Title V facilities. Table 7 illustrates that approximately 90% of the combined Title V emission fee revenue and annual maintenance fee revenue for Option 2 would be paid by the owners and operators of 206 Title V facilities.

The third option would increase the Title V emission fee to \$118 per ton up to the 4,000-ton cap and not collect an annual maintenance fee from the owners or operators of affected Title V facilities. However, this option would establish a minimum emission fee floor of \$5,000 payable by the owners or operators of

all affected Title V facilities. Those that emitted more than \$5,000 in emissions in a calendar year would pay on the actual tonnage emitted up to the 4,000-ton cap per regulated air pollutant. In this instance, Table 7 illustrates that approximately 90% of the Title V emission fee revenue for Option 3 would be generated from emissions at 129 Title V facilities.

As illustrated in Table 7, each of the three options considered by the Department in developing this proposed rulemaking would generate revenue of roughly \$21 million, or an increase of approximately \$6 million over current Title V facility revenue. The recommended option (Option 1) in this proposed rulemaking Annex A and Option 2 spread the generation of the Clean Air Fund revenues among more Title V facility owners and operators due to collecting an annual maintenance fee from Title V facility owners and operators. The recommended option spreads the burden for supporting the Title V Operating Permit Program across 310 Title V facility owners and operators versus 206 Title V facility owners and operators for Option 2.

Option 3 would affect 129 Title V facility owners and operators who would bear the bulk of generating the total emission fee revenue collected, rather than 102 Title V facility owners and operators under the current fee structure, due to the emission fee floor. Under Option 3, the owner or operator would pay either the calculated emission fees or the minimum of \$5,000, whichever is greater. Again, the recommended option in this proposed rulemaking spreads the burden for supporting the Title V Operating Permit Program across 310 Title V facility owners and operators versus 206 Title V facility owners and operators for Option 2 and 129 for Option 3.

After considering these options and the amount of revenue generation expected, the numbers of affected Title V owners and operators, the Department proposed Option 1 as the recommended option. It is the least burdensome alternative, while producing adequate revenue for the program as required by the CAA. One option that the Department could not consider was exempting Title V facilities that qualify as small businesses from paying an emissions fee on annual emissions. That is because section 502 of the CAA and 40 CFR Part 70 require that the owners and operators of all affected Title V sources pay an emissions fee based on the tonnage of regulated pollutant emitted annually. The Department also could not consider increasing the cap of 4,000 tons of regulated pollutants as a way to increase emission fee revenue. This statutory cap is set in section 6.3(c) of the APCA.

Several states now collect fees for source testing or monitoring. New Jersey collects fees to evaluate source testing (\$450 to \$500 per test protocol), test observation (\$200 to \$500), and to review the test report. Idaho charges a fee for services not to exceed \$7,500 per facility per year. Wisconsin collects a fee for emission testing and environmental assessment. Delaware collects a user fee that ranges from \$3,000 to \$200,000 per year based on the hours expended at the facility. The Department considered adding fees for these services, but decided that the administrative burden of tracking and billing for these fees would be excessive at this time.

**(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:**

**(a) The establishment of less stringent compliance or reporting requirements for small businesses.**

While some facilities may be considered a small business as defined in Section 3 of the Regulatory Review Act, no changes to reporting, recordkeeping, or other administrative procedures are included in this proposed rulemaking. The owners and operators of the affected permitted facilities are familiar with the existing requirements for reporting and recordkeeping for their entity and have the professional and

technical skills needed for continued compliance with these requirements. The Department has established a small business assistance program that is available to provide confidential assistance to the small businesses.

**(b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.**

The Department is not proposing any schedules or deadlines for compliance or reporting requirements. The Department is proposing a reduced RFD fee for small businesses that will allow small businesses to receive a written determination from the Department concerning their proposed action without paying the costs associated with a regular plan approval application.

**(c) The consolidation or simplification of compliance or reporting requirements for small businesses.**

The Department is not proposing any compliance or reporting requirements.

**(d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation.**

The Department is not proposing any design or operational standards in this rulemaking.

**(e) The exemption of small businesses from all or any part of the requirements contained in the regulation.**

While certain Title V facilities may meet the definition of small business under the SBA size definition cited by the Regulatory Review Act, Act 76 of 2012, the owners and operators of these facilities are subject to the Title V emission fee imposed by § 129.705(a) due to the amount of emissions of regulated air pollutants reported on an annual basis. This is because section 502 of the CAA, and 40 CFR Part 70, requires that the owners and operators of all affected Title V sources pay an emissions fee based on the tonnage of regulated pollutant emitted annually.

These owners and operators have been paying permanent Title V emission fees since the Board promulgated the emission fee schedule on November 24, 1994 (24 Pa.B. 5899) and have experience with the emissions fee as a cost of doing business. The emission fee is due by September 1 of each year for subject emissions from the previous calendar year. Interim annual air emission fees were established by the General Assembly in the July 1992 amendments to the APCA (Act of July 9, 1992, P.L. 460, No. 95), which were paid prior to the establishment of the permanent annual emissions fee in 1994.

The Department is proposing a reduced fee for the owners and operators of small businesses that submit RFDs.

**(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.**

The Department captures employee time data via the Cross-Application Time Sheet reporting system that identifies staff activities which support the fee analysis. Costs associated with other program operational needs are posted into the Commonwealth's SAP Accounting System, which data also supports the fee analysis (see attached Clean Air Fund Fiscal Analysis and Fee Report). This information is included in the Department's Basic Financial Statements that are prepared in conformity with generally accepted accounting principles (GAAP) as prescribed by the Governmental Accounting Standards Board (GASB). The Commonwealth's Basic Financial Statements are jointly audited by the Department of the Auditor General and an independent public accounting firm.

The number and type of permitted facilities were extracted from the Department's eFACTS system. The eFACTS system is the repository for all Department permitting, inspection, compliance and emission data. It is maintained and updated daily by staff in the Department's regional offices and central office. The number of asbestos notifications and who submits them was extracted from the Pennsylvania Asbestos Notification System (PANS), which is a database that has been maintained by both the Department and the Department of Labor and Industry since 1996.

*Regulatory Impact Analysis, Final National Ambient Air Quality Standard for Ozone*, July 2011, U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, NC, 27711. A copy is available from the Department upon request. A copy was available on the web site of the Nuclear Regulatory Commission on June 30, 2016, at this link: <http://www.nrc.gov/docs/ML1224/ML12240A237.pdf>

*Regulatory Impact Analysis of the Final Revisions to the National Ambient Air Quality Standards for Ground-Level Ozone*, EPA-452/R-15-007, September 2015, U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711. A copy is available from the Department upon request. A copy was available on the EPA web site on June 30, 2016, at this link: <https://www3.epa.gov/ttn/naaqs/standards/ozone/data/20151001ria.pdf>

United States Census Bureau, 2015 Population Estimate (as of July 1, 2015), <http://factfinder.census.gov>: Pennsylvania, 12,802,503, researched 6-30-2016.

United States Census Bureau, 2015 Population Estimate, <http://www.census.gov>: United States total, 321,418,820, researched 6-30-2016.

*Funding Of Major Air Facility Title V Programs: Summary of NACAA 2014 Survey Data*, Final Report, December 2015, National Association of Clean Air Agencies, [http://www.4cleanair.org/sites/default/files/Documents/SummaryofData\\_2014NACAASurvey\\_Dec2015.pdf](http://www.4cleanair.org/sites/default/files/Documents/SummaryofData_2014NACAASurvey_Dec2015.pdf).

*2015–2020 Strategic Asthma Plan for Pennsylvania*, February 2016, the American Lung Association in Pennsylvania, the Pennsylvania Asthma Partnership and the Pennsylvania Department of Health, <http://www.paasthma.org/wp-content/uploads/2013/10/Strategic-Asthma-Plan-For-PA-2015-2020.pdf>



**(29) Include a schedule for review of the regulation including:**

- |   |   |
|---|---|
| A. The length of the public comment period:   | <u>66 days</u>  |
| B. The date or dates on which public meetings or hearings will be held:                   | <u>May 13, 15, and 16, 2019</u>                         |
| C. The expected date of delivery of the final-form regulation:                            | <u>Quarter 4, 2019</u>                                  |
| D. The expected effective date of the final-form regulation:                              | <u>Date of publication in the Pennsylvania Bulletin</u> |
| E. The expected date by which compliance with the final-form regulation will be required: | <u>Date of publication in the Pennsylvania Bulletin</u> |
| F. The date by which required permits, licenses or other approvals must be obtained:      | <u>NA</u>   |

**(30) Describe the plan developed for evaluating the continuing effectiveness of the regulation after its implementation.**

The Board is not establishing a sunset date for this final-form regulation, since it is needed for the Department to carry out its statutory authority. The Department will closely monitor this final-form rulemaking after promulgation as a final-form regulation for its effectiveness and recommend updates to the Board as necessary.





## TITLE V OPERATING PERMIT INSTRUCTIONS

### Overview of the Instructions

This guide is intended to assist the applicant in completing, updating or renewing a Title V Operating Permit Application. Please print clearly when completing or correcting the forms. If the information required is more than space allows, attach additional paper and label each section and question appropriately.

There are two (2) parts in this guide:

1. *Part A, "General Information"*, is designed to provide the applicant with general requirements and information such as the fees, number of copies required and the completeness requirements determination.
2. *Part B, "Title V Application Structure and Instructions"*, is provided to explain the design of the Title V application and its format. Depending on the complexity of each section within the application, either a brief description or detailed instruction will be provided.

### Part A: General Information

#### A. Overview

This part is intended to provide general information to potential applicants who might be subjected to the Title V Operating Permitting requirements. Topics included in this part are as follows:

- Who must apply for a Title V Operating Permit?
- Number of copies of the application required?
- Where to submit the Application?
- The Application Fees
- Certification Requirements
- Completeness Review
- Confidentiality

#### A.1 Who must apply for a Title V Operating Permit?

All facilities that exceed the potential threshold as defined below will need to submit a Title V Operating Permit application.

Potential threshold for Title V facilities:

1. 10 tons per year or more of a specific hazardous air pollutant or 25 tons per year of a combination of hazardous air pollutants.
2. 100 tons per year of any other criteria contaminant (exceptions noted below). Fugitive emissions need not be included in the calculation to determine applicability, unless the facility is one of the categories listed in Paragraph (ii) of the definition of "Title V facility in 25 Pa. Code Section 121.1."
3. 50 tons per year of VOCs (in all areas but Southeast Pennsylvania).
4. 25 tons per year of VOCs and NOx in Southeast Pennsylvania, which consists of the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia.

A facility must include all those sources located on one (1) or more contiguous or adjacent properties under common control and belonging to a single major industrial grouping [two (2) digit Standard Industrial Classification (SIC) code].

#### A.2 When to renew the application?

All applications for permit renewals shall be submitted at least six months and not more than 18 months before the expiration of the existing permit.

#### A.3 Number of copies required

Submit the completed application package in triplicate to the appropriate Bureau of Air Quality Regional Office. A listing of all six (6) regional offices and their addresses is available at: [www.depweb.state.pa.us](http://www.depweb.state.pa.us).

#### A.4 Application Fees

Please refer to the Air Quality Fees Schedule for a Title V Operating Permit for more details.

~~A payment of the permit application fee of \$750 by means of one check made payable to the "Commonwealth of Pennsylvania, Clean Air Fund" must be included with this application.~~

#### A.5 Certification

This application must be signed by a *responsible official* in Sections 1 and 13 of the application, "Certification of Truth, Accuracy, and Completeness", and "Compliance Certification," respectively.

"*Responsible Official*" is defined as follows:

- A. For a corporation: a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production or operating facilities applying for or subject to a permit, and either:
  - 1. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
  - 2. The delegation of authority to such representative is approved in advance by the Department;
- B. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
- C. For a municipality, state, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this paragraph, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g. a Regional Administrator of EPA); or
- D. For affected sources:
  - 1. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Clean Air Act or the regulations promulgated thereunder are concerned; and
  - 2. The designated representative for any other purposes under 40 CFR Part 70.

#### A.6 Completeness Review

Besides complying with Items A.3, A.4, and A.5 above (relating to number of copies, fees, and certification requirements), all questions in this application must be answered. If a question does not fit the circumstances or characteristics of your facility, indicate "NA" for "Not Applicable". Incomplete forms will not be accepted and

will be returned. This will delay the processing of your application.

Within 60 days from receipt of the application, the Department will determine if the application is complete. An application is complete if it contains sufficient information to begin processing the application, has the applicable sections completed and has been signed by a responsible official. Although an application may be accepted as complete, be aware that additional information and/or documentation may be required during the Department's review to fully evaluate the application.

Also, Section 127.505(c) of Title 25 provides that if the application is submitted within the time frame required and the Department fails to issue a permit through no fault of the applicant, the Title V facility may continue to operate if the fees required by Subsection I of Chapter 127, Title 25, have been paid and the source is operated in conformance with state and Federal laws and the regulations promulgated thereunder. The terms and conditions of an existing operating permit issued to a source continue, pending the issuance of a permit under Title V. As Section 127.505(e) notes, an applicant meeting the requirements of § 127.505(a) and (c) has an application shield. This application shield shall cease if the source fails to provide information requested by the Department that is necessary to evaluate the Title V Operating Permit application.

#### A.7 Confidentiality

Sections 127.12(d) and 127.411(d) of Title 25 provide for the confidential treatment of information submitted as part of a plan approval or an operating permit application. These sections provide that, upon cause shown by any person that the records, reports or information, or a particular portion thereof, but not emission data, to which the Department has access under the provisions of the act, if made public, would divulge production or sales figures or methods, processes or production unique to that person or would otherwise tend to adversely affect the competitive position of that person by revealing trade secrets, including intellectual property rights, the Department will consider the record, report or information or particular portion thereof confidential in the administration of the Air Pollution Control Act. The Department will implement this section consistent with Sections 112(d) and 114(c) of the Clean Air Act. Nothing in this section prevents the disclosure of the report, record or information to Federal, State or local representatives as necessary for purposes of Administration of Federal, State or local air pollution control laws, or when relevant in any proceeding under the Air Pollution Control Act. These provisions of the regulation mirror those found in Section 13.2 of the Air Pollution Control Act.



## Part B: Title V Application Structure and Instructions

### B. Overview

The Title V Operating Permit application forms are designed to capture the information required by Federal and state regulations. A significant amount of source and emissions related information for major facilities has been captured in the Department's Air Information Management System (AIMS) emission inventory. To ease the burden on Title V applicants, the Department has designed a form that is produced from AIMS. This saves the applicant the effort of reproducing this information. The applicant need only review, correct, and add new information as necessary. This also has the added bonus of keeping the information in a form that is then more easily reentered into AIMS. For new facilities or facilities that are currently not in AIMS, a blank application will be provided.

The Title V Operating Permit application consists of the following major sections and addendum:

Section 1:	General Information
Section 2:	Applicable Requirements for the Site
Section 3:	Site Inventory List
Section 4:	Sources Grouping
Section 5:	Combustion Information
Section 6:	Incinerator Information
Section 7:	Process Information
Section 8:	Control Device Information
Section 9:	Stack and Flue Information
Section 10:	Fuel Material Location Information
Section 11:	Compliance Plan for the Facility
Section 12:	Alternative Operating Scenario (optional)
Section 13:	Compliance Certification
Addendum 1:	Method of Compliance Worksheet

#### B.1 Section 1: General Information

This section gives general information about the site as a whole and is only completed once per application. There are four (4) basic parts in this section:

##### 1.1 Application Type:

Indicate the type of permit for which this application is made for. Check only one (1) of the following boxes:

- **Initial** is for the initial Title V Operating Permit Application submittal.
- **Renewal** is for the renewal of an existing Title V Operating Permit application.

- **Application Revision** is to be used for cases where additional information and/or revision is to be supplemented or updated with the original application. If this box is checked, please provide either the submittal date of the original Title V Operating Permit Application or the Title V Operating Permit, if applicable.

##### 1.2 Plant Information:

This section provides general information about the plant. The following information is requested and must be completed and/or corrected:

- **Federal Tax ID:** This number is unique for a facility and is used to track information for a site.
- **Firm Name:** The name of the company.
- **Plant Code:** Do not fill out this code if you are completing this application for the first time. For existing facilities, this code should be pre-printed on the space provided. This code is assigned sequentially by DEP and is used to separate multiple sites that belong to a facility. This number along with the Federal Tax ID would directly point to a specific site location.
- **Plant Name:** The name of the plant for which the application is made.
- **NAICS Code:** This is the North American Industry Classification Code for the main activity at this site.
- **SIC Code:** This is the Standard Industrial Code which represents the main activity at the site.
- **Description of SIC/NAICS Code:** Provide a brief description of the SIC/NAICS Code given.
- **County:** The county in which the plant is located.
- **Municipality:** The municipality in which the plant is located.
- Provide the Latitude, Longitude and Collection Methods as required. For more information, refer to the Pennsylvania DEP Locational Data Policy located at the following web address:

[http://www.dep.state.pa.us/dep/subject/ADVCOUN/oil\\_gas/2002/ATT D DEP %20Locational Policy.pdf](http://www.dep.state.pa.us/dep/subject/ADVCOUN/oil_gas/2002/ATT D DEP %20Locational Policy.pdf)

##### 1.3 Contact Information:

The information given here should be the main contact person for all questions regarding this application. If a contact name is pre-printed,

correct this information, if applicable.

**1.4 Certification of Truth, Accuracy, and Completeness:**

This certification must be signed by a responsible official. Refer to Part A, Item A.5, "Certification" of this guide for a definition for "responsible official".

**Warning:** Please note that applications without a signed certification in both Sections 1 and 13 will be returned as incomplete and are not eligible for the application shield.

**B.2 Section 2: Site Applicable Requirements**

This is where the facility lists all applicable requirements that apply to the entire site or to all sources within the site. An example of this would be the requirement that no fugitive emissions are allowed beyond the property line. For each applicable requirement that is listed here and elsewhere within this application, a separate worksheet, "Method of Compliance Worksheet", (Addendum 1) must be completed. This is very important since all applicable requirements must provide a description of or reference to any compliance method to achieve compliance with the stated requirements.

- **Citation No.:** This would either be a Federal or state citation or an existing permit condition, if applicable. Applicants do not have to delineate which of these citations are Federally enforceable. If needed, the Department will separate these requirements in the permit itself.

**Note:** Regulations cited in this column must be in a specific format. For Federal Citations, provide the Code of Federal Regulations (CFR) and the appropriate sections and/or subsections. For example, New Source Performance Standards (NSPS), Subpart Dc, would be listed as 40 CFR 60.43c for Particulate Matter.

For State Citations, list the appropriate chapters and sections. For example, a Surface Coating Process subjected to an allowable VOC content stated in Table I of Chapter 129.52 would enter § 129.52(b)(1) in the citation column.

- **Citation Limitation:** Indicate the standard or emission limitation associated with the citation number listed.
- **Limitation Used:** This column is optional and is to be used only if a more stringent limitation is proposed.

**Example:** A steam generating unit constructed after June 8, 1989, with the maximum design heat input capacity of 85 MM BTU/hr fueled by coal. Some of the applicable requirements would be:

Citation No.	Citation Limitation	Limitation Used (optional)
40 CFR 60.43c 40 CFR 60.42c	For PM: 0.05 lb/MM BTU For SOx: 1.2 lb/MM BTU and 90 % reduction	

For purposes of complying with the above requirement, the **Method of Compliance Worksheet** (Addendum 1) must be completed, indicating that the compliance method for PM would be recording and maintaining records and Continuous Emission Monitoring (CEM), Method 6B, will be used to show compliance for SOx.

**B.3 Section 3: Site Inventory List**

This is a listing of all sources (units) for which the Department currently has information stored in AIMS. This was provided as an inventory tool only and should be updated as needed. If the facility is new (or not currently in AIMS), then the applicant should provide a summary of all sources here.

- **DEP ID** is an ID in which the Department has assigned to an existing source at this facility. For new source(s), this column is named "Unit ID". In this case, the applicant is free to assign a unique number to these sources as appropriate. This number can include both numbers and characters. However, please be careful to use this number throughout the application.
- **Company Designation** is provided for companies to use the existing designation as typically referred to in the plant.
- **Unit Type** is the type of source in question.
- **CAM** (✓) identifies the pollutant specific emission unit (PSEU) subjected to Compliance Assurance Monitoring (CAM) requirements of 40 CFR Part 64.

#### B.4 Section 4: Source Groups (optional)

This section is provided to assist the applicant in identifying and completing the *applicable requirements*. If there are a number of identical applicable requirements that apply to several sources, it is possible to group these sources together and only list the appropriate applicable requirements once in this section. Please note that source(s) can belong to different groupings with respect to identifying applicable requirements.

**Warning:** This section is not to be used for grouping of small and similar sources (grouping of similar sources should be identified under the source(s) section(s), see Section 5). The purpose of this section is to list all identical applicable requirements once and not have to repeat throughout the application for each source that this applicable requirement applies.

Also note that this section is optional and does not have to be completed.

There are two (2) parts in this section. They are as follows:

##### 4.1 Source Group Definition:

This is where groups are defined. This section was created for the applicant's convenience. Instead of completing identical applicable requirements for a number of sources, the applicant can group similar sources that have the same applicable requirements together in this table.

- **Group No.:** This is a sequential number for the newly created group.
- **Source ID Nos.:** All source(s) within the group must be identified using the assigned DEP ID.

##### 4.2 Applicable Requirements for Source Groups:

If a group was created in the previous section, this table must be completed.

- **Group No.:** Use the group number that was identified in the previous section.
- **Citation No., Citation Limitation, and Limitation Used:** These items were previously defined in Part B, Section 2, of this guide.

#### B.5 Section 5: Combustion Unit Information

This section should be completed if a facility has a combustion unit located at the site. If there are no combustion units in this facility, do not fill out this section.

There are six (6) sections listed in this section:

1. General Source Information
2. CAM Information
3. Exhaust System Components
4. Source Classification Code (SCC) Listing
5. Maximum Fuel Physical Characteristics
6. Limitations on Operation (optional)
7. Source Applicable Requirements

##### Notes:

- This section addresses only one (1) combustion unit at a time. Review and correct each pre-printed combustion source section as needed or duplicate this section to enter new combustion sources as appropriate.
- It is possible to group a number of small combustion units together. However, be careful not to group a large number of small sources together since the Department will regard a group of sources as an individual source for purposes of determining future applicability with respect to certain future applicable requirements such as Enhanced Monitoring Requirements. For instruction on how to group source(s) together, please refer to next section.

##### 5.1 General Source Information:

Information contained or requested in this section is for identification of the source. All required fields are to be completed. If a question does not pertain to your source or if the information requested is not available, please either indicate "NA" for "Not Applicable" or "Not Available".

**Grouping of sources:** As mentioned earlier, sources may be grouped together if they are relatively small and similar in nature. For example, a refinery facility can group 100 of their valves or 100 flanges together as a source.

In order to group sources together, the applicant must indicate this grouping by providing a brief description in spaces allotted for **Source Description**. Once grouping has occurred, this group of sources will be considered as one (1) source and the emission reported must include all

sources within this group. Again, be careful not to create a large group (in terms of total emissions emitted) since it may trigger new applicable requirements in the future.

Also, for purposes of grouping, the information relating to *Manufacturer*, *Model Number* and *Installation Date* are optional and can be left blank.

## 5.2 CAM Information:

This section determines if CAM is applicable for the pollutant specific emission unit (PSEU).

## 5.3 Exhaust System Components:

This section provides a map of the exhaust system components for a given year (the year is in parenthesis in the heading). Below the map is a list of flow rates and begin/end dates for each link in the map. Again, this information is generated using the information currently in the AIMS. If the facility is a new source, the applicant must complete the table provided. The following information is requested:

- **From Unit ID:** This refers to the starting point of the configuration. Usually, this is a source, a control device or a Fuel Material Location (FML). Answer this question by giving the type of source or component such as boiler, baghouse, or Fuel Material Location (FML) in space provided.
- **Unit Description:** Provide a brief description of the Unit ID.
- **To Unit ID:** Similarly, indicate the stopping point for which the listed component is configured. This normally represents a control device or a stack.
- **Percent Flow:** Provide the percent flow from one component to another.

### 5.3.1 Control Devices: (For Pre-printed Applications only)

This is a listing of all control devices for the source. For each control device, the following information is presented: the type of pollutant being controlled, the estimated control efficiency and the method of calculating the control efficiency. If the information provided by the Department here is incorrect, the applicant should make corrections in Section 8.1, "Control Device Information", of the application. In the case of a

new control device, the applicant must complete a separate form, "*Control Device Worksheet*" found in Section 8 of the blank application provided and included with the application. Any additional pollutant control efficiency can also be added in this section.

If a lower emission rate can be achieved through utilizing this piece of control device and the applicant is willing to take this lower emission rate as an applicable requirement, indicate this by including this restriction in Section 5.7, "*Source Applicable Requirement*". (See Section 5.7 for more instruction on how to incorporate this restriction into an applicable requirement). Note that the control device information should support the lower restriction taken.

### 5.3.2 Emission Points: (For Pre-printed Applications only)

This is a listing of all emission points for the source. For each emission point, the type of discharge, its height and diameter are provided.

If the configuration as presented in the pre-printed application is incorrect or needs to be updated, please correct data in Section 9, "Stack and Flue Information". If more spaces are needed to correct these data, attach additional sheet.

## 5.4 Source Classification Code (SCC) Listing:

In this section, the applicant is asked to complete the following information in a table format:

- **Fuel/Material:** Provide all types of fuel utilized by this source.
- **Associated SCC:** This is the Federal Standard Classification Code that represents a specific type of fuel and/or process. If known, provide this code in the space provided. Otherwise, this can be left blank.
- **Max Throughput Rate:** This would represent the maximum throughput rate in a standard or typical operation. This number would be used to calculate the potential to emit unless a lower limit has been established in Section 5.6, "*Limitations on Operation*".
- **Firing Sequence:** Indicate how the fuels are being used by the source, sequentially (alternatively) or simultaneously.

This information is for a standard operational year. For a limitation or restriction to any of this



information, please complete the table in Section 5.6, "Limitations on Operation". **Do not** attempt to place a restriction on the throughput rate here.

### 5.5 Maximum Fuel Physical Characteristics:

This section asks for the type of fuels and its physical characteristics employed for this source. Information requested is as follows:

- **SCC/Fuel Burned:** See Section 5.4.
- **FML:** FML stands for Fuel Material Location. FML is to be used for cases where a central location such as a fuel tank or a pile of coal is being used by multiple sources in a facility. If such a scenario exists in a plant, please complete the *Fuel Material Location* worksheet in Section 10 of the application and provide the FML number in the space provided. By completing this worksheet once, the applicant does not have to repeat this information throughout the application.

If the concept of FML does not fit your case, leave the FML column blank and fill in the %Sulfur, %Ash, and BTU in spaces provided.

- **%Sulfur & %Ash and BTU Content:** If an FML has been specified, these three (3) items can be left blank. Otherwise, provide the information as requested.

**Taking Restrictions on Fuel Characteristics:** If a restriction is desired with respect to fuel characteristics, the following steps must be followed:

1. **For an FML:** If the restriction is taken by either reducing the %Sulfur, %Ash or the BTU value for a specific type of fuel/SCC **AND** this change is effective for all sources that are fed from this FML, then the changes need to be made at the FML level. To do this, fill out Section 10, "Fuel Material Location" and provide the restricted fuel characteristics in the spaces provided.
2. If the changes are limited to only one source, even though the FML is capable of feeding several other sources, a new FML must be created for this proposed change. Again, complete Section 10, "Fuel Material Location" and assign a unique number for this FML.
3. **For other cases:** For all other cases that do not involve a FML, the restrictions can be

made directly by providing the lower % Sulfur, % Ash or the BTU value in this section.

### 5.6 Limitations on Source Operation (optional):

This section is to be completed only if this source is seeking to place a restriction on either the hours of operation and/or the maximum throughput rate. Do not complete this table if this source is accepting the maximum operational hour of 8760 and operates at the maximum throughput rate provided previously in Section 5.4, "Source Classification Code Listing for Standard Operation".

The first column asks for the SCC or the type of fuels used in this source. The next four (4) columns in this table are related to taking a restriction on the hours of operation. The final two (2) columns are for limiting the production or throughput rate.

Restrictions on hours of operation can be taken for the following cases: hours per day, days per week, days per year, and hours per year.

For limiting the throughput rate, provide the restricted throughput rate per unit time (per hour, day, week, month, year).

Remember, all of these restrictions can then be used to reduce this source's potential to emit.

### 5.7 Source Applicable Requirements:

This section is where all applicable requirements that pertain to this source are listed. This table follows the same format as previously encountered in Part B, Section B.2, "Site Applicable Requirements", and Section B.4, "Group Applicable Requirements", found on page 525.

- **Fuel/SCC:** Provide either the SCC or the fuel type for which an applicable requirement is to be completed.
- **Citation No.:** This would either be a federal requirement or a state citation. Applicants do not have to indicate which of these citations are Federally enforceable.
- **Citation Limitation:** Indicate the standard or emission limitation associated with the citation number listed.

- **Limitation Used:** This column is optional and is to be used only if a more stringent limitation is proposed.

**Important:** Please note that all applicable requirements listed here and elsewhere throughout this application must be accompanied by a, "Method of Compliance Worksheet" (not attached), provided as Addendum 1 of this application package.

#### B.6 Section 6: Incinerators Information

This section should be completed if a facility has an incinerator unit located at the site. If there are no incinerator units in this facility, do not fill out this section.

Similarly to the previous section, this section also contains 10 sections. Because of the similarity in these sections, the instructions will not be repeated here. Please refer to previous section, "Combustion Information", for instruction on how to complete this section.

#### Note:

- This section addresses only one (1) incinerator unit at a time. If there are multiple incinerator units, duplicate this section as appropriate.
- It is also possible to group a number of small units together. However, be careful not to group a large number of small sources together since the Department will regard a group of sources as an individual source for purposes of determining future applicability with respect to certain future applicable requirements such as Enhanced Monitoring Requirements. For instruction on how to group source(s) together, please refer to Section 5.1, "Grouping of Sources".

#### B.7 Section 7: Process Information

This section must be completed for all other sources that are not of the combustion unit or incinerator type. If there is more than one (1) process in this facility, duplicate the entire section and complete for each additional process.

Also, since the format of this section is similar to the previous two (2) sections (combustion and incinerator), no additional instruction is provided except for the following three (3) additional items.

#### 7.8 Raw Materials:

This is applicable to a process only. It asks for a listing of raw materials that may have an effect on determining or regulating emissions. This listing does not have to be detailed. If the breakdown of raw materials used does not create a change in emissions, this question can be left blank.

#### 7.9 Processing Steps:

Again, this question only applies to a process. It asks for steps taken during processing that may be needed for determining or regulating emissions. Only information that may affect emissions is requested.

#### 7.10 Request for Confidentiality:

The previous two (2) sections can be made confidential if the applicant checks the provided box. However, please note that justification for confidentiality is required. Attach justification for confidentiality immediately following this section. Also refer to Part A, Item A.7, "Confidentiality", on Page 2 of this guide for more information.

#### B.8 Section 8: Control Device Information

The information requested in this section is designed to capture only the essential information about a piece of control equipment. For pre-printed applications, please review and correct as necessary. For new facilities, complete all questions as requested.

#### 8.1 Type of Control Device:

The following information is required in this section:

- **Unit ID:** Provide a unique Unit ID for this control device.
- **Company Designation:** Give the name of the control device as designated by the facility.
- **Used by Sources:** List and briefly explain all sources controlled through this piece of control equipment by the Unit ID of the source.
- **Type:** Describe the type of control equipment being used (scrubber, fabric filter, ESP, etc.).
- **Pressure Drop in H<sub>2</sub>O:** Provide this information if applicable.
- **Capture Efficiency:** This information is optional as long as the applicable standard

does not specify a capture efficiency. However, if available, please provide the capture efficiency for this control equipment.

- **Scrubber Flow Rate:** Provide this information if applicable.
- **Manufacturer and Model No.:** Provide this information if available. For grandfathered source(s), these are optional.
- **Installation Date:** Provide this information if available.

#### 8.2 Control Device Efficiencies for this Control Device

Under Item K, "Control Device Efficiency Estimates for this control device", the following additional information is required:

- **Pollutant/CAS No.:** Provide the name or CAS Number of the pollutant being controlled.
- **Estimated Control Efficiency:** Provide the estimated control efficiency for the pollutant controlled.
- **Basis for Efficiency Estimate:** Briefly explain the method of calculating the control efficiency.

#### B.9 Section 9: Stack/Flue Information

Provide all information as requested. Since the information requested in this section is self-explanatory, no detailed instructions are provided, except for a few items.

##### 9.1 General Stack Information

- **Unit ID:** For an existing company in AIMS, the DEP ID would be a sequential number assigned by the Department. If this is a new stack, assign a unique identifying number for this stack and be sure to use this same ID throughout the application.
- **Company Designation:** This would be the company's designation for this stack.
- **Discharge Type:** An example of discharge type would be vertical and unobstructed opening.

**Note:** For companies that received pre-printed information in this section, please make corrections and/or update this section accordingly.

#### B.10 Section 10: Fuel Material Location Information (FML)

As previously mentioned in Section 5.4, "Maximum Physical Characteristics", the FML is provided to decrease the amount of repetition employed in this application. This section needs to be completed only if applicable. If information is already pre-printed in this section, please review and update as needed.

- **FML ID No.:** For a new FML, assign a unique ID for this FML. (Ex: FML 01)
- **Name:** Provide a name or a description of this FML. (Example: No. 2 Oil Storage Tank)
- **Capacity:** Indicate the capacity of this FML. (Example: 30,000 gallons)
- **Fuel:** Provide the type of fuel this FML stores.
- **%Ash, %Sulfur and BTU:** Give these fuel characteristics according to fuel purchasing specifications.
- **Used by source(s):** List all source(s) by Unit ID that use this FML.

#### B.11 Section 11: Compliance Plan for the Facility

This section is to be completed once per application. The completion of this section is very important. It provides the applicant a chance to show compliance with all applicable requirements as well as to propose a compliance schedule for cases where compliance has not yet been achieved. Basically, there are three (3) questions in this section.

**11.1** Question 1 asks if the company will be in compliance at the beginning of the Title V Operating Permit issuance and continue during the permit duration. Check the appropriate box.

**11.2** Question 2 asks if the company will be in compliance with requirements that are scheduled to take effect during the term of the Title V Operating Permit. Check the appropriate box.

**11.3** Question 3 is a follow up from question number 2 and asks if these requirements will be met by the regulatory required dates. Again, check the appropriate box.

If any of the above questions were answered "No", the applicant must identify the applicable requirement(s) that the company is not/will not be in compliance with by completing the following table (Section 11.4.1):

**11.4 Identification Table for Applicable Requirements not in compliance:**

- **Source ID No.:** In this column, place the Site ID, Group ID, Source ID or SCC number of the applicable requirement that is not in compliance in space provided.
- **Citation No.:** Repeat the Citation Number for the applicable requirement in the Citation Number column.

**11.4.1 Briefly describe how compliance is to be achieved:**

Present an overview of how the company will come into compliance with the stated applicable requirements.

**11.4.2 Detailed schedule leading to compliance:**

This section is intended for the applicant to provide a detailed schedule of how the company will come into compliance. Complete the table by giving the estimated date for which an action or step is being fulfilled in order to achieve compliance. This should correspond with the overview.

**11.4.3 Submittal frequency:**

Indicate how frequently progress reports will be sent to DEP. Note that the minimum is at least twice a year.

**11.4.4 Starting Date:**

Enter proposed first progress submittal date.

**B.12 Section 12: Alternative Operating Scenario (optional)**

The format for this section is similar to Section 4, "Source Group." All of the required information is requested in the following order:

- Section 12.1: General Information
- Section 12.2: Operational Flexibility Request
- Section 12.3: Exhaust System Components
- Section 12.4: Source Classification Code (SCC)  
Listing for Alternative Operation
- Section 12.5: Alternative Fuel Physical Characteristics
- Section 12.6: Alternative Process/Product Description
- Section 12.7: Source Potential to Emit

**Note:**

- The alternative operation for a source must encompass the entire operation of the source.
- Only one alternative operation per source is allowed to be active at a time.
- This section addresses only one source per scenario at a time. If there is more than one scenario for this source or for any other source(s), duplicate this section and complete accordingly.

**B.13 Section 13: Compliance Certification**

A compliance certification must be submitted to the Department throughout the term of the permit. By fulfilling this requirement, the applicant can prove to the Department that all applicable requirements and compliance methods are being adhered to.

This section is mandatory and needs to be completed once per application. Complete the three questions as requested. Note that this section must be signed by a responsible official.





## Instructions for State-Only Permit Application

### PART A: GENERAL INFORMATION

#### A. Overview

This application is to be used in cases where a Title V Operating Permit (Major Permit) is not required. This includes a Synthetic Minor Operating Permit.

Synthetic Minor facilities are facilities whose potential to emit, without taking limitations and/or restrictions, exceed the Title V applicability threshold. Hence, by taking a restriction in the hours of operation, an emission limitation, or any other approved method, a major facility by definition will now become a minor facility and escapes the Title V Operating Permit program. It is important to note that in order for a facility to become a Synthetic Minor, the limitations and/or restrictions taken must be **federally enforceable**. **Federally enforceable** means that the emission limitation(s) and requirements are enforceable by the Environmental Protection Agency (EPA) and citizens under the Clean Air Act (CAA)

For consistency, the State-Only Operating Permit Application (Minor Permit) is developed using the same format as the Title V Operating Permit application. Similar to the Title V Operating Permit program, the State-Only Operating Permit program will encompass all sources within a facility (site).

##### A.1 Number of copies required

Submit the completed application package in triplicate to the appropriate Air Program Regional Office. A listing of all six (6) regional offices and their addresses is available at [www.depweb.state.pa.us](http://www.depweb.state.pa.us). In addition, a completed *Compliance Review Form* and proof of municipal and county notifications must be included with the application.

##### A.2 Application Fees

Please refer to the Air Quality Fees Schedule for a State Only Operating Permit for more details. ~~A payment of the permit application fee of \$750 (\$375 application processing fee and \$375 annual administration fee) by means of one check made payable to the "Commonwealth of Pennsylvania, Clean Air Fund" must be included with this application.~~

##### A.3 Certification

This application must be signed by a **responsible official** in Section 1.4 of the application, "Certification of Truth, Accuracy, and Completeness." Synthetic

Minor applicants must also sign Section 13.2 relating to "Certification of Compliance."

"**Responsible Official**" is defined as follows:

- a. For a corporation: a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
  - i. the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
  - ii. the delegation of authority to such representative is approved in advance by the Department;
- b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
- c. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this paragraph, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or
- d. For affected sources:
  - i. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Clean Air Act or the regulations promulgated thereunder are concerned; and
  - ii. The designated representative for any other purposes under 40 CFR Part 70.

## PART B: SPECIFIC INSTRUCTIONS

### B. Overview

The State-Only Operating Permit application consists of the following sections:

- Section 1: General Information
- Section 2: Site Information
- Section 3: Site Inventory
- Section 4: Source Group (Optional)
- Section 5: Combustion Operational Inventory
- Section 6: Incinerator Operational Inventory
- Section 7: Process Operational Inventory
- Section 8: Control Device Information
- Section 9: Stack/Flue Information
- Section 10: Fuel Material Location Information
- Section 11: Alternative Operating Scenario
- Section 12: Compliance Plan for the Facility
- Section 13: Certification of Compliance for Synthetic Minor Facilities

#### Section 1: General Information

This section gives general information about the site as a whole and is only filled out once per application. There are four (4) basic parts in this section:

##### 1.1 Application Type:

Indicate the type of permit for which this application is made. Check all that apply:

- **Initial** is for the initial application submittal.
- **Renewal** is for the renewal of an existing State-Only Operating Permit.
- **Application Revision** is for a revision to the original operating permit application.

##### 1.2 Plant Information:

This section provides general information about the plant. The following information is requested and must be completed:

- **Federal Tax ID:** This number is unique for a company and, in conjunction with the plant code, is used to track information for a site.
- **Firm Name:** The name of the company.
- **Plant Code:** Do not fill out this code. This code is assigned sequentially by DEP and is used to separate multiple sites that belong to a facility. This number along with the Tax ID would directly point to a specific site location.

- **Plant Name:** Applicant's designation of the plant for which the application is made.
- **NAICS Code:** This is the North American Industrial Classification Code for the main activity at this site.
- **SIC:** This is the Standard Industrial Classification Code which represents the main activity at the site.
- **Description of SIC/NAICS Code:** Provide a brief description for the SIC/NAICS Code given.
- **County:** The county in which the plant is located.
- **Municipality:** The municipality in which the plant is located.
- **Provide the Latitude, Longitude and Collection Methods as Required.** Refer to the Pennsylvania DEP Locational Data Policy located at the following web address for more information:

[http://www.dep.state.pa.us/dep/subject/ADVCOUN/oil\\_gas/2002/ATT\\_D\\_DEP\\_%20Locational\\_Policy.pdf](http://www.dep.state.pa.us/dep/subject/ADVCOUN/oil_gas/2002/ATT_D_DEP_%20Locational_Policy.pdf)

##### 1.3 Contact Information:

Provide the name and address of the person to which the operating permit should be mailed.

##### 1.4 Certification of Truth, Accuracy, and Completeness:

This certification must be signed by a responsible official. Refer to Part A, Item A.3, "Certification" on Page 1 of this guide for a definition of "responsible official."

#### Caution:

Please note that applications without a signed certification in the appropriate sections (1 and/or 13) will be returned as incomplete.

#### Section 2: Site Information

There are four (4) parts in this section. Specific information relating to the type and status of the facility with respect to Synthetic Minors and supporting compliance methods are included in this section.

##### 2.1 Potential Emission Estimates for the Site:

This is an estimate of potential emissions for the site. Provide the potential emission absent operational restrictions proposed in Section 2.3 in the column titled "Potential Emission BEFORE taking Limitations (TPY)", if applicable. In the next column, "Potential Emission AFTER taking

Limitations (TPY)", provide the estimated potential emissions using the proposed restrictions as stated in Section 2.3, if applicable. Please note that all supporting calculation methods used in determining the Potential Emissions for the Pollutant must be included in this application.

## 2.2 Facility Type:

Check the appropriate facility type in the box provided and follow the instructions given in the application. **Synthetic Minor Facilities** are facilities that must operate under a limitation(s) and/or restriction(s) in order to legally escape the Title V Operating Permit program. This would be an emission limitation or control equipment, limit on hours of operation, and/or operational capacity restriction. Please note that all Synthetic Minor Facilities must be able to meet the proposed restriction(s) and/or limitation(s) immediately upon the submission of this application.

## 2.3 Synthetic Minor Facility Information (to be completed by all facilities seeking Synthetic Minor Status):

If the facility as a whole can take a limitation and/or restriction for all sources within the facility, please check the box beside the "Site Level." If the proposed restriction is for an individual source, check the "Source Level" box and do not complete the rest of this section. Restriction(s) and/or limitation(s) at the source level should be completed in Section 5 of this application.

There are seven (7) different possible limitations a facility can select in this section. Note that any combination of the following restrictions is possible. Please check all methods that apply to your facility and complete all requested information as indicated.

- **Hours of Operation:** If this option is selected, provide the proposed annual hours of operation at this facility.
- **Production/Throughput Rate:** If this option is selected, provide the proposed Production/Throughput Rate. Indicate rate per time. Annual figures will be imposed as a 12-month running average.
- **Type of Fuel:** If this option is selected, provide the fuel type.
- **Fuel Usage:** If this option is selected, provide the proposed throughput for the type of fuel selected.
- **Control Devices:** If this option is selected, provide the type of control device, the Control Device ID Number and the estimated control efficiency.

- **Emissions Limitations:** If this option is selected, provide the pollutant name and the emission limit per unit time. For example, X lbs of pollutant per hour.
- **Other:** If none of the above listed scenarios describes the restriction you are taking, please select this option and explain in detail.

## 2.4 Compliance Method for the Site (for Synthetic Minor Facilities only):

Completion of this section is required only if Section 2.3 has been completed. This section is required since it will allow the Department to determine whether the company will be able to demonstrate compliance with the proposed limitations. There are four (4) parts in this section. Answer all questions as required. There is no specific guidance or requirement for a proposed compliance method. The applicant is free to propose any method to show compliance as long as it is practically enforceable and acceptable to the Department. The level of detail required for a proposed method to check for compliance is again, up to the applicant. However, please provide enough detail so that the Department can arrive at a decision based on the information given.

## Section 3: Site Inventory List

Provide a summary of all sources here. For purposes of identifying what sources to list, the general guideline is to list all sources that have the potential to emit any "Title V Regulated Air Pollutants" (as defined in 25 Pa. Code, Section 121.1) in any amount.

In the Inventory Table provided, the following information is requested:

- **Unit ID** is a unique source number to be assigned by the applicant. Please use this assigned number throughout this application.
- **Company Designation** is provided for companies to use the existing designation as typically referred to in the plant.
- **Unit Type** is the type of the source in question.

## Section 4: Source Group (Optional) This is self explanatory.

## Sections 5, 6, 7: Source Information

These sections should be completed once per source. Duplicate these sections as needed.

There are eight (8) sub sections listed in these sections:

1. General Source Information
2. Exhaust System Components

3. Source Classification Code (SCC) Listing for Standard Operation
4. Maximum Fuel Physical Characteristics
5. Limitations on Source Operation (optional)
6. Compliance Method
7. Potential to Emit Estimation (source specific)
8. Source Applicable Requirements: Self Explanatory

#### 5.1, 6.1, 7.1 General Source Information

Information requested in these sections is for identification of the source. All required fields are to be completed. For renewals, complete these sections only if a new source is listed in Section 3.1. If a question does not pertain to your source or if the information requested is not available, please either indicate "NA" for "Not Applicable" or "Not Available." For example, certain grandfathered sources that were put into operation prior to 1972 may not have information about the manufacturer or the model number of the equipment. In this case, it is acceptable to write "Not Available" in these two (2) fields. In general, if the information requested has already been required during the plan approval permitting process, then it needs to be reported here. Since information requested in these sections is self-explanatory, no detailed instructions will be provided except for the following items:

- **Unit ID** is a unique number to be assigned by the applicant and must be referenced for this source throughout this application.
- **PA or OP Number:** Provide the Plan Approval and/or Operating Permit Number issued by the Department, if applicable. Circle the appropriate term (PA for Plan Approval or OP for Operating Permit) and provide the number in the space provided.
- **Source Description:** Provide a brief description of the source.

#### 5.2, 6.2, 7.2 Exhaust System Components

This section provides a map of the exhaust system components for a given year (the year is in parenthesis in the heading). Below the map is a list of flow rates and begin/end dates for each link in the map. The following information is requested:

- **From Unit Type:** This refers to the starting point of the configuration. Usually, this is either a source, a control device, or a Fuel Material Location (FML). Answer this question by giving the type of source or component such as boiler, baghouse, or FML in space provided.
- **To Unit Type:** Similarly, indicate the stopping point for which the listed component is

configured. This normally represents a control device or a stack.

- **Percent Flow:** Provide the percent flow from one component to another.

#### 5.3, 6.3, 7.3 Source Classification Code (SCC) Listing for Standard Operation

In these sections, the applicant is asked to complete the following information in a tabular format:

- **Fuel:** Provide all types of fuel utilized by this source.
- **SCC:** This is the Federal Standard Classification Code that represents a specific type of fuel and/or process. If known, provide this code in the space provided. Otherwise, this can be left blank.
- **Max Throughput Rate:** This would represent the maximum throughput rate in a standard or typical operation. This number would be used to calculate the potential to emit unless a lower limit has been established in Section 4.5, "Limitations on Operation."
- **Firing Sequence:** Indicate how the fuels are being used by the source, sequentially (alternatively) or simultaneously.

This information is for a standard operational year. For a limitation or restriction to any of this information, please complete the table in Section 5.5, "Limitations on Operation." Do not attempt to place a restriction on the throughput rate here.

#### 5.4, 6.4, 7.4 Maximum Fuel Physical Characteristics

These sections ask for each type of fuel and its physical characteristics employed for this source. Information requested is as follows:

- **SCC Fuel Burned:** See previous discussion.
- **FML:** FML stands for Fuel Material Location. FML is to be used for cases where a central location such as a fuel tank or a pile of coal is being used by multiple sources in a facility. If such a scenario exists in a plant, please complete the **Fuel Material Location** worksheet in Section 7 of the application and provide the FML number in the space provided. By completing this worksheet once, the applicant does not have to repeat this information throughout the application.

If the concept of FML does not fit your case, leave the FML column blank and fill in the %Sulfur, %Ash, and BTU in spaces provided.



## Instructions

- **%Sulfur & %Ash & BTU:** If an FML has been specified, these three (3) items can be left blank. Otherwise, provide the information as requested.

### 5.5, 6.5, 7.5 Limitations on Source Operation (optional)

These sections are to be completed only if this source is seeking one or more of the restrictions listed below. Remember, all limitation(s) and/or restriction(s) proposed must be practically enforceable and will be placed in the permit.

There are seven (7) different possible limitations a facility can select in each of these sections.

- **Hours of Operation:** Provide the proposed hours of operation for this source.
- **Production/Throughput Rate:** For limiting the production/throughput rate, provide the restricted throughput rate per unit time (per hour, day, week, month, year).
- **Type of Fuel:** Provide the fuel type and proposed maximum throughput rate.
- **Fuel Usage:** Provide the proposed throughput for the type of fuel selected.
- **Control Devices:** If the proposed restriction involves the use of a control device, provide the Control Device ID Number as well as the associated control device efficiency.
- **Emissions Limitations:** Specify the pollutant and give the emission limit per unit time in the space provided.
- **Other:** If none of the above-listed scenarios describes the restriction you are taking, please select this option and explain in detail.

### 5.6, 6.6, 7.6 Compliance Method

Refer to Section 2.4, "Compliance Method for the Site," for information on how to complete this section.

### 5.7, 6.7, 7.7 Source Potential to Emit

Provide an estimate for the potential emissions for all pollutants emitted for this source. The following information is requested in this table:

- **Pollutant/CAS Number:** Give the name and/or the Chemical Abstract Services (CAS) Number of the pollutant in the space given.
- **Fuel/SCC:** If there are multiple fuels or materials utilized in this source, provide the SCC number for each type of fuel and/or material separately in each row of the table.
- **Emission/Activity Allowable per Unit:** Provide the allowable emission rate for this

source. This number can either be an allowable emission rate stemming from an applicable requirement or a limitation taken through the use of a piece of air pollution control device and/or any other established and/or proposed restrictions. In the absence of an emission standard limitation, this would be the emission activity factor such as an emission factor, stack test, etc.

- **Calc. Method:** Provide the method for calculating the potential to emit for this source.
- **Max. Capacity:** List the maximum capacity for the source in the space provided. This rated capacity may be lower than the stated maximum rated capacity if a restriction is voluntarily taken in Section 4.5, "Limitations on Operation."
- **Total Hours:** Give the total hours of operation here. Be sure to use the restricted hours of operation given in Section 4.5 relating to "Limitations on Operation."
- **Emission in TPY:** The applicant should be able to calculate the potential to emit in tons per year in this column, provided all of the previous columns were completed.

**Note:** For more complicated calculations for sources such as storage tanks or landfills, it may be necessary to attach detailed calculation sheets.

### 5.8, 6.8, 7.8 Source Applicable Requirements

Provide all information as required.

## Section 8: Control Device Information

This section needs to be completed once per control device. The information requested in this section is designed to capture only the essential information about a piece of control equipment.

### 8.1 General Control Device Information

The following information is required in this section:

- Unit ID:** Assign a unique ID number for this control device.
- Company Designation:** Give the name of the control device as designated by the facility.
- Used by Sources:** List and briefly explain all sources controlled through this control equipment.
- Type:** Describe the type of control equipment (scrubber, fabric filter, ESP, etc.)
- Pressure Drop in H<sub>2</sub>O:** Provide this information, if applicable.

## Instructions

- f. **Capture Efficiency:** This information is optional as long as the applicable standard does not specify a capture efficiency. However, if available, please provide the capture efficiency for this control equipment.
- g. **Scrubber Flow Rate:** Provide this information, if applicable.
- h. **Manufacturer and Model Number:** Provide this information, if available. For grandfathered source(s), these are optional.
- i. **Model #:** Provide this information in spaces given.
- j. **Installation Date:** Provide this information, if available.

### 8.2 Control Device Efficiencies for this Control Device

Under this section, the following additional information is required:

- **Pollutant/CAS No.:** Provide the name or CAS Number of the pollutant being controlled.
- **Estimated Control Efficiency:** Provide the estimated control efficiency for the pollutant controlled.
- **Basis for Efficiency Estimate:** Briefly explain the method of calculating the control efficiency.

### Section 9: Stack/Flue Information

This section is to be filled out once per stack. Provide all information as requested. Since the information requested in this section is self-explanatory, no detailed instructions are provided except for a few items. Duplicate this section if there are more than two (2) stacks in this facility.

#### 9.1 General Stack Information

- **Unit ID No.:** Assign a unique identifying number for this stack and be sure to use this same ID throughout the application.
- **Company Designation:** This is the company's designation for this stack.
- **Discharge Type:** An example of discharge type would be vertical and unobstructed opening.
- **Used by Sources:** List any Source ID assigned previously in the space provided.

### Section 10: Fuel Material Location (FML) Information (optional)

As previously mentioned in Section 5.4, "Source Standard Fuel Physical Characteristics," the FML is provided to decrease the amount of repetition

employed in this application. This section needs to be completed only if applicable. Duplicate this section as necessary.

- a. **FML ID No.:** For new FML, assign a unique ID for this FML. (Ex: FML 01)
- b. **Name:** Provide a name or a description of this FML. (Example: No. 2 Oil Storage Tank)
- c. **Capacity:** Indicate the capacity of this FML. (Example: 30,000 gallons)
- d. **Fuel:** Provide the type of fuel this FML stores.
- e. **%Ash, %Sulfur, and BTU:** Give these fuel characteristics according to fuel purchasing specifications.
- f. **Used by Source:** List all source(s) that use this FML.

### Section 11: Alternative Operating Scenario (optional)

The format for this section is similar to Section 4, "Source Group." All of the required information is requested in the following order:

Section 11.1: General Information

Section 11.2: Operational Flexibility Request

Section 11.3: Exhaust System Components

Section 11.4: Source Classification Code (SCC) Listing for Alternative Operation

Section 11.5: Alternative Fuel Physical Characteristics

Section 11.6: Alternative Process/Product Description

Section 11.7: Source Potential to Emit

#### Note:

- The alternative operation for a source must encompass the entire operation of the source.
- Only one alternative operation per source is allowed to be active at a time.
- This section addresses only one source per scenario at a time. If there is more than one scenario for this source or for any other source(s), duplicate this section and complete accordingly.

#### 11.1 General Information

The following information is requested in this section:

- a. **Alternative Operating Scenario Name or ID No.:** Assign a unique name or ID Number for proposed alternative operating scenario.
- b. **Source ID No.:** Provide the Source ID No. as assigned previously in Section 4.

- c. **Source Name:** List the source name as given in Section 4.
- d. **Source Type:** Check the box indicating the type of source.
- e. **Alternative Description:** Briefly describe the proposed alternative operating scenario. Explain how it is different from the standard operation.

### 11.2 Operational Flexibility Request

This section directs the applicant to complete one or more additional sections within this addendum. The applicant needs to complete only those sections that are applicable to the proposed scenario. Check all possible alternative changes for this scenario. Note that for each corresponding change checked, different sections within this section need to be completed. The Section Number within the parenthesis will tell you which of these sections have to be completed.

### 11.3 Exhaust System Component

Complete this section if this alternative operating scenario involves a change from the standard exhaust system configuration. Complete the information as requested. For more information, refer to instructions in Section 5.2, "Exhaust System Components," of this guide.

### 11.4 Source Classification Code (SCC) Listing for Alternative Operation

Give a complete listing of all fuels burned, products produced by a process, or waste incinerated for this alternative operating scenario.

This table is similar to the table requested in Section 5.3, "Source Classification Code (SCC)." If needed, refer to previous instructions in Section 5.3 of this guide.

### 11.5 Alternative Fuel Physical Characteristics

Please refer to Section 5.4, "Maximum Fuel Physical Characteristics," for specific instructions.

### 11.6 Alternative Process/Product Description

- a. If there is a change in the process method and/or material used in this alternative scenario, provide an explanation in the space provided.
- b. Provide the alternative SCC Number and a description in spaces provided.
- c. If a new product is produced in this scenario, give or briefly explain the type of products generated from this scenario. Indicate the old product(s) in the standard operation.

### 11.7 Potential to Emit

Refer to instructions given in Section 5.7 relating to "Potential to Emit Estimates."

## Section 12: Compliance Plan for the Facility

Provide all information as requested.

## Section 13: Certification of Compliance for Synthetic Minor Facilities

**Note:** In order for this Synthetic Minor facility to avoid the Title V Operating permit requirements, the applicant must agree to be bound by the emissions limitation(s) and/or restriction(s) contained in this application. In addition, the applicant must agree that these emission limitation(s) are enforceable by the Department, the Environmental Protection Agency and the citizens.

### 13.1 Schedule for Compliance Certification Submission

Provide the frequency and begin date of submittal in the spaces provided.

### 13.2 Certification of Compliance (For Synthetic Minor Facility Only)

This certification must be signed by a responsible official. Refer to Part A, Item A 3, "Certification" on Page 1 of this guide for a definition of "responsible official."



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR QUALITY

Request for State Only/Title V Operating Permit Administrative Amendment  
(in accordance with 25 Pa. Code § 127.450)

1. Applicant's Name: _____		Federal Tax ID: _____
Facility Name: _____		
Street Address or Route Number of Source: _____		
Township/Municipality: _____		County: _____
2. Mark appropriate box(es) regarding the basis for this request.		
<input type="checkbox"/> Corrects typographical errors		
<input type="checkbox"/> Identifies a change in the name, address or phone number of the Responsible Official identified in the permit or provides a similar change		
<input type="checkbox"/> Requires more frequent monitoring or reporting by the permittee		
<input type="checkbox"/> Allows for a change in ownership or an operational control of a source in accordance with § 127.450(a)(4) (Complete the Change of Ownership Form and a Compliance Review Form)		
<input type="checkbox"/> Incorporates plan approval requirements into an operating permit in accordance with § 127.450(a)(5)		
3. Operating Permit/Plan Approval No(s): _____		
4. Describe in detail the reasons for submission of this request. Attach additional sheet(s) if necessary.		
_____		
_____		
5. Contact Person-Name: _____		Title: _____
Mailing Address: _____		Telephone Number: _____
		Fax Number: _____
<b>Certification by Responsible Official</b>		
Subject to the penalties of Title 18 Pa. C.S. Section 4904 and 35 P.S. Section 4009 (b) (2), I certify under penalty of law that, based on information and belief formed after reasonable inquiry, the statements and information contained in this form are true, accurate, and complete.		
Name: _____		Title: _____
Signed: _____		Date: _____



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR QUALITY

## “Request for State Only/Title V Operating Permit Administrative Amendment” Form Instructions

### General Guidance:

This form shall be used only for the categories listed in Section 2 of this application.

**Administrative Amendment Application Fees:** The applicant submitting a request for an administrative amendment must pay the appropriate operating permit processing fee. Please refer to either the Air Quality Fees Schedule for a State Only Operating Permit or the Air Quality Fees Schedule for a Title V Operating Permit for more information

The operating permit processing fee is:

~~For non-Title V facility, three hundred dollars (\$300) for application filed during the 2004-2004 calendar years and three hundred seventy five (\$375) for applications filed beginning in 2005.~~

~~For Title V facility, six hundred fifteen dollars (\$615) for applications filed during the 2004-2004 calendar years and seven hundred fifty dollars (\$750) for applications filed beginning in 2005.~~

Please refer to either the Air Quality Fees Schedule for a State Only Operating Permit or the Air Quality Fees Schedule for a Title V Operating Permit for more information.

**Note:** If an operating permit processing fee has been submitted as a part of the permit renewal process and information in the permit renewal application indicates that a change-of-ownership has occurred, there is no need to pay a separate change-of-ownership/administrative amendment fee.

Typographical errors, revisions having little or no impact on emissions, or minor corrections of pre-construction estimates based on actual emission tests, are examples of revisions that Department can initiate without requiring the permittee to submit a new application.

### Detailed instructions:

1. Give the name of the person who requests an approval, the name of the facility, Federal Tax ID No., street address or Route number of the source, name of township/municipality and name of the county.
2. Mark the appropriate box(es) for which the application is made. Administrative amendments involving changes of ownership or operational control must be accompanied by a compliance review form. Other types of administrative amendments do not require a compliance review form.
3. Give the operating or plan approval number(s).
4. Give the reasons in detail for submitting this application. Use additional sheets of paper, if the space provided is not sufficient to provide detailed information required for review and approval.
5. Provide contact person name, title, mailing address and telephone number.

A responsible official must sign the request and print his name, title and date.





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## CHANGE OF OWNERSHIP FORM

(In accordance with 25 Pa. Code § 127.32 and/or § 127.464)

1. PREVIOUS OWNER:	
Firm Name:	Federal Tax ID:
List Plan Approval(s) and/or Operating Permit(s) to be transferred: _____ _____	
1. PREVIOUS OPERATOR:	
Firm Name:	Federal Tax ID:
List Plan Approval(s) and/or Operating Permit(s) to be transferred: _____	
2. REASON FOR TRANSFER: Sale Other (Explain)	Effective Date:
3. NEW OWNER:	
Firm Name:	Federal Tax ID:
Contact Person:	Title:
Mailing Address:	Telephone Number:
4. OPERATOR if different from new owner (owner and operator have different Federal Tax ID):	
Firm Name:	Federal Tax ID:
Contact Person:	Title:
Mailing Address:	Telephone Number:
5. MARK THE ENCLOSURE(S) ENCLOSED:	
<input type="checkbox"/> Compliance Review Form <input type="checkbox"/> Administrative Amendment Form (required for operating permit transfer only)	
<b>Certification by Responsible Official</b>	
<p>Note: Complete separate Change of Ownership form and this certification if responsible official is not same for owner and operator.</p>	
<p>I _____, being duly sworn according to law depose and state, under penalty of law as provided in 18 Pa. C.S. §4904 and Section 9(b)(2) of the Air Pollution Control Act, 35 P.S. §4009(b)(2), that I am the representative of the permittee identified above, authorized to make this certification. I further state that information provided in the Change of Ownership form is true, accurate and complete, based on information and belief formed after reasonable inquiry. I further certify that all conditions of the existing plan approval(s) and/or operating permit(s) for the facility will be transferred to the newly issued plan approval(s) and/or operating permit(s).</p>	
Name:	Title:
Signed:	Date:



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR QUALITY

**“Change-of-Ownership Form”  
Instructions**

**General Guidance:**

A change of ownership request is a type of administrative amendment. New owners must file as soon as ownership is established. All change of ownership forms must include a Compliance Review Form for the new owner or operator. All operating permit transfers must also include an Administrative Amendment form.

Note: If an operating permit processing fee has been submitted as a part of the permit renewal process and information in the permit renewal application indicates that a change-of-ownership has occurred, there is no need to pay a separate change-of-ownership/administrative amendment fee.

**Fees for Applications Filed Beginning in 2005**

~~Plan Approval transfer (25 Pa. Code § 127.32) — \$300.00~~

~~Operating Permit transfer (25 Pa. Code § 127.464 and § 127.460)~~

~~Application filed during the years beginning in 2005:~~

~~Non-Title V facility — \$375.00~~

~~Title V facility — \$750.00~~

~~Please refer to the appropriate Air Quality Fee Schedule for more information.~~

**Pending Plan Approval Application transfer:**

For a facility name change: If there is no other change in the previous submittal pending with the Department (with the exception of the facility name), submit the first page of the plan approval application with the responsible official signature. Submit new compliance review form and statement that new applicant wishes everything contained in the previous application submittal to also be part of their new submittal. In addition, you need to notify the municipality and county where the facility will be located as per 25 Pa. Code § 127.43a. Submit plan approval processing fees of \$300.

For changes other than a facility name: Submit a new plan approval application along with all supporting documents and pay plan approval processing fees in accordance with 25 Pa. Code § 127.702.

**Detailed instructions:**

1. Provide the firm name of the previous owner/operator and Federal Tax ID number. Also list plan approval(s) and operating permit(s), which are to be transferred.
2. Explain the reason for transfer of ownership and effective date of transfer.
3. Provide the firm name of the new owner, Federal Tax ID number, contact person name, his title, mailing address and telephone number.
4. If the operator is different from the new owner, complete this section.
5. Check appropriate box(es).

A responsible official must sign this form and print his name, title, identify owner or operator and date. Submit separate change of ownership form if responsible official is not same for owner and/or operator.



MINOR OPERATING PERMIT MODIFICATION APPLICATION

Section 1: General Information

<b>FOR OFFICIAL USE ONLY</b>
Operating Permit No: _____
Reviewed by: _____
Date: _____

1.1 Plant Information

Tax Id: _____	Firm Name: _____
Plant Code: _____	Plant Name: _____
NAICS Code: _____	Description of NAICS Code: _____
County: _____	Municipality: _____

1.2 Contact Information

Name: _____	Title: _____
Address: _____	
_____	
Telephone Number: _____	

1.3 Certification of Truth, Accuracy and Completeness

Note: This certification must be signed by a responsible official. Applications without a signed certification will be returned as incomplete.

Subject to the penalties of Title 18 Pa. C.S. Section 4904 and 35 P.S. Section 4009 (b) (2), I certify under the penalty of law that, based on information and belief formed after reasonable inquiry, the statements and information contained in this application are true, accurate, and complete. I further certify that the proposed modification meets the criteria for use of the minor permit modification procedures contained in 25 Pa. Code Section 127.462.

(Signed): \_\_\_\_\_ Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Named (typed): \_\_\_\_\_ Title: \_\_\_\_\_



**MINOR OPERATING PERMIT MODIFICATION APPLICATION**  
(Please read instructions carefully before completing this application)

**Section 2: Facility Inventory List**

Indicate all sources that are affected by the proposed modification by completing the following table. Duplicate this page as necessary.

Number	Company Designation	Unit Type (Boilers, Incinerators, etc.)

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 DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 BUREAU OF AIR QUALITY

**MINOR OPERATING PERMIT MODIFICATION APPLICATION**  
 (Please read instructions carefully before completing this application)

**Section 3: Facility Information**

Complete this section **ONLY** if the changes are for the entire facility. If changes are for a source or sources, skip this Section and complete Section 4 for each Source in which a change is proposed.

A) Briefly describe all changes to this facility: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

B) If changes involve an increase in actual emissions, please complete the following table:

Pollutant Name	CAS Number	Change in Actual Emissions (+ or -)

C) Date on which proposed change is scheduled to occur: \_\_\_\_\_

D) List the proposed language for revising the operating permit condition proposed to be changed:

Existing Operating Permit Condition or Condition Number	Proposed Language for Permit Condition



**MINOR OPERATING PERMIT MODIFICATION APPLICATION**  
(Please read instructions carefully before completing this application)

**Section 4: Source Information**

Complete this section for each source on which a change is to occur in this facility. Duplicate this Section as needed.

**4.1 General Source Information**

Source ID \_\_\_\_\_ Plan Approval or Operating Permit No: \_\_\_\_\_  
 Name or Type of source: \_\_\_\_\_ Rated Input: \_\_\_\_\_  
 Manufacturer: \_\_\_\_\_ Model Number: \_\_\_\_\_  
 Installation Date: \_\_\_\_\_

**4.2 Proposed Changes to Source**

A) Briefly describe all changes to this facility: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

B) If changes involve an increase in actual emissions, please complete the following table:

Pollutant Name	CAS Number	Change in Actual Emissions (+ or -)

C) Date on which proposed change is scheduled to occur: \_\_\_\_\_



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DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR QUALITY

MINOR OPERATING PERMIT MODIFICATION APPLICATION  
(Please read instructions carefully before completing this application)

4.2 *Proposed Changes to Source (Continued)*

C) List the proposed language for revising the operating permit condition proposed to be changed:

Existing Operating Permit Condition or Condition Number	Proposed Language for Permit Condition

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**MINOR OPERATING PERMIT MODIFICATION APPLICATION**  
 (Please read instructions carefully before completing this application)

**Section 5. Citation and Listing of Applicable Requirements**

Complete this Section only if the facility is a TITLE V facility. Cite and list any applicable requirements that will apply if the proposed change(s) occur.

Source ID	Citation Number	Citation Limitation

**Section 6. Certification of Compliance With All Applicable Requirements**

**Note:** This certification must be signed by a responsible official. Applications without a signed certification will be returned as incomplete.

Subject to the penalties of Title 18 Pa. C.S.A. Section 4904 and 35 P.S. Section 4009 (b)(2), I certify that I have the authority to submit this Minor Permit Modification Application on behalf of the applicant herein and that based on information and belief formed after reasonable inquiry, the facility is currently in compliance with all applicable requirements.

(Signed): \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Name (typed): \_\_\_\_\_ Title: \_\_\_\_\_

***Instructions for  
Minor Operating Permit  
Modification Application***

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***Bureau of Air Quality  
Department of Environmental Protection  
Commonwealth of Pennsylvania  
Revised November 2006***



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## Part A: General Information

### Overview

In general, this application should be used only if the applicant has an existing Operating Permit and the proposed changes do not require Plan Approval.

Specifically, 25 Pa. Code Section 127.462, provides for the expedited review of minor permit modifications. Minor permit modifications generally include changes that do not require a plan approval but which contravene an express permit term. Minor permit modifications may also be used to incorporate de minimis conditions and other insignificant changes to a source, or applicable requirements into an existing permit. The minor process cannot be used for:

- 1) A change to permit terms or conditions that a source is violating.
- 2) Certain changes to existing monitoring, reporting, or recordkeeping requirements in the recordkeeping operating parameter; a change that affects measurement sensitivity; a change that affects the scope or intent of the existing monitoring method; or changes that may be generally applicable to similar monitoring methods in the same or other source categories.
- 3) A change that is a modification subject to new source review requirements under Title I of the Clean Air Act.
- 4) A change subject to Title IV (pertaining to acid rain requirements) of the Clean Air Act.
- 5) A change that exceeds the emission allowable under the permit, whether expressed as a rate of emissions or in terms of total emissions
- 6) Any other change precluded by the Clean Air Act or the regulations adopted under the Clean Air Act as being eligible for processing as a minor permit modification.

The procedure for processing a minor permit modification is as follows:

The permittee submits a Minor Operating Permit Application which provides a brief description of the change, the date on which the change will occur and the proposed language for revising the operating permit conditions proposed to be changed. The application should be submitted in a fashion that clearly establishes the date of submittal, i.e., by hand delivery or certified mail, return receipt requested.

On the date that the application is submitted, the permittee is responsible for providing municipality notifications, notice to affected states\* (adjacent states within fifty (50) miles of the source) and EPA, and a notice in a local newspaper of general circulation which briefly describes the change including the change in actual emissions or any air contaminants that will occur as a result of the change. The newspaper notice should clearly indicate that the comment period is twenty 21 days. (See 25 Pa. Code Section 127.462).

The company may make the change on the 22<sup>nd</sup> day following a submittal if a public comment is not received, or on the 29<sup>th</sup> day if the Department determines that a comment submitted is not bona fide. The Department will take action on the application within sixty (60) days of receipt of the application and then publish notice of the action in the Pennsylvania Bulletin.

### ***Number of copies required***

Submit the completed application package in triplicate to the appropriate Air Program Regional Office. A listing of all six (6) Regional Offices and their addresses is provided for your information.

### ***Application Fees***

~~Enclose a check (payable to the "Commonwealth of Pennsylvania, Clean Air Fund") of \$375 for the State Only Operating Permit Modification or \$750 for a Title V Operating Permit modification.~~

Please refer to either the Air Quality Fees Schedule for a State Only Operating Permit or the Air Quality Fees Schedule for a Title V Operating Permit for more information.

\* See list of Affected States on page 9.

## ***Certification***

This application must be signed in Section 1.3 (and Section 6 if the facility is a Title V Facility) by a *responsible official*, "Certification of Truth, Accuracy, and Completeness."

"*Responsible Official*" is defined as follows:

- A. For a corporation: a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
  - 1. the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), or
  - 2. the delegation of authority to such representative is approved in advance by the Department
- B. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
- C. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this paragraph, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or
- D. For affected sources:
  - 1. The designated representative in so far as actions, standards, requirements, of prohibitions under Title IV of the Clean Air Act or the regulations promulgated thereunder are concerned; and
  - 2. The designated representative for any other purposes under 40 CFR Part 70.



## Part B: Specific Instructions

### Overview

The Minor Operating Permit Modification Application consists of the following sections:

- Section 1: General Information
- Section 2: Facility Inventory List
- Section 3: Facility Information
- Section 4: Source Information
- Section 5: Citation and Listing of Applicable Requirements
- Section 6: Certification of Compliance with all Applicable Requirements

### Section 1: General Information

This section gives general information about the facility as a whole and is only filled out once per application. There are three basic parts in this section:

#### 1.1 Plant Information:

This sub-section provides general information about the plant. The following information is requested and must be completed:

- **Tax ID:** This is the Federal Tax ID. This number is unique for a facility and is used to track information for a facility.
- **Firm Name:** The name of the company.
- **Plant Code:** This code is assigned sequentially by DEP and is used to separate multiple sites that belong to a facility. This number along with the Tax ID would directly point to a specific site location.
- **Plant Name:** The name of the plant for which the application is made.
- **NAICS Code:** This is the North American Industry Classification System for the main activity at this facility.

- **Description of NAICS Code:** Provide a brief description of this NAICS Code.
- **County:** The county in which the plant is located.
- **Municipality:** The municipality in which the plant is located.

**1.2 Contact Information:**

The contact given here should be the main contact person for all questions regarding this application.

**1.3 Certification of Truth, Accuracy, and Completeness:**

This certification must be signed by a responsible official (see page 4).

**Section 2: Facility Inventory List**

In the Inventory Table provided, the following information is requested for each source affected by the proposed modification.

- **Number** is a unique source number to be assigned by the applicant. Please use this assigned number throughout this application.
- **Company Designation** is provided for companies to use the existing designation as typically referred to in the plant.
- **Unit Type** is the type of the source in question.

### Section 3: Facility Information

This section is to be completed if all of the proposed changes are at the facility level. If change or changes are to be proposed at the source level, skip this section and complete Section 4, "Source Information". The following items need to be address in this section:

- A) A description of all proposed changes at this facility.
- B) If there is a change in the actual emission being emitted, complete *Table B* as required. *Pollutant Name* is the name of the pollutant affected by the changes (Particulate Matter, Sulfur Dioxide, etc ). *CAS (Chemical Abstract Services) Number* are to be provided if applicable.
- C) Give the date for which the proposed changes are to take place.
- D) In *Table D*, please provide the proposed language for revising the operating permit condition to be changed under the column titled "*Proposed Language for Permit Condition*". The first column, "*Existing Operating Permit Condition Number or Condition Number*", provide the permit condition number as given in the existing operating permit or state the existing permit condition in the space given.

### Section 4: Source Information

Complete this section for each source for which a change is to occur in this facility. Duplicate this section as needed.

#### 4.1 Plant Information:

- *Source ID* is the ID previously given under the Facility Inventory Section (Section 2) and must be referenced for this source throughout this application.
- *Plan Approval or Operating Permit Number*: Provide the Plan Approval and/or Operating Permit Number issued by the Department, if applicable.
- *Name or Type of Source*: Provide a brief description of the source.
- *Rated Input*: Provide the rated input for this source (Maximum Capacity).
- *Manufacturer, Model Number, and Installation Date*: Provide these information only if available.

**4.2 Proposed Changes to Source:**

- A) A description of all proposed changes for this source.
- B) If there is a change in the actual emission being emitted, complete *Table B* as required. *Pollutant Name* is the name of the pollutant affected by the changes (Particulate Matter, Sulfur Dioxide, etc.). *CAS (Chemical Abstract Services) Number* are to be provided if applicable.
- C) Give the date for which the proposed changes are to take place.
- D) In *Table D*, please provide the proposed language for revising the operating permit condition to be changed under the column titled "*Proposed Language for Permit Condition*". The first column, "*Existing Operating Permit Condition Number or Condition Number*", provide the permit condition number as given in the existing operating permit or state the existing permit condition in the space given.

**Section 5: Citation and Listing of Applicable Requirements**

Complete this Section only if the facility is a TITLE V facility. Cite and list any applicable requirements that will apply if the proposed change(s) occur.

If the proposed change triggers a new applicable requirement, please complete the following information:

- **Source ID:** This is the ID previously given under the Facility Inventory Section (Section 2).
- **Citation Number.** This would either be a federal, state citation, or an existing permit condition if applicable.

**Notes:** Regulations cited in this column must be in a specific format. For Federal *Citations*, provide the Code of Federal Regulations (CFR) and the appropriate sections and/or subsections. For example, New Source Performance Standards (NSPS), Subpart Dc, would be listed as 40 CFR 60.43c for Particulate Matter.

For *State Citations*, list the appropriate chapters and sections. For example, a Surface Coating Process subjected to an allowable VOC content stated in Table I of Chapter 129.52, would enter 129.52(b)(1) in the citation column.

- **Citation Limitation:** Indicate the standard or emission limitation associated with the citation number listed.

**Section 6: Certification of Compliance with all Applicable Requirements:**

A compliance certification must be submitted to the Department throughout the term of the permit. By fulfilling this requirement, the applicant can prove to the Department that all applicable requirements and compliance methods are being adhered to.

This section is mandatory for all Title V facility and needs to be complete once per application. Note that this section must be signed by a responsible official.

## AFFECTED STATES ADDRESSES

Notices shall be sent to Affected States at the following addresses:

Mr. Ali Mirzakhali  
Air Quality Mgmt. Program Administrator  
Div. of Air & Waste Mgmt.  
Dept. of Natural Resources & Env. Control  
156 S State St.  
Dover, DE 19901  
302-739

Mr. George Aburn, Jr., Director  
Air and Radiation Management  
Administration  
Maryland Dept. of Environment  
1800 Washington Blvd.  
Baltimore, MD 21230-1720  
410-537-3255

Mr. William O'Sullivan  
Air Quality Mgmt., Permitting Administrator  
NJ State Dept. of Env. Protection  
401 East State Street, CN 027  
Trenton, NJ 08625  
609-984-1484

Mr. John Higgins, Director  
Stationary Sources  
NY State Dept. of Env. Conservation  
Room # 108  
50 Wolf Road  
Albany, NY 12233-3254  
518-457-7688

Mr. Robert Hodanbosi, Chief  
Dept. of Air Pollution Control  
Ohio Env. Protection Agency  
122 South Front Street  
Columbus, OH 43215  
614-644-2270

Mr. John Benedict, Director  
Division of Air Quality  
West Virginia Department of Environmental  
Protection  
601 – 57<sup>th</sup> Street  
Charleston, WV 25304  
304-926-0499

Mr. James Sydnor, Director  
Air Division  
Dept. of Env. Quality  
PO Box 10009  
Richmond, VA 23240  
804-698-4311





COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR QUALITY

**Request for Determination of Changes of Minor Significance  
and Exemption from Plan Approval/Operating Permit  
Under Pa Code §127.14 or §127.449**

A. Type of Request	
<p style="text-align: center;"><b>Exemption from Plan Approval</b> Select all that apply (see Instructions): <a href="http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf">http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf</a></p> <p><input type="checkbox"/> Minor Sources or classes of sources, pursuant to 25 Pa. Code § 127.14(a)(1)-(7).</p> <p><input type="checkbox"/> Other sources and classes of sources of minor significance, pursuant to 25 Pa. Code § 127.14(a)(8).</p> <p><input type="checkbox"/> Physical changes to sources of minor significance, pursuant to 25 Pa. Code § 127.14(a)(9).</p> <p><input type="checkbox"/> Additional physical changes of minor significance that do not add new equipment, pursuant to 25 Pa. Code § 127.14(c)(1).</p> <p><input type="checkbox"/> Additional physical changes of minor significance that add new equipment, pursuant to 25 Pa. Code § 127.14(c)(2).</p> <p><input type="checkbox"/> Changes due to de minimis increases in emissions, pursuant to 25 Pa. Code § 127.449.</p>	<p style="text-align: center;"><b>Exemption from Operating Permit</b> Select all that apply (see Instructions): <a href="http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf">http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf</a></p> <p><input type="checkbox"/> Other sources and classes of sources of minor significance, pursuant to 25 Pa. Code § 127.14(a)(8).</p> <p><input checked="" type="checkbox"/> Physical changes to sources of minor significance, pursuant to 25 Pa. Code § 127.14(a)(9).</p> <p><input checked="" type="checkbox"/> Additional physical changes of minor significance that do not add new equipment, pursuant to 25 Pa. Code § 127.14(c)(1).</p> <p><input type="checkbox"/> Additional physical changes of minor significance that add new equipment, pursuant to 25 Pa. Code § 127.14(c)(2).</p> <p><input type="checkbox"/> Changes due to de minimis increases in emissions, pursuant to 25 Pa. Code § 127.449.</p> <p>(Must have valid operating permit conditions authorizing de minimis increases.)</p>
B. Facility/Company Information	
Facility/Company Name:	Plant Name (if applicable):
Site Address:	
Municipality:	County:
Mailing Address (if different):	
Federal Employer Identification Number (EIN) (if applicable):	
Current Operating Permit No. (if applicable):	NAICS Code:
Person Completing Form:	Affiliation:
Address (if different from facility/company):	Telephone: ( ) -
	E-Mail:
Facility/Company Contact Person:	Title:
Address (if different from facility/company):	Telephone: ( ) -
	E-Mail:
C. Project Description	
Project Type: <input type="checkbox"/> New construction <input type="checkbox"/> Modification <input type="checkbox"/> Remediation	<input type="checkbox"/> Other (see Instructions <a href="http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf">http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf</a> )
Total number of sources in project: _____	

**Description of project** (may include process description, site diagram, and any other pertinent information – see Instructions (<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf>) and attach supporting documents in Section F, as needed):

DRAFT

**Request for Determination of Changes of Minor Significance and Exemption from  
Plan Approval/Operating Permit Under 25 Pa. Code § 127.14 or §127.449**

**D. Source Description**

Complete a separate sheet for each source included in the project. For projects with more than one source, make additional copies of this page or download from DEP's Air Quality/Permits Web site ([www.depweb.state.pa.us](http://www.depweb.state.pa.us), keyword: Request for Determination.)

Source Name:

Source Category Code and Description ([2700-BK-DEP4103.pdf](#)):

Source location (if source is portable, submit a separate Request For Determination (RFD) application for each operating location):

Type:       Stationary     Portable (Enter number of days in operation at this location: \_\_\_\_\_)

Is equipment existing or proposed?    Existing       Proposed

Actual or Planned Date of Installation:      /      /

Source Description (see Instructions (<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf>) for examples of applicable information, attach supporting documents in Section F, and provide separate justification for any document designated as Confidential Business Information):

Is the source subject to any New Source Performance Standards (NSPS) or National Emission Standards for Hazardous Air Pollutants (NESHAP) or Maximum Achievable Control Technology (MACT) standard? If yes, specify federal citation including Subpart.

Yes Subpart: \_\_\_\_\_       No

You must enter potential emissions below. If also reporting actual emissions, provide the actual emission amounts and calculations as attachment(s) in Section F. of this RFD.

Pollutant(s) (from Instructions)	Emissions (lbs/hr)*	Emissions (tons/year)*	Calculation Method Code Appendix B
PM			
PM-10			
PM-2.5			
SO <sub>x</sub>			
CO			
NO <sub>x</sub>			
VOC			
Total HAPs**			

Will the construction or modification of this source increase emissions from other sources at the facility?

Yes (Describe and quantify emissions on separate sheet)  
 No

Is the construction or modification of the source subject to 25 Pa. Code, Chapter 127, Subchapter E, New Source Review (NSR) requirements or Prevention of Significant Deterioration (PSD) of Air Quality regulations at Subchapter D?

Yes     No

\* Must enter value or N/A

\*\* For speciated HAPs (see Instructions (<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf>) for required speciated HAPs) or other pollutants, please attach additional sheets in Section F.

**Request for Determination of Changes of Minor Significance and Exemption from  
Plan Approval/Operating Permit Under 25 Pa Code §127.14 or §127.449**

**E. Exemption History**

Identify all sources exempted within the last five years from plan approval/operating permit requirements for one of the following reasons: 1. Request for Determination (RFD), 2. Exemption List, or 3. De minimis emissions provisions of 25 Pa. Code §127.449 (see Instructions) (<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf>);

Source Name	Date of Installation	Reason for Exemption (check one)		
		RFD	Exemption List	De Minimis
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**F. List of Attached Documents (see Instructions)** (<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf>)

List all supporting documents attached to this application. If any document contains Confidential Business Information (CBI), provide justification on separate attachment (see Instructions) (<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf>).

Confidential?	Description of Attachment
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	

**G. Fees**

Do you meet the definition of small business stationary source set forth in section 3 of the act (35 P.S. § 4003)?  
 Yes, Please pay \$400 fee to review this RFD form,  No, Please pay \$600 fee to review this RFD form

Do any documents contain Confidential Information?  
 Yes, Please pay \$300 fee to review confidential information. Mark clearly confidential information and also provide redacted copy. The Department will review both redacted and confidential copies to determine if each item is confidential under section 13.2 of the APCA.;  No, please submit review of RFD fees

Total Fees (Review of RFD form + Review of Confidential Information if any):

**H. Signature of Responsible Person or Authorized Designee (see Instructions)**  
 (<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf>)

I, \_\_\_\_\_, certify under penalty of law as provided in 18 Pa. C.S.A. § 4904 and 35 P.S. § 4009(b)(2) that based on information and belief formed after reasonable inquiry, the statements and information contained in this form are true, accurate, and complete.

Signature:	Title:	Date: / /
Name (typed or printed):		Telephone:
Address (if different from site address):		E-Mail Address:

**Note: Please make a copy of this application and all attachments for your records and maintain all information related to this application for review by DEP.**

OFFICIAL USE ONLY

RFD #:

Date Received: \_\_\_\_\_

Reviewed By: \_\_\_\_\_

- A plan approval is not required for this source (See 25 Pa. Code Section 127.14(a)(1)-(9))
- An operating permit is not required for this source (See 25 Pa. Code Section 127.443(a))
- The source(s) do(es) not qualify for exemption. Applicant is required to submit a plan approval application.
- The source(s) do(es) not qualify for exemption. Applicant is required to submit an operating permit application.

Signature \_\_\_\_\_

Name and Title \_\_\_\_\_

Date \_\_\_\_\_

Remarks:

Conditions:

DRAFT







**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

**Clean Air Fund  
Fiscal Analysis  
and  
Fee Report**

September 2018

Bureau of Air Quality  
Department of Environmental Protection  
400 Market Street  
Box 8468  
Harrisburg, PA 17105-8468

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## PREFACE

The Department of Environmental Protection (Department or DEP) is recommending to the Environmental Quality Board (Board) a comprehensive revision of fees paid by the regulated community to support the Air Quality Program. The proposed rulemaking amends existing requirements and fee schedules codified in 25 Pa. Code Chapter 127, Subchapter I (relating to plan approval and operating permit fees) and establishes new fees to ensure that fees are sufficient to cover the costs of administering the Air Quality Program, which includes the Title V Operating Permit Program and the Non-Title V (State-Only) Operating Permit Program, as required by section 6.3 of the Air Pollution Control Act (APCA) (35 P.S. § 4006.3) and section 502(b) of the Clean Air Act (CAA) (42 U.S.C.A. § 7661a(b)).

Fee revenue, including application and emission fees collected and deposited in the Department's Clean Air Fund, which includes separate accounts for the Title V and Non-Title V programs, is no longer sufficient to cover the direct and indirect costs of administering the Commonwealth's Air Quality Program. DEP's Bureau of Fiscal Management projects that Title V revenue will be less than \$15 million, and expenditures will be approximately \$19 million, creating a Title V revenue versus expenditure shortfall of more than \$4 million in each of fiscal year (FY) 2021-2022 and FY 2022-2023.

The Bureau of Fiscal Management also projects a Non-Title V revenue versus expenditures shortfall of more than \$6.5 million in each of FY 2021-2022 and FY 2022-2023. This is a combined revenue versus expenditures shortfall of more than \$10.5 million, by fiscal years 2021-2022 and 2022-2023, for the Clean Air Fund.

The Clean Air Fund is projected to have a deficit of \$7.3 million in FY 2021-2022 and \$18.8 million in FY 2022-2023 based on the existing fee schedules. The proposed amendments are projected to annually generate additional Title V revenue of approximately \$5 million and Non-Title V revenue of approximately \$7 million beginning in FY 2021-2022 if the proposed amendments are promulgated as final-form regulation in 2020. This additional revenue is expected to restore solvency to the Clean Air Fund. The total combined anticipated revenues are expected to be sufficient to cover the costs of administering the Air Quality Program for the next several years.

If the Clean Air Fund deficit is not remedied, the Department will no longer meet its plan approval application and operating permit program obligations under the APCA and the CAA and will no longer be able to perform its mission of controlling the emissions of harmful air pollutants to protect the public health and welfare and the environment. The proposed amendments to the Title V and Non-Title V plan approval application and operating permit fee schedules and the establishment of fee schedules for risk assessment review, asbestos notifications, requests for determination, and claims of confidential information are designed to recover the Department's costs for these activities and provide the needed financial support for continuation of the Department's Air Quality Program as well as ensure continued protection of public health and welfare and the environment.

## STATUTORY AUTHORITY

This proposed rulemaking is authorized under section 5(a)(1) of the APCA (35 P.S. § 4005(a)(1)), which grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth and section 5(a)(8) of the APCA (35 P.S. § 4005(a)(8)), which grants the Board the authority to adopt rules and regulations designed to implement the provisions of the CAA (42 U.S.C.A. §§ 7401—7671q).

Section 6.3(a) of the APCA (35 P.S. § 4006.3(a)) grants the Board the authority to adopt regulations to establish fees sufficient to cover the indirect and direct costs of administering the air pollution control plan approval process; the operating permit program required by Title V of the CAA (42 U.S.C.A. §§ 7661—7661f); other requirements of the CAA; and the indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, Compliance Advisory Committee and Office of Small Business Ombudsman. This section also authorizes the Board by regulation to establish fees to support the air pollution control program authorized by the APCA and not covered by Title V fees required by section 502(b) of the CAA, that is, the Non-Title V Operating Permit Program and supporting activities.

Section 110(a)(2)(E)(i) of the CAA (42 U.S.C.A. § 7410 (a)(2)(E)(i)) requires necessary assurances that the Commonwealth of Pennsylvania will have adequate personnel, funding, and authority to carry out the State Implementation Plan (SIP), which must provide for the attainment and maintenance of the health-based and welfare-based National Ambient Air Quality Standards (NAAQS) established by the U.S. Environmental Protection Agency (EPA) for air contaminants including ozone, fine particulate matter, lead, carbon monoxide, nitrogen dioxide, and sulfur dioxide. In accordance with 40 CFR 51.280 (relating to resources), the SIP must also include a description of the resources available to State and local agencies needed to carry out the plan.

Section 502(b) of the CAA requires the Commonwealth to adopt regulations that the owner or operator of all sources subject to the requirement to obtain a permit under Title V of the CAA pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of Title V.

## BACKGROUND

The proposed new and increased fees are needed to cover the Department's costs related to performing the air pollution control plan approval and operating permit activities required under the CAA and APCA to attain and maintain the NAAQS for air pollutants including ozone, particulate matter, lead, carbon monoxide, nitrogen dioxide, and sulfur dioxide, as well as other requirements of the CAA, APCA, and regulations promulgated thereunder. Controlling air pollutant emissions is essential to protecting public health and the environment.

The Department established an integrated Air Quality Program and issues plan approvals and operating permits for two types of sources – major and non-major. See 24 Pa.B. 5899

(November 26, 1994). This program was subsequently reviewed and approved by the EPA. See 61 FR 39597 (July 30, 1996). Major sources are those that emit air pollution above designated thresholds under the CAA, and non-major sources emit air pollution below those thresholds. See 42 U.S.C.A. § 7661. Major sources are subject to the statutory requirements under Title V of the CAA and are called Title V sources. *Id.* Conversely non-major sources which are subject to the APCA, but not Title V, are called Non-Title V (State-Only) sources.

The Department currently regulates approximately 500 Title V and 2,100 Non-Title V facilities in Pennsylvania. Establishing the proposed fee structure would provide financial support for continuation of the Department's air quality plan approval application and operating permit programs and ensure continued protection of the public health and welfare of the approximately 12.8 million residents and the environment of this Commonwealth. This financial support is also necessary to ensure the timely review of air quality permits for the regulated community, which will provide the certainty businesses need to expand and locate in Pennsylvania.

The Department is projecting a deficit for the Clean Air Fund during FY 2021-2022 because expenses have exceeded revenue for several years. Increases in costs to maintain existing personnel, fixed assets, and operating expenses have been accompanied by decreases in revenue from fees, fines, and penalties paid by the regulated community.

Regulations related to the fee schedules for plan approval application and operating permit activities were last revised in November 1994, with staged increases occurring for the next 10 years. See 24 Pa.B. 5899. The last of the staged plan approval application and operating permit fee increases occurred in January 2005.

The Board revised the Title V emission fee in 2013. See 43 Pa.B. 7268 (December 14, 2013). At that time, the Department projected that the increased emission fee would not be sufficient to maintain the Title V fund and noted that a revised emission fee or other revised or new permitting fees would be needed within 3 years. This is due, in part, because emissions subject to the Title V emission fee have decreased by 39% since 2000 and continue to decrease as more emissions reductions are achieved to attain and maintain the lowered applicable NAAQS established by the EPA. This has resulted in reduced revenue for the program, even with the revised emission fee adopted in 2013. While reduced levels of emissions benefit the environment, decreasing emissions do not reduce the Department's workload. Air Quality Program staff must continue to implement the air pollution laws and regulations and administer the program, including developing regulations and policy, reviewing plan approval applications and issuing operating permits, conducting facility inspections, responding to complaints, assessing the risks of hazardous air pollutant emissions, maintaining the source testing program, tracking emissions and maintaining emission inventories, reviewing continuous emission monitoring data, and monitoring the ambient air in this Commonwealth.

As revenue for the Air Quality Program has decreased over the past several years, one area of cost cutting has been reducing the staffing complement. Failure to adjust the air quality permitting fee structure to adequately cover program costs will cause additional staff reductions. Reduced staff will cause delays in reviewing plan approval and operating permit applications and issuing approved plan approvals and operating permits. This may result in delays for industry to

implement expanded, new, or improved processes, with associated loss of revenue to industry, loss of jobs for the community, and loss of tax revenue for the Commonwealth. Further, fewer Department staff to conduct inspections, respond to complaints, and pursue enforcement actions will result in less oversight of regulated industry compliance or noncompliance. This will result in reduced protection of the environment and public health and welfare of the citizens of this Commonwealth.

Decreased program revenues will also impact the operation and maintenance of the Commonwealth's ambient air monitoring network, which provides the data to substantiate the Commonwealth's progress in attaining and maintaining the NAAQS established by the EPA. Decreased program revenues could also impact the Small Business Stationary Source Technical and Environmental Compliance Assistance Program by reducing the amounts of grants and number of services available to small businesses. This could potentially lead to fewer viable small businesses and reduce the economic vitality of this Commonwealth by reducing the number of available jobs and tax revenue generated by these small businesses.

By addressing the Clean Air Fund deficits through the proposed fee schedule, the Department will be able to continue to serve the regulated community and protect the quality of air in the State. Furthermore, a failure to attain and maintain the NAAQS and to satisfy the Commonwealth's obligations under the CAA could precipitate punitive actions by the EPA.

The proposed revisions to the plan approval application and operating permit fee schedules and proposed new fees will affect the owners and operators of approximately 500 Title V facilities Statewide and approximately 2,100 permitted Non-Title V facilities. The proposed rulemaking will also impact approximately 2,000 environmental remediation contractors who submit approximately 7,000 asbestos abatement project notifications per year. Facilities located in Philadelphia and Allegheny Counties have their own approved programs and are not within the jurisdiction of the Department for this fee analysis.

## AIR QUALITY PROGRAM FUNDING

The APCA provides for the establishment of the Clean Air Fund, and separate accounts, if necessary, to comply with the requirements of the CAA. See 35 P.S. § 4009.2(a). The CAA and its implementing regulations specifically provide that any fees collected under the Title V Operating Permit Program must be used solely for the costs of that program. See 42 U.S.C.A. § 7661a(b)(3)(C)(iii) and 40 CFR 70.9(a). As a result, in Pennsylvania, the Clean Air Fund consists of two "special fund" appropriations: the Title V Account and the Non-Title V Account. The Title V Account collects the revenue received from the Title V air quality permitting and emission fees. The Non-Title V Account collects the revenue received from the Non-Title air quality permitting fees as well as the fines and penalties from both Title V and Non-Title V facilities.

The Department's Air Quality Program is also funded by: (1) a grant under section 105 of the CAA (42 U.S.C.A. § 7405) for the prevention and control of air pollution or implementation of National primary and secondary ambient air quality standards, including any activity related to planning, developing, establishing, implementing, improving, or maintaining such programs;

(2) a grant under section 103 of the CAA (42 U.S.C.A. § 7403) to support the PM<sub>2.5</sub> ambient air monitoring network; (3) a BioWatch Grant from the Department of Homeland Security to support specialized monitoring; and (4) funding from the Department's General Fund allocation appropriated by the Legislature on an annual basis. This General Fund allocation amount can vary from year to year. In FY 2014-2015 through 2016-2017, the Department's Air Quality Program received approximately \$8 million per fiscal year from the General Fund.

Tables 1 and 2 illustrate the revenue and expenditures for the Air Quality Program for fiscal years 2011-2012 through 2016-2017. The total revenue to support the Air Quality Program is shown in Table 1. This table shows that revenue to the Clean Air Fund increased beginning in FY 2014-2015 due primarily to the increase in the Title V emission fee promulgated in 2013. The revenue from the increased emission fee was due by September 1, 2014, for emissions occurring in calendar year 2013, and is due by September 1 of each year for emissions from the previous calendar year. The table shows that the revenue from the combined Title V and Non-Title V fines and penalties decreased in FY 2014-2015 and FY 2015-2016. Revenue from Non-Title V permitting activities, the combined Title V and Non-Title V treasury income, and Federal grants has not changed significantly over the years.

Expenditures for the Air Quality Program are shown in Table 2. Expenditures in the Non-Title V Account have increased as the indirect costs of administering the program have increased, such as utilities and office space leases and the costs of purchasing, maintaining, and operating ambient air monitoring equipment, vehicles, and data processing equipment. The table shows an increase in expenditures covered by the Department's General Fund Appropriation in FY 2013-2014 and FY 2014-2015. The General Fund-covered expenditures remained steady in FY 2015-2016 and FY 2016-2017.



**Table 1**  
**Air Quality Program Revenue**  
(in thousands of dollars)

	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
<b>Clean Air Fund Revenue:</b>						
Title V	15,762	14,708	13,422	17,523	17,443	16,103
Non-Title V	1,849	1,588	1,775	2,142	2,019	1,879
Fines and Penalties	3,047	2,670	2,201	1,690	1,653	2,828
Miscellaneous	0	(2)	4	5	15	31
Treasury Gain/Loss		0	0	423	880	475
Treasury Investment Income	1,261	1,047	1,294	1,170	985	1,158
<b>Total Clean Air Fund Revenue</b>	<b>\$21,919</b>	<b>\$20,011</b>	<b>\$18,696</b>	<b>\$22,953</b>	<b>\$22,995</b>	<b>\$22,474</b>
<b>Federal Grants:</b>						
Section 103*	830	830	830	830	830	830
Section 105**	5,386	4,907	5,046	4,951	4,986	4,856
Biowatch**	345	328	359	390	372	372
<b>Total Federal Grants</b>	<b>\$6,561</b>	<b>\$6,065</b>	<b>\$6,235</b>	<b>\$6,171</b>	<b>\$6,188</b>	<b>\$6,058</b>
<b>TOTAL FUNDING TOTAL</b>	<b>\$28,480</b>	<b>\$26,076</b>	<b>\$24,931</b>	<b>\$29,124</b>	<b>\$29,183</b>	<b>\$28,532</b>

\*Actual grant period is April through March

\*\*Actual grant period is October through September

**Table 2**  
**Air Quality Program Expenditures**  
(In thousands of dollars)

	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
<b>Clean Air Fund Expenditures</b>						
Title V	20,055	18,464	18,413	16,870	17,373	21,050
Non-Title V	2,710	10,198	8,036	9,811	10,142	11,454
<b>Total Clean Air Fund Expenditures</b>	<b>22,765</b>	<b>28,662</b>	<b>26,449</b>	<b>26,681</b>	<b>27,515</b>	<b>32,504</b>
<b>Federal Grant Expenditures</b>						
Section 103*	830	830	830	830	830	830
Section 105**	5,386	4,907	5,046	4,951	4,986	4,856
Biowatch**	345	328	359	390	372	372
<b>Total Federal Grant Expenditures</b>	<b>6,561</b>	<b>6,065</b>	<b>6,235</b>	<b>6,171</b>	<b>6,188</b>	<b>6,058</b>
<b>General Fund Expenditures</b>	<b>3,759</b>	<b>3,214</b>	<b>5,231</b>	<b>7,991</b>	<b>8,763</b>	<b>8,563</b>
<b>TOTAL EXPENDITURES</b>	<b>\$33,085</b>	<b>\$37,941</b>	<b>\$37,915</b>	<b>\$40,843</b>	<b>\$42,466</b>	<b>\$47,125</b>

\*Actual grant period is April through March

\*\*Actual grant period is October through September

## CLEAN AIR FUND REVENUE, EXPENDITURES, AND STATUS

Tables 1 and 2 illustrate the past revenue and expenditures for the Air Quality Program for fiscal years 2011-2012 through 2016-2017. Tables 3 and 4 illustrate projected revenue and expenditures for fiscal years 2017-2018 (current) through 2022-2023. As shown in Tables 3 and 4, expenditures in both Clean Air Fund accounts have exceeded or will be exceeding revenue and are projected to continue to exceed revenue if amendments to the existing fee schedules are not implemented. As shown in Table 5, DEP's Bureau of Fiscal Management projects the Clean Air Fund to have a negative balance during FY 2021-2022 based on the existing fee schedules.

### TITLE V ACCOUNT

A comparison of the revenue and expenditures (in thousands of dollars) for the Title V Account based on the existing fees structure is provided in Table 3 for past years and projected through FY 2022-2023. Revenue includes Title V emission fees, major source plan approval application and operating permit fees, and interest. The expenditures exceeded the revenue in the Title V account in FY 2016-2017, are projected to be stable for FY 2017-2018 (current FY), and are projected to exceed revenues again beginning with FY 2018-2019. Expenditures are projected to exceed revenue in each of fiscal years 2021-2022 and 2022-2023 by more than \$4 million. The Title V Account is currently projected to have a decreasing ending balance, from \$22.575 million in FY 2015-2016 to \$5.453 million in FY 2022-2023, or a decrease of \$17.122 million, as shown in Table 3.

**Table 3**  
**Title V Account without Fee Amendments**  
(in thousands of dollars)

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
	ACTUAL	ACTUAL	AVAILABLE	BUDGET	PLAN YR.1	PLAN YR.2	PLAN YR.3	PLAN YR.4
Beginning Balance	\$ 19,533	\$ 22,575	\$ 20,139	\$ 21,826	\$ 20,524	\$ 17,640	\$ 14,238	\$ 10,054
Total Revenue	\$ 20,415	\$ 18,614	\$ 20,278	\$ 16,576	\$ 15,352	\$ 15,199	\$ 14,789	\$ 14,751
Total Expenditures	\$ 17,373	\$ 21,050	\$ 18,591	\$ 17,878	\$ 18,236	\$ 18,601	\$ 18,973	\$ 19,352
Ending Balance	\$ 22,575	\$ 20,139	\$ 21,826	\$ 20,524	\$ 17,640	\$ 14,238	\$ 10,054	\$ 5,453

### NON-TITLE V ACCOUNT

A comparison of the revenue and expenditures (in thousands) for the Non-Title V Account based on the existing fees structure is provided in Table 4 for past years and projected through FY 2022-2023. Revenue includes plan approval application and operating permit fees for Non-Title V sources, penalties, and interest. The expenditures exceed the revenue in the Non-Title V Account beginning with FY 2015-2016. Expenditures are projected to exceed revenue in each of fiscal years 2021-2022 and 2022-2023 by more than \$6.5 million. The Non-Title V Account is projected to have a deficit of \$4.359 million by FY 2019-2020 and \$24.214 million by FY 2022-2023, as shown in Table 4, as expenditures outpace revenue.

**Table 4**  
**Non-Title V Account without Fee Amendments**  
(in thousands of dollars)

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
	ACTUAL	ACTUAL	AVAILABLE	BUDGET	PLAN YR.1	PLAN YR.2	PLAN YR.3	PLAN YR.4
Beginning Balance	\$ 20,433	\$ 15,670	\$ 10,947	\$ 7,253	\$ 1,644	\$ (4,359)	\$ (10,781)	\$ (17,398)
Total Revenue	\$ 5,379	\$ 6,731	\$ 7,192	\$ 3,760	\$ 3,553	\$ 3,325	\$ 3,325	\$ 3,325
Total Expenditures	\$ 10,142	\$ 11,454	\$ 10,886	\$ 9,869	\$ 9,556	\$ 9,747	\$ 9,942	\$ 10,141
Ending Balance	\$ 15,670	\$ 10,947	\$ 7,253	\$ 1,644	\$ (4,359)	\$ (10,781)	\$ (17,398)	\$ (24,214)

**CLEAN AIR FUND ENDING BALANCES**

Table 5 shows the projected negative balance in the Clean Air Fund during FY 2021-2022 and later based on the existing fee schedules.

**Table 5**  
**Clean Air Fund Ending Balances without Fee Amendments**  
(in thousands of dollars)

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
	ACTUAL	ACTUAL	BUDGET	BUDGET	PLAN YR.1	PLAN YR.2	PLAN YR.3	PLAN YR.4
Title V Ending Balance	\$ 22,575	\$ 20,139	\$ 21,826	\$ 20,524	\$ 17,640	\$ 14,238	\$ 10,054	\$ 5,453
Non-Title V Ending Balance	\$ 15,670	\$ 10,947	\$ 7,253	\$ 1,644	\$ (4,359)	\$ (10,781)	\$ (17,398)	\$ (24,214)
Clean Air Fund Ending Balance	\$ 38,245	\$ 31,086	\$ 29,079	\$ 22,168	\$ 13,281	\$ 3,457	\$ (7,344)	\$ (18,761)

**CLEAN AIR FUND SPENDING PLANS**

Spending Plans for the Clean Air Fund are developed by the Bureau of Air Quality and approved by the Secretary each fiscal year. Total budgeted expenditures for the Title V Account were \$21,050,000 for FY 2016-2017. Salaries and benefits for the Title V Account were estimated at \$13,112,000 for FY 2016-2017 and represented approximately 62% of all expenditures in the account. As of July 1, 2018, there are 194 positions on the authorized Title V complement: 181 positions statewide in the Air Quality Program and 13 positions in the following areas of the Department: Office of Chief Counsel; Special Investigations; Small Business; Fiscal Management; and the Waste, Air, Radiation and Remediation Deputate.

Other expenditures included in the Title V Spending Plan support the Title V program. These expenditures include vehicles, training, travel, ambient air monitoring equipment, acid rain monitoring, support for advisory committees, contracts with universities assisting with air quality monitoring and forecasting, contracts for the small business compliance assistance program, contracts for information technology support, and a grant to The Philadelphia County Health Department, Division of Air Management Services (AMS).

Total budgeted expenditures for the Non-Title V Account were \$11,454,000 for FY 2016-2017. The Non-Title V Account budget for FY 2016-2017 included \$1,428,000 for Air Quality Program personnel costs, which represented approximately 13% of the expenditures from the account. In addition, in FY 2016-2017 the Non-Title V Account paid \$329,000 in Information Technology costs and \$3,860,000 in Indirect Augmentation to cover other costs such as utilities and office space leases. Other expenditures under the Non-Title V Account cover the costs of ambient air monitoring equipment, vehicles, training, travel, data processing equipment, certain regional office expenses, a portion of the matching funds required for the Federal section 105 grant, contracts with universities assisting with air quality monitoring and forecasting, and grants to local air quality partnerships.

The Department has sought to maintain parity between its revenue and expenditures over the last several years by reducing costs associated with administering the Air Quality Program. These cost reductions include streamlining the air permitting program through implementing the Permit Decision Guarantee program, creating the online Request for Determination (RFD) form, and developing general plan approvals and general operating permits for 19 source categories, as well as by not filling open staff positions. The remaining reasonable costs that cannot be readily reduced include the cost to perform certain activities related to major facility operations, including the review and processing of plan approvals and operating permits; emissions and ambient air monitoring; compliance inspections; developing regulations and guidance; modeling, analyses, and demonstrations; and preparing emission inventories and tracking emissions. Direct and indirect program costs include personnel costs; office space leases; operating expenses such as telecommunications, electricity, travel, auto supplies, and fuel; and the purchase of fixed assets such as air samplers and monitoring equipment, vehicles, and trailers.

The Department has taken steps to improve the quality, efficiency, and responsiveness of the Air Quality Program, including by increasing its efforts to communicate with applicants for plan approvals and operating permits. These efforts include making greater use of pre-application conferences to help applicants with questions or concerns regarding plan approval and operating permit applications; corresponding with applicants at critical points in the plan approval and operating permit review process; and creating a series of guides about plan approvals and operating permits to provide information to applicants and the public.

#### IMPLICATIONS ASSOCIATED WITH AN UNSUSTAINABLE CLEAN AIR FUND

In accordance with 40 CFR 70.10(b) and (c) (relating to Federal oversight and sanctions), the EPA may withdraw approval of a Title V Permit Program, in whole or in part, if the EPA finds that a state or local agency has not taken "significant action to assure adequate administration and enforcement of the program" within 90 days after the issuance of a notice of deficiency (NOD). The EPA is authorized to, among other things, withdraw approval of the program and promulgate a Federal Title V Permit Program in this Commonwealth that would be administered and enforced by the EPA. In this instance, all Title V emission fees would be paid to the EPA instead of the Department. Additionally, mandatory sanctions would be imposed under section 179 of the CAA (42 U.S.C.A. § 7509) if the program deficiency is not corrected within 18 months after the EPA issues the deficiency notice. These mandatory sanctions include 2-to-1 emission offsets for the construction of major sources and loss of Federal highway funds (\$1.06 billion in 2012 if not obligated for projects approved by the Federal Highway Administration). The increase in the Title V annual emission fee avoids the issuance of a Federal Title V Permit Program NOD; Federal oversight and mandatory CAA sanctions would also be



avoided. The EPA may also impose discretionary sanctions which would adversely impact Federal grants awarded under sections 103 and 105 of the CAA (42 U.S.C.A. §§ 7403 and 7405).

## GENERAL OVERVIEW OF THE AIR QUALITY PROGRAM

The Department's Air Quality Program has a central office and six regional offices. The Bureau of Air Quality (central office) is primarily responsible for program development and planning, ambient air monitoring, source test protocol and continuous emissions monitoring report review, administration, and training. DEP's Office of Field Operations (regional offices) is primarily responsible for permitting, inspection, enforcement, and complaint investigation.

## AIR QUALITY COMPLEMENT

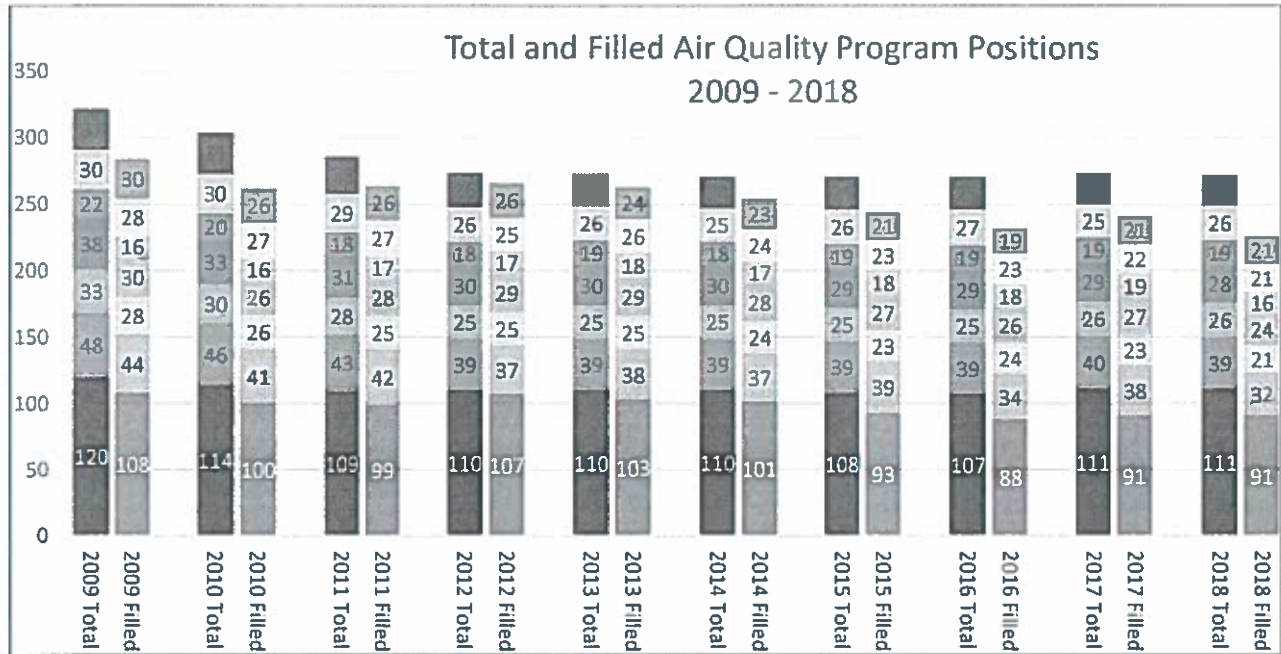
There are 285 positions on the Air Quality complement, including Title V-funded, Non-Title V-funded, and General Fund positions, as of March 16, 2018. These positions consist of managers, engineers, air monitoring equipment specialists, inspectors, and clerical supports assigned to the Air Quality Program. The number of filled positions and vacant positions fluctuates throughout the year due to turnover. The Bureau of Air Quality (central office) includes 111 permanent positions, of which 90 were filled and 21 were vacant.

Field Operations includes six regional offices that have a combined total of 161 positions, of which 26 are vacant. The number of staff in each regional office as of March 16, 2018, were as follows: Northwest Regional Office had a total of 23 positions, with 21 filled and 2 vacant; Southwest Regional Office had a total of 26 positions, with 21 filled and 5 vacant; Northcentral Regional Office had a total of 19 positions, with 16 filled and 3 vacant; Southcentral Regional Office had a total of 28 positions, with 24 filled and 4 vacant; Northeast Regional Office had a total of 26 positions, with 21 filled and 5 vacant; and Southeast Regional Office had a total of 39 positions, with 32 filled and 7 vacant.

In addition to the staff in the Bureau of Air Quality and Field Operations, there are also 13 positions on the Air Quality complement that either provide support to the Air Quality Program or are mandated by the APCA but are not directly part of the Air Quality Program. These positions include: 2 staff in the Small Business Ombudsman Office; 1 staff in the Bureau of Fiscal Management; 1 staff in the Waste, Air, Radiation and Remediation Deputate; 2 staff in the Bureau of Investigations; and 7 attorneys in the Office of Chief Counsel. It should be noted that other DEP staff provide support to the Air Quality Program but are paid from non-air quality funding sources.

Graph 1 shows the total number of Air Quality Program staffing positions and filled positions for central office and the regional offices for the years 2009 to 2018. As of March 16, 2018, there were 285 positions on the Air Quality complement, with 47 vacant positions (17% vacancy rate). For comparison, in 2009, there were 325 positions on the Air Quality complement and in 2011, there were 307, with roughly the same vacancy rate.

**Graph 1**  
**Air Quality Staffing**



NWRO Total	NWRO Filled	
SWRO Total	SWRO Filled	
NCRO Total	NCRO Filled	
SCRO Total	SCRO Filled	
NERO Total	NERO Filled	
SERO Total	SERO Filled	
RCSOB Total	RCSOB Filled	

## WORKLOAD ANALYSIS AND PERSONNEL COSTS

Tables 3 and 4 show projected shortfalls in Title V revenue versus expenditures of more than \$4 million and Non-Title V revenue versus expenditures of more than \$6.5 million, respectively, or a combined revenue versus expenditures shortfall of more than \$10.5 million, by fiscal years 2021-2022 and 2022-2023. To address this revenue shortfall and ensure adequate revenue to support the Air Quality Program, Title V Operating Permit Program, Non-Title V (State-Only) Operating Permit Program, and direct and indirect costs of administering the programs, the Department is proposing to revise existing fees for plan approval application and operating permit activities and establish fees for certain activities for which the costs are currently absorbed by the existing fee revenue.

Prior to proposing a revised plan approval application and operating permit fee schedule, the Department determined that personnel costs comprise a large portion of the expenditures for plan approval application and operating permit activities, including approximately 62% of the Title V expenditures and 13% of the Non-Title V expenditures for FY 2016-2017. The Department decided that an evaluation of personnel costs for performing plan approval applications and operating permit activities would form the basis for developing what would be reasonable increases for the fee schedules. The Department reviewed the work effort for each type of plan approval application and operating permit and calculated the direct personnel costs to perform the work effort. This analysis

was conducted by a joint working committee of central office and regional office Air Quality personnel. The working committee identified the activities relating to the plan approval application and operating permit program and associated a time/labor cost for each type of plan approval application and operating permit activity.

However, this analysis does not identify the entire work effort that supports the review of a plan approval application or an operating permit. Activities not included in the analysis include compliance inspections, enforcement actions, regulation development and adoption, ambient air quality monitoring, administrative support, Department facilities costs, operating expenses, and the purchase of fixed assets. Therefore, any analysis of the staff time directly associated with the review and issuance of plan approvals and operating permits will not identify the total amount of Department resources needed to manage the plan approval application and operating permit process and the air pollution control program.

The Department calculated the personnel costs for each analysis presented in Tables 6—14 using an average salary for an engineer at pay range 8, step 10 (as of October 1, 2016 = \$33.42/hour) and a benefit rate of 74.3%; section chief at pay range 9, step 10 (\$38.13); operations inspector at pay range 6, step 10 (\$25.64); clerical at pay range 3, step 10 (\$17.51); and program manager at pay range 10, step 10 (\$43.54).

**PLAN APPROVAL APPLICATION**

Table 6 provides the estimated review hours for a plan approval application which is not subject to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) or Maximum Achievable Control Technology (MACT) Standard, New Source Review (NSR), or Prevention of Significant Deterioration (PSD). The plan approval application is required by Department regulations found in 25 Pa. Code Chapter 127, Subchapter B (relating to plan approval requirements). The Department issued 97 new plan approvals in 2017.

**Table 6  
Plan Approval Application Review Hours**

<b>Plan Approval</b>	<b>Review Hours</b>
Administrative Tasks	8
Section Chief Screening	1
Section Chief Review	2
Section Chief Final (Comment/Response, etc.)	1
Pre-Application Meeting	7
Application Manager Completeness Review	8
Application Manager Technical Review	79
Operations Review	2
Program Manager Final Review	2
Estimated Hours	110

Table 6 represents approximately \$6,250 in personnel costs per plan approval application review.

Table 7 provides the estimated additional review hours required for each applicable NSPS or NESHAP/ MACT regulation evaluated during the plan approval application review process. The Department issued 12 new plan approvals with MACT standards in 2017.

**Table 7  
Additional Hours for NSPS or NESHAP/ MACT**

NSPS or NESHAP (MACT)	Review Hours
Review of Preamble and Regulation	20
Determine Applicability	10
Incorporate Conditions into a Plan Approval	10
Estimated Hours	40

Table 7 represents approximately \$2,330 in personnel costs for the review of a plan approval application with applicable NSPS or NESHAP/MACT regulations.

Table 8 provides the estimated review hours for the review of a plan approval application which is subject to PSD regulation.

**Table 8  
Plan Approval Application Review Hours for PSD**

PSD	Review Hours
Administrative Tasks	8
Section Chief Screening	2
Section Chief Review	12
Section Chief Final (Comment/Response, etc.)	8
Pre-Application Meeting and Other Meetings	43
Public Hearing (AQ staff time)	18
Public Hearing (CR Coordinator time)	23
Application Manager Completeness Review	29
Application Manager Technical Review including PSD Applicability, Conditions, Federal Land Manager, EPA Reviews, Notices, etc.	1000
Program Manager Final Review	2
Estimated Hours	1145

Table 8 represents approximately \$66,700 in personnel costs for review of a plan approval application with PSD regulation.

Table 9 provides the estimated review hours for the review of a plan approval application that is subject to NSR regulation. The Department issued 50 NSR plan approvals in 2017.

**Table 9  
Plan Approval Application Review Hours for NSR**

<b>NSR</b>	<b>Review Hours</b>
Administrative Tasks	8
Section Chief Screening	4
Section Chief Review	14
Section Chief Final (Comment/Response, etc.)	13
Pre-Application Meeting and Other Meetings	31
Application Manager Completeness Review	11
Application Manager Technical Review including NSR Applicability, Conditions, EPA Reviews, Notices, etc.	221
Public Hearing (AQ staff time)	18
Public Hearing (CR Coordinator time)	19
Operations Review	2
Program Manager Final Review	2
<b>Estimated Hours</b>	<b>343</b>

Table 9 represents approximately \$20,050 in personnel costs for review of a plan approval application with NSR regulation.

Table 10 provides the number of estimated review hours for the review of a plan approval application with a modification, extension, or transfer of ownership. The Department issued 10 modifications and 201 extensions in 2017.

**Table 10  
Other Plan Approval Application Action Review Hours**

	<b>Review Hours</b>
Plan Approval - Modification	30
Plan Approval - Extension	10
Plan Approval - Transfer of Ownership	15

Table 10 represents the following: the plan approval modification time is approximately \$1,750 of personnel costs; the plan approval extension time is approximately \$580 of personnel costs; and the plan approval transfer of ownership time is approximately \$870 of personnel costs.



## PLANTWIDE APPLICABILITY LIMIT

A plantwide applicability limit (PAL) is a limit on the facility that sets a plantwide emission limit based on the facility's actual emissions. A PAL permit allows the owner or operator of the facility to avoid the major NSR permitting process when making changes to the facility or individual emissions units. Changes under the PAL are not exempt from state permitting requirements. In return for this flexibility, emissions must be monitored at all emissions units included in the PAL. The benefit is that the facility may be altered without first obtaining a Federal NSR permit or going through an emissions netting review; a PAL will allow quick changes at the facility. However, a PAL requires recordkeeping, monitoring, and reporting, and state permitting requirements still apply.

The Department has issued 14 PAL approvals but has not tracked work effort related to these applications as a separate work item. Because of the complex nature of setting the PAL, which includes reviewing actual emissions data, establishing monitoring and reporting requirements, and establishing recordkeeping requirements, the work effort is similar to the effort for an NSR application. The NSR application review process and personnel costs are detailed in Table 9.

## NON-TITLE V (STATE-ONLY) OPERATING PERMIT

Table 11 provides the estimated review hours for the review of a new or renewal of a Non-Title V operating permit. (Note: "permit issuance" includes section and division chiefs' review including public notices and comment/response document.) The Department issued 48 new Non-Title V permits in 2017.

**Table 11**  
**Non-Title V Operating Permit Review Hours**

	<b>Review Hours</b>
Completeness Review	4
Permit Application Review	34
Permit Issuance	12
Estimated Hours	50

Table 11 represents approximately \$2,900 in personnel costs for reviewing a new or the renewal of Non-Title V operating permits.

Table 12 provides the estimated review hours for the review of a Non-Title V operating permit amendment or minor modification. The Department renewed 405, amended 140 and modified 8 Non-Title V operating permits in 2017.

**Table 12**  
**Other Non-Title V Operating Permit Review Hours**

	<b>Review Hours</b>
Non-Title V Operating Permit - Amendment	28
Non-Title V Operating Permit - Minor Modification	28

Table 12 represents the following: the Non-Title V permit amendment time is approximately \$1,630 of personnel costs; the Non-Title V minor modification time is also approximately \$1,630 of personnel costs.

**TITLE V OPERATING PERMIT**

Table 13 provides the estimated review hours for the review of a Title V operating permit. (Note: “permit issuance” includes section and division chiefs’ review including public notices and comment/response document.) The Department issued 3 new Title V operating permits in 2017.

**Table 13  
Title V Operating Permit Review Hours**

	<b>Review Hours</b>
Pre-application Meeting	10
Completeness Review	4
Permit Application Review	105
Permit Issuance	12
Estimated Hours	131

Table 13 represents approximately \$7,600 in personnel costs for the review of a Title V operating permit.

Table 14 provides the estimated review hours for the review of a Title V operating permit administrative amendment, minor modification, major modification, or renewal. An administrative amendment includes a transfer of ownership. The Department renewed 79, amended 85 and modified 25 Title V operating permits in 2017.

**Table 14  
Other Title V Operating Permit Review Hours**

	<b>Review Hours</b>
Title V Operating Permit – Administrative Amendment	30
Title V Operating Permit - Minor Modification	50
Title V Operating Permit - Major Modification	75
Title V Operating Permit - Renewal	75

Table 14 represents the following: the administrative amendment personnel costs are approximately \$1,750; the minor modification personnel costs are approximately \$2,900; the major modification personnel costs are approximately \$4,370; and the operating permit renewal personnel costs are approximately \$4,370.

**RISK ASSESSMENT**

A risk assessment report prepared by the Department describes the potential adverse effects under both current and planned future conditions caused by the presence of hazardous air pollutants in the absence of any further control, remediation, or mitigation measures. The health risks associated with the

emissions of air toxics are quantified using risk assessment analysis methods and procedures. These risk assessments are based upon ambient air toxics data obtained through sampling of actual emissions data obtained via stack testing or upon estimated emissions for proposed facilities.

These reviews require extensive staff time to research and to develop the report of potential adverse effects. The review process for risk assessments is lengthy because it requires a substantial amount of quality control review and includes an analysis of all the health impact data used for the chemicals evaluated in these assessments.

Department staff reported a total of 6,613 hours related to work on 15 risk assessments during FY 2015-2016. Total personnel expenditures were \$385,200, which equates to an average of 440 work hours or \$25,630 expended for each risk assessment. These costs are not currently recovered from the plan approval applicant. Rather, this cost to the Department is currently borne by the owners and operators of all permitted facilities through the plan approval application and operating permit fees that they pay.

#### ASBESTOS ABATEMENT, RENOVATION OR DEMOLITION NOTIFICATIONS

The Department is proposing to establish a fee for notifications of asbestos abatement or regulated demolition/renovation projects (asbestos abatement projects or asbestos notifications). The Department expended 5,137.37 hours of work effort in FY 2015-2016 at a personnel cost of \$264,945.80. These personnel costs do not include the cost of staff training to inspect asbestos removal projects or development of an online asbestos notification system, among other expenses.

Several states have established fees for notifications of asbestos abatement projects. Ohio collects a \$75 fee for each notification and separate fees of \$3 to \$4 per unit of asbestos removed. New York requires the submission of a notification form and collects a fee ranging from \$0 to \$2,000 based on the amount of asbestos removed. New Jersey collects an administrative fee of \$118 for each construction permit issued for an asbestos hazard abatement project. AMS collects a project notification fee of \$25 plus a permit fee for major projects of 2.5% for the first \$50,000 and 1.25% of any amount over \$50,000. The Allegheny County Health Department (ACHD) collects fees for asbestos abatement permits ranging from \$150 for projects less than 360 square feet to \$650 for projects greater than 1,000 square feet. In addition, ACHD collects a fee of \$150 for asbestos abatement final clearance re-inspections.

The Department's proposed fee would be \$300 for notifications filed during calendar years 2020 through 2025; \$400 for notifications filed during calendar years 2026 through 2030; and \$500 for notifications filed for the calendar years beginning with 2031. The proposed fees for asbestos abatement or regulated demolition or renovation project notifications would provide revenue to maintain staffing to review these notifications and inspect these projects. These fees are comparable to, and in many instances less than, fees collected by neighboring states, AMS, and ACHD.

#### REQUESTS FOR DETERMINATION

The Department is proposing to establish a fee for reviewing an application for a Request for Determination (RFD) for changes of minor significance and exemption from a plan approval application, or exemption from both a plan approval application and an operating permit, submitted by the owner or operator of a source which is not a Title V facility. RFDs are used by the owners and

operators of Non-Title V facilities to determine whether a plan approval application is required for a specific air contamination source and, if so, if an operating permit is required in addition to the plan approval application, as these owners or operators may not be familiar with applicable permitting requirements. The Department reviews the data supplied by the owner or operator to determine if the air contamination source is of minor significance or if a plan approval application, or both a plan approval application and an operating permit, is required. The owner or operator receives a written determination from the Department.

In 2007, the Department developed an online RFD application system. During the development of that system, the Department reviewed the staff time and costs associated with processing and reviewing RFDs. The Department estimated that clerical support, engineering review, and engineering supervisor review hours were needed to process an RFD application. Personnel costs, with benefits, were estimated in 2010 at \$331.64 per RFD application. Using this same hourly wage but updating the benefit rate, the personnel costs for 2016 would be estimated at \$405.25. Note that indirect costs, such as utilities and office space leases, have not been included in these estimates.

#### CLAIMS OF CONFIDENTIAL INFORMATION

The Department is proposing to establish a fee for reviewing a request for confidentiality of information submitted by a source owner or operator. The Department has a specific procedure for reviewing and approving requests for confidentiality from source owners and operators made under section 13.2 of the APCA (35 P.S. § 4013.2). This procedure requires that source owners or operators submit their request for confidentiality in writing to the Department. The request must specifically designate which items of information the source owner or operator wishes the Department to treat confidentially, along with a reason why the items of information should be treated as confidential information. The Department reviews both redacted and unredacted copies to determine if each item is confidential under section 13.2 of the APCA. After review, the Department prepares a letter officially granting or denying confidentiality of the redacted and unredacted copies and ensures that no information which has been granted confidentiality is sent to the Department's public files.

#### GENERAL PLAN APPROVAL AND GENERAL OPERATING PERMIT

The Department has issued 19 general plan approvals and general operating permits. Issuance and applications for authorization to use a general plan approval or general operating permit is discussed in 25 Pa. Code, Chapter 127, Subchapter H (relating to general plan approvals and operating permits). The Department establishes the application fee for each authorization to use at the time the General Plan Approval or General Permit is developed. The proposed rulemaking would establish a new section under Subchapter I to address fees for the application to use a general plan approval or general operating permit issued by the Department under Subchapter H for stationary or portable sources. These application fees would be established when the general plan approval or general operating permit is issued or modified by the Department. These application fees would be published in the *Pennsylvania Bulletin* as provided in §§ 127.612 and 127.632 (relating to public notice and review period).

#### FACILITY INSPECTIONS

Each of the types of facilities above require regular inspection to confirm compliance with the operating permit and/or applicable regulations. Ideally, each permitted facility should be inspected at

least once a year with additional partial inspections for very complex facilities or facilities with compliance issues. Table 15 provides the estimated hours for the inspection of various types of facilities. Please note that “inspection” includes pre-inspection file review, travel, time on site, follow-up questions, and the writing and review of inspection report.

**Table 15  
Facility Inspections**

	<b>Hours</b>
Title V Facility	53
Synthetic Minor Facility	23
Natural Minor Facility	15
Asbestos Removal, Renovation, Demolition	7.5

Table 15 represents the following: the Title V inspection personnel costs are approximately \$1,400; the Synthetic Minor inspection personnel costs are approximately \$625; the Natural Minor inspection personnel costs are approximately \$400; and the Asbestos inspection personnel costs are approximately \$200.

## CURRENT AND PROPOSED PLAN APPROVAL APPLICATION AND OPERATING PERMIT FEES

### CURRENT PLAN APPROVAL APPLICATION AND OPERATING PERMIT FEES

The current Air Quality Plan Approval Application and Operating Permit Fees are summarized in Table 16. These fees are current as of 2005, the year of the last staged increase of the fees promulgated at 24 Pa.B. 5899.

**Table 16  
Current Air Quality Plan Approval Application and Operating Permit Fees  
(All fees current as of 2005)**

<b>Plan Approval Application Fees</b>	<b>Section</b>	<b>Current Fee</b>
Plan Approval Base Fee, Subchapter B	127.702(b)	\$1,000
Plan Approval for NSR (fee not including NSPS & MACT), Subchapter E	127.702(c)	\$5,300
Plan Approval with NSPS, NESHAP, MACT	127.702(d)	\$1,700
Plan Approval Application for case-by-case MACT	127.702(e)	\$8,000
Plan Approval for PSD (fee not including NSPS, MACT), Subchapter D	127.702(f)	\$22,700
Plan Approval – Minor Modification, Extension, or Transfer of Ownership	127.702(g)	\$300

<b>Operating Permit Fees Under Subchapter E (Non-Title V Facilities)</b>		
Non-Title V Operating Permit: Modification (minor and significant), Revision (amendment)	127.703(b)	\$375
Non-Title V Operating Permit: New, Renewal (fee not including NSPS & MACT)	127.703(b)	\$375
Annual Operating Permit Administration Fee for Non-Title V Facility	127.703(c)	\$375
<b>Title V Operating Permit Fees Under Subchapter G</b>		
Title V Operating Permit: Modification, Revision	127.704(b)	\$750
Title V Operating Permit: New, Renewal	127.704(b)	\$750
Annual Operating Permit Administration Fee for Title V Facility	127.704(c)	\$750

**PROPOSED PLAN APPROVAL APPLICATION AND OPERATING PERMIT FEES**

Fee schedules are established for the review of:

- Ambient Air Impact Modeling associated with certain plan approval applications
- Plantwide Applicability Limits (PAL)
- Risk Assessment Applications
- Notifications of Asbestos Abatement and Demolition/Renovation
- Requests for Determination (RFD)
- Claims of Confidential Information

The proposed rulemaking amends the existing air quality fee schedules for the following:

- Application fees for plan approval applications including NSR, PSD, NSPS, and NESHAP/MACT.
- Application fees for authorization to use general plan approvals and general operating permits
- Application fees for operating permits
- Annual operating permit administration fee

The annual operating permit administration fees in §§ 127.703(c) and 127.704(c) are revised to become annual operating permit maintenance fees as follows:

- Annual Operating Permit Maintenance Fee for Synthetic Minor Facility
- Annual Operating Permit Maintenance Fee for Non-Title V Facility that is not a Synthetic Minor
- Annual Operating Permit Maintenance Fee for Title V Facility

The annual operating permit maintenance fee would be due on or before December 31 of each year for the succeeding calendar year.

The assessed plan approval application fees will consist of a base fee plus the fees for the review of up to three additional applicable NSPS, NESHAP, or MACT standards. For example, an owner or operator that submits a plan approval application during calendar years 2021 to 2025 that has one



applicable NSPS and one applicable NESHAP would pay the base fee of \$ 2,500 plus \$2,500 for one NSPS and \$2,500 for one NESHAP for a total of \$7,500. An owner or operator that submits a plan approval application that has three or more additional applicable NSPS, NESHAP, or MACT standards would pay the base fee plus the fees for a maximum of three additional applicable standards. The Department's permitting review would include all applicable standards, regardless of the number included in the application.

The proposed Air Quality Plan Approval Application and Operating Permit Fees are summarized in Table 17 (Title V Facilities), Table 18 (Non-Title V Facilities), and Table 19 (Fee Schedule for Risk Assessments, Asbestos Notifications, Requests for Determination, and Claims of Confidential Information).

**Table 17**  
**Proposed Air Quality Fee Schedule for Title V Facilities**  
**(Major Facilities Account)**

Major Facilities Account		2021 - 2025		2026 - 2030		2031 +
Description of Activity	Proposed Section	Current Fee	Proposed Fee	Proposed Fee	Proposed Fee	Proposed Fee
Plan Approval Application, Subchapter B	127.702(b)	\$1,000	\$2,500	\$3,100	\$3,900	\$3,900
Plan Approval - New Source Review, Subchapter E	127.702(c)	\$5,300	\$7,500	\$9,400	\$11,800	\$11,800
Plan Approval - Review of NSPS/NESHAP/MACT (cumulative; 3 standards max)	127.702(d)	\$1,700	\$2,500	\$3,100	\$3,900	\$3,900
Plan Approval - Review of Case-by-Case MACT	127.702(e)	\$8,000	\$9,500	\$11,900	\$14,900	\$14,900
Plan Approval - Prevention of Significant Deterioration, Subchapter D	127.702(f)	\$22,700	\$32,500	\$40,600	\$50,800	\$50,800
Plan Approval - Plantwide Applicability Limit (PAL), § 127.218	127.702(g)	\$5,300	\$7,500	\$9,400	\$11,800	\$11,800
Plan Approval - PAL, Subchapter D	127.702(h)	\$5,300	\$7,500	\$9,400	\$11,800	\$11,800
Plan Approval - Minor Modification	127.702(i)(1)	\$300	\$1,500	\$1,900	\$2,400	\$2,400
Plan Approval - Extension	127.702(i)(2)	\$300	\$750	\$900	\$1,100	\$1,100
Plan Approval - Transfer of Ownership	127.702(i)(2)	\$300	\$750	\$900	\$1,100	\$1,100
Plan Approval - Significant Modification, Ambient Impact Analysis	127.702(j)(1)	\$0	\$9,000	\$11,300	\$14,100	\$14,100
Plan Approval - Significant Modification, Reassessment of Control Technology	127.702(j)(2)	\$0	\$2,500	\$3,100	\$3,900	\$3,900
Title V Operating Permit Application, New, Subchapter G	127.704(b)(1)	\$750	\$5,000	\$6,300	\$7,900	\$7,900
Title V Operating Permit - Renewal and Reissuance	127.704(b)(2)	\$750	\$4,000	\$5,000	\$6,300	\$6,300
Title V Operating Permit - Minor Modification	127.704(b)(3)	\$750	\$1,500	\$1,900	\$2,400	\$2,400
Title V Operating Permit - Significant Modification	127.704(b)(4)	\$750	\$4,000	\$5,000	\$6,300	\$6,300
Title V Operating Permit - Administrative Amendment	127.704(b)(5)	\$375	\$1,500	\$1,900	\$2,400	\$2,400
Title V Operating Permit - Transfer of Ownership	127.704(b)(5)	\$375	\$1,500	\$1,900	\$2,400	\$2,400
Title V Operating Permit - Annual Administration Fee	127.704(c)	\$750	\$0	\$0	\$0	\$0
Title V Operating Permit - Annual Maintenance Fee	127.704(d)	\$0	\$10,000	\$12,500	\$15,600	\$15,600
Title V Operating Permit - PAL, § 127.218	127.704(e)	\$0	\$10,000	\$12,500	\$15,600	\$15,600
Title V Operating Permit - PAL, Subchapter D	127.704(f)	\$0	\$10,000	\$12,500	\$15,600	\$15,600

**Table 18**  
**Proposed Air Quality Fee Schedule for Non-Title V Facilities**  
**(Non-Major Facilities Account)**

Non-Major Facilities Account		2021 - 2025 2026 - 2030 2031 +			
Description	Proposed Section	Current Fee	Proposed Fee	Proposed Fee	Proposed Fee
Plan Approval Application, Subchapter B	127.702(b)	\$1,000	\$2,500	\$3,100	\$3,900
Plan Approval-Review of NSPS/NESHAP/MACT (cumulative; 3 standards max)	127.702(d)	\$1,700	\$2,500	\$3,100	\$3,900
Plan Approval - Minor Modification	127.702(i)(1)	\$300	\$1,500	\$1,900	\$2,400
Plan Approval - Extension	127.702(i)(2)	\$300	\$750	\$900	\$1,100
Plan Approval - Transfer of Ownership	127.702(i)(2)	\$300	\$750	\$900	\$1,100
Plan Approval - Significant Modification; Ambient Impact Analysis	127.702(j)(2)	\$0	\$9,000	\$11,300	\$14,100
Plan Approval - Significant Modification; Reassess control technology	127.702(j)(1)	\$0	\$2,500	\$3,100	\$3,900
Non-Title V Operating Permit Application - New, Subchapter F	127.703(b)(1)	\$375	\$2,500	\$3,100	\$3,900
Non-Title V Operating Permit - Renewal and Reissuance	127.703(b)(2)	\$375	\$2,100	\$2,600	\$3,300
Non-Title V Operating Permit - Minor Modification	127.703(b)(3)	\$375	\$1,500	\$1,900	\$2,400
Non-Title V Operating Permit - Significant Modification	127.703(b)(4)	\$375	\$2,000	\$2,500	\$3,100
Non-Title V Operating Permit - Administrative Amendment	127.703(b)(5)	\$375	\$1,500	\$1,900	\$2,400
Non-Title V Operating Permit - Transfer of Ownership	127.703(b)(5)	\$375	\$1,500	\$1,900	\$2,400
Non-Title V Operating Permit - Annual Administration Fee	127.703 (c )	\$375	\$0	\$0	\$0
Non-Title V Operating Permit - Annual Maintenance Fee for Synthetic Minor Facility	127.703(d)(1)	\$0	\$2,500	\$3,100	\$3,900
Non-Title V Operating Permit - Annual Maintenance Fee for Facility that is not a Synthetic Minor	127.703(d)(2)	\$0	\$2,000	\$2,500	\$3,100

**Table 19**  
**Proposed Air Quality Fee Schedule for Risk Assessments, Asbestos Notifications, Requests for Determination, and Claims of Confidential Information**

Proposed Fees at §§ 127.708–127.711		2021 - 2025 2026 - 2030 2031 +			
Description of Activity	Proposed Section	Current Fee	Proposed Fee	Proposed Fee	Proposed Fee
Risk Assessment Analysis - Inhalation only	127.708(b)	\$0	\$10,000	\$12,500	\$15,600
Risk Assessment Analysis - Multi-pathway	127.708(c)	\$0	\$25,000	\$31,300	\$39,100
Asbestos Notification	127.709	\$0	\$300	\$400	\$500
Request for Determination (RFD) Form - At small business stationary source (Section 3 of the APCA)	127.710(1)	\$0	\$400	\$500	\$600
RFD – Not a small business stationary source under § 127.710(1)	127.710(2)	\$0	\$600	\$800	\$1,000
Claims of Confidential Information	127.711	\$0	\$300	\$400	\$500

**SUMMARY OF PERSONNEL COSTS, CURRENT FEES, AND PROPOSED FEES**

Table 20 compares the personnel costs to perform each plan approval application or operating permit activity with the current fees and the proposed fees. The table shows the average time in personnel hours that each activity requires as detailed in Tables 6–14; the Department’s direct personnel costs

for each activity based on average salary and benefits as calculated in Tables 6—14; the current fees as shown in Table 16; and the proposed fees for 2021-2025 as shown in Tables 17—19. Table 20 shows that, for many of the activities, the current fee is less than the Department’s personnel costs to perform the activity and the proposed fees for certain activities are still somewhat less than the Department’s direct personnel costs of completing the activity. General Fund money and Federal Grants supplement the remaining cost. In determining what would be a reasonable fee to propose, the Department assumed that revenue from the General Fund allocation and Federal Grants would remain stable for the next several years. If this assumption holds, the increased revenue from the proposed fees plus the anticipated revenue from the General Fund allocation and Federal Grants should cover the program expenditures. However, if either or both of the General Fund Appropriation money allocated to the Air Quality Program or Federal Grant funding decrease significantly, this will create additional pressure to implement increases to the plan approval application and operating permit fees and consider additional new fees to maintain the solvency of the Clean Air Fund.

**Table 20  
Summary of Average Cost, Current Fee, and Proposed Fee Per Activity**

Description of Activity	Section or Proposed Section	Average Time (hrs), Tables 6—14	Cost based on average salary including benefits, Tables 6—14	Current Fee, Table 16	Proposed Fee, Tables 17—19
Plan Approval Application Fee, Subchapter B	127.702(b)	110	\$6,250	\$1,000	\$2,500
Plan Approval – New Source Review, Subchapter E	127.702(c)	343	\$20,050	\$5,300	\$7,500
Plan Approval – Review of NSPS/NESHAPs/MACT (cumulative; 3 standards max)	127.702(d)	40	\$2,330	\$1,700	\$2,500
Plan Approval – Review of Case-by-Case MACT	127.702(e)	160	\$9,320	\$8,000	\$9,500
Plan Approval – Prevention of Significant Deterioration, Subchapter D	127.702(f)	1145	\$66,700	\$22,700	\$32,500
Plan Approval – Plantwide Applicability Limit (PAL), § 127.218	127.702(g)	345	\$20,050	\$5,300	\$7,500
Plan Approval – PAL, Subchapter D	127.702(h)	345	\$20,050	\$5,300	\$7,500
Plan Approval – Minor Modification	127.702(i)(1)	30	\$1,750	\$300	\$1,500
Plan Approval – Extension	127.702(i)(2)	10	\$580	\$300	\$750
Plan Approval – Transfer of Ownership	127.702(i)(2)	15	\$870	\$300	\$750
Plan Approval – Significant Modification, Ambient Impact Analysis	127.702(j)(1)	-	-	\$0	\$9,000
Plan Approval – Significant Modification, Reassessment of control technology	127.702(j)(2)	-	-	\$0	\$2,500
Non-Title V Operating Permit Application, New, Subchapter F	127.703(b)(1)	50	\$2,900	\$375	\$2,500
Non-Title V Operating Permit – Renewal and Reissuance	127.703(b)(2)	50	\$2,900	\$375	\$2,100
Non-Title V Operating Permit – Minor Modification	127.703(b)(3)	28	\$1,630	\$375	\$1,500

Non-Title V Operating Permit – Significant Modification	127.703(b)(4)	50	\$2,910	\$375	\$2,000
Non-Title V Operating Permit – Administrative Amendment	127.703(b)(5)	28	\$1,630	\$375	\$1,500
Non-Title V Operating Permit – Transfer of Ownership	127.703(b)(5)	28	\$1,630	\$375	\$1,500
Non-Title V Operating Permit – Annual Administration Fee	127.703(c)	-	-	\$375	\$0
Non-Title V Operating Permit – Annual Maintenance Fee for Synthetic Minor Facility	127.703(d)(1)	-	-	\$0	\$2,500
Non-Title V Operating Permit – Annual Maintenance Fee for Facility that is not a Synthetic Minor	127.703(d)(2)	-	-	\$0	\$2,000
Title V Operating Permit Application, New, Subchapter G	127.704(b)(1)	131	\$7,600	\$750	\$5,000
Title V Operating Permit – Renewal and Reissuance	127.704(b)(2)	75	\$4,370	\$750	\$4,000
Title V Operating Permit – Minor Modification	127.704(b)(3)	50	\$2,910	\$750	\$1,500
Title V Operating Permit – Significant Modification	127.704(b)(4)	75	\$4,370	\$750	\$4,000
Title V Operating Permit – Administrative Amendment	127.704(b)(5)	30	\$1,750	\$375	\$1,500
Title V Operating Permit – Transfer of Ownership	127.704(b)(5)	30	\$1,750	\$375	\$1,500
Title V Operating Permit – Annual Administration Fee	127.704(c)	-	-	\$750	\$0
Title V Operating Permit – Annual Maintenance Fee	127.704(d)	-	-	\$0	\$10,000
Title V Operating Permit – Plantwide Applicability Limit (PAL), § 127.218	127.704(e)	300	\$17,538	\$0	\$10,000
Title V Operating Permit – PAL, Subchapter D	127.704(f)	300	\$17,538	\$0	\$10,000
Risk Assessment Analysis – Inhalation only	127.708(b)	-	-	\$0	\$10,000
Risk Assessment Analysis – Multi-pathway	127.708(c)	-	-	\$0	\$25,000
Asbestos Notification	127.709	-	-	\$0	\$300
Request for Determination (RFD) Form – At small business stationary source (Section 3 of the APCA)	127.710(1)	-	-	\$0	\$400
RFD – Not a small business stationary source under § 127.710	127.710(2)	-	-	\$0	\$600
Claims of Confidential Information	127.711	-	-	\$0	\$300

## TITLE V EMISSION FEE

The owners and operators of approximately 580 Title V facilities in this Commonwealth (including approximately 80 facilities in Allegheny and Philadelphia Counties) are subject to the Title V emission fee for emissions of up to 4,000 tons of each regulated pollutant. As required under Title V of the CAA and 40 CFR Part 70, these Title V facilities are defined as major sources due to the amount of emissions of regulated pollutants reported on an annual basis. Of the 580 facilities, 55 do not pay the Title V emission fees as provided under Section 6.3 of the APCA (owned or operated by State or local governments or are non-major facilities that are required by Federal regulation to have a Title V permit).

The Title V emission fee under 25 Pa. Code § 127.705 is payable by the owners and operators of major facilities by September 1 of each year for emissions from the previous year and is subject to the permitting provisions of Title V of the CAA. Section 502(b) of the CAA required the EPA to adopt rules establishing the minimum elements of Title V operating permit programs, including a requirement that the owner or operator of all sources subject to the requirements obtain a permit under Title V of the CAA and pay an annual fee, or the equivalent over some other period, to State and local agencies sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of Title V of the CAA.

The Department established a uniform Title V emission fee across this Commonwealth in § 127.705 on November 26, 1994, at 24 Pa.B. 5899. The local air pollution control agencies in Allegheny and Philadelphia Counties collect the Title V emission fee revenue for sources under their jurisdictions. In 1994, the Title V emission fee was established at \$37 per ton of regulated pollutant for emissions of up to 4,000 tons of each regulated pollutant per Title V facility. As provided in § 127.705(d), the emission fee imposed under § 127.705(a) has been increased in each calendar year after 1994 by the percentage, if any, by which the Consumer Price Index (CPI) for the most recent calendar year exceeds the CPI for the previous calendar year.

The Title V emission fee established in 1994 was designed to cover all reasonable costs required to develop and administer the Title V operating permit program. These reasonable costs include the cost for certain activities related to major facility operations, including the review and processing of applications for plan approvals and operating permits; emissions and ambient air monitoring; developing regulations and guidance; program planning; modeling, analyses, and demonstrations; inspections and complaint investigations; and preparing emission inventories and tracking emissions. Direct and indirect program costs include personnel costs; operating expenses such as telecommunications, electricity, travel, auto supplies, and fuel; and the purchase of fixed assets such as air samplers and monitoring equipment, vehicles, and trailers.

However, Title V emission fee revenues collected have been decreasing annually due to decreasing emissions of regulated pollutants. These decreased emissions are due to the installation of air pollution control technology over the past 2 decades on major stationary sources, the retirement or curtailment of operations by major sources including certain refineries and coal-fired power plants, and the conversion of many major facilities from burning coal or oil to burning natural gas. Decreasing emissions and facility shutdowns do not reduce the Department's workload. Air Quality Program staff must continue to implement the air pollution laws and regulations, issue plan approvals and operating permits including renewals and amendments, conduct facility inspections, respond to complaints, assess the risks of hazardous air pollutant emissions, maintain the source testing program, track emissions and maintain emission inventories, review continuous emission monitoring data, and monitor the ambient air in this Commonwealth. Significant staff resources have also been and will continue to be devoted to permitting and inspection of unconventional natural gas development activities.

On December 14, 2013, the Board amended Chapter 127, Subchapter I to increase the Title V emission fee paid by the owner or operator of a Title V facility to \$85 per ton of regulated pollutant for emissions of up to 4,000 tons of each regulated pollutant beginning with emission fees payable by September 1, 2014, for emissions occurring in calendar year 2013. At that time, the Department

projected that the increased emission fee would not be sufficient to maintain the Title V fund and noted that a revised fee would be needed within 3 years.

Graph 2 shows the downward trend of Title V Facility emissions upon which Title V emission fees are paid.

**Graph 2**  
**Title V Facility Total Emissions, 2000 through 2016**



### ANNUAL ADMINISTRATION FEE AND ANNUAL MAINTENANCE FEE

As anticipated, the increased Title V emission fee adopted in 2013 has not been sufficient to maintain solvency of the Clean Air Fund. In considering the downward trend of emissions, as illustrated in Graph 2, the impact of emission fees and other fees on the regulated community, and the needs of the Air Quality Program, the Department evaluated the establishment of an annual maintenance fee to replace the annual administration fee that is currently required under §§ 127.703(c) and 127.704(c) (relating to operating permit fees under Subchapter F; and Title V operating permit fees under Subchapter G). These annual administration fee amounts were set in 2005 and have not increased since then.

The revenue generated from the annual administration fees does not adequately cover the costs of Department services provided to facility owners and operators for this fee. To remedy this, the Department is proposing to stop collecting the annual administration fee and instead collect an annual maintenance fee. The proposed annual maintenance fees are designed to recover costs to the Department for providing services to facility owners and operators that are otherwise absorbed in the revenue generated from emission fees paid by the owners and operators of the Title V facilities, permitting fee revenue from the owners and operators of both Title V and Non-Title V facilities, and General Fund money.



REVENUE FROM TITLE V ANNUAL ADMINISTRATION FEE VERSUS ANNUAL MAINTENANCE FEE

The annual administration fee of \$750 for the owners and operators of Title V facilities is limited to those that are identified in subparagraph (iv) of the definition of a Title V facility in § 121.1 (relating to definitions), which is a total of 30 Title V facilities. The current annual administration fee for the 30 affected Title V owners and operators generates revenue of only \$22,500.

The proposed annual maintenance fee for the owner or operator of a Title V facility is \$10,000 for calendar years 2021-2025. This fee would apply to all Title V facility owners and operators and not just to those identified in subparagraph (iv) of the definition of a Title V facility in § 121.1. There are approximately 500 Title V facility owners and operators under the Department’s jurisdiction. This is expected to generate revenue of approximately \$5 million from the 500 Title V facility owners and operators for calendar years 2021-2025. Table 21 illustrates the revenue generated from existing fees compared to anticipated revenue generated from the proposed fees, including the annual maintenance fee.

**Table 21**  
**Estimated Projected Title V Facilities Fee Revenue for FY 2020-2021**  
 (500 Affected Facilities Under the Department’s Jurisdiction)

	<b>Current Fees</b>	<b>Proposed Fees with Annual Maintenance Fee of \$10,000 due by December 31, 2020 for calendar year 2021</b>
<b>Title V Emission Fee per ton</b>		
<b>Projected Emission Fee for 2020</b>	\$93.87	\$93.87
<b>Emission Fee Revenue</b>	\$15,230,000	\$15,230,000
<b>Maintenance Fee per year</b>	\$0	\$10,000
<b>Maintenance Fee Revenue</b>	\$0	\$5,000,000
<b>Number of DEP regulated facilities that pay 90% of the combined Title V Emission Fee and Maintenance Fee Revenue</b>	102	310
<b>Other Title V Operating Permit Fee Revenue</b>	\$435,125	\$1,371,800
<b>Total Title V Facility Revenue</b>	<b>\$15,665,125</b>	<b>\$21,601,800</b>

REVENUE FROM NON-TITLE V ANNUAL ADMINISTRATION FEE VERSUS ANNUAL MAINTENANCE FEE

The annual administration fee is \$375 for the owners and operators of Non-Title V facilities, and this fee is paid by the owners and operators of all 2,100 Non-Title V facilities under the Department’s jurisdiction. The current annual administration fee for Non-Title V facility owners and operators generates revenue of \$787,500.

The proposed annual maintenance fee for the owner or operator of a Non-Title V facility that is a synthetic minor is \$2,500. The proposed annual maintenance fee for the owner or operator of a Non-

Title V facility that is not a synthetic minor is \$2,000. This is expected to generate revenue of approximately \$4.58 million from the 2,100 Non-Title V facility owners and operators for calendar years 2021-2025. Table 22 illustrates the revenue generated from existing fees compared to anticipated revenue generated from the proposed fees, including the annual maintenance fee.

**Table 22**  
**Estimated Projected Non-Title V Revenue for FY 2020-2021**  
**(2,100 Affected Facilities Under the Department’s Jurisdiction)**

	<b>Current</b>	<b>Proposed Fees with Annual Maintenance Fee due by December 31, 2020 for calendar year 2021</b>
<b>Plan Approval Application</b>	\$259,000	\$605,500
<b>Operating Permit</b>	\$203,250	\$1,091,300
<b>Annual Administration</b>	\$787,500	\$0
<b>Annual Maintenance</b>	\$0	\$4,577,500
<b>Requests for Determination (RFD)</b>	\$0	\$260,000
<b>Asbestos Notifications</b>	\$0	\$1,500,000
<b>Risk Assessments</b>	\$0	\$10,000
<b>Claims of Confidential Information</b>	\$0	\$1,800
<b>Total Non-Title V Facility Revenue</b>	\$1,249,750	\$8,046,100

## OPTIONS FOR REVISING THE TITLE V EMISSION FEE

### FEE OPTIONS CONSIDERED FOR TITLE V FACILITY OWNERS AND OPERATORS

The current Title V emission fee, due September 1, 2018, for emissions that occurred in calendar year 2017, is \$89.17 per ton of emissions up to 4,000 tons of each regulated pollutant, except greenhouse gas (GHG). The fee is projected to increase to \$93.87 per ton of regulated pollutant (except GHG) in FY 2020 due to the CPI adjustment. Approximately 90% of the current Title V emission fee revenue of approximately \$15.230 million is generated from emissions at 102 Title V facilities as illustrated in Table 23.

The Department will seek public comment on its recommendation to amend the fees payable by the owners and operators of Title V facilities. The recommended option, which is included in the proposed rulemaking Annex A, is to leave the Title V emission fee at § 127.705 unchanged and collect an annual maintenance fee of \$10,000 from the owners or operators of all affected Title V facilities. Table 23 illustrates that approximately 90% of the combined Title V emission fee revenue and annual maintenance fee revenue for this recommendation (Option 1 for purposes of this report and Table 23) would be paid by the owners and operators of 310 Title V facilities. The recommended option spreads the burden for supporting the Title V Operating Permit Program across three times as many Title V facility owners and operators as the current fee structure (310 versus 102).

**Table 23  
Fee Options Considered for Title V Facility Owners and Operators**

	Projected Revenue			
	No Amendments to Current Emission Fee or Fee Structure	Option 1 No Increase to Current Emission Fee; Annual Maintenance Fee of \$10,000	Option 2 Increased Emission Fee; Annual Maintenance Fee of \$5,000	Option 3 Increased Emission Fee; Emission Fee Floor; No Annual Maintenance Fee
<b>Title V Emission Fee per ton in 2020</b>	\$93.87	\$93.87	\$110.00	\$118.00
<b>Emission Fee Floor</b>	\$0	\$0	\$0	\$5,000
<b>Emission Fee Revenue</b>	\$15,230,000	\$15,230,000	\$17,846,000	\$19,145,000
<b>Annual Maintenance Fee per year</b>	\$0	\$10,000	\$5,000	\$0
<b>Annual Maintenance Fee Revenue</b>	\$0	\$5,000,000	\$2,500,000	\$0
<b>Number of DEP regulated facilities that pay 90% of the combined Title V Emission Fee and Annual Maintenance Fee Revenue</b>	102	310	206	129
<b>Other Title V Operating Permit Fee Revenue</b>	\$435,125	\$1,371,800	\$1,371,800	\$1,371,800
<b>Total Title V Facility Revenue, FY 2020-2021</b>	\$15,665,125	\$21,601,800	\$21,717,800	\$20,516,800

Two other options were considered by the Department in developing this proposed rulemaking. The second option would increase the Title V emission fee to \$110 per ton up to the 4,000-ton cap per regulated air pollutant and collect an annual maintenance fee of \$5,000 from the owners or operators of all affected Title V facilities. Table 23 illustrates that approximately 90% of the combined Title V emission fee revenue and annual maintenance fee revenue for Option 2 would be paid by the owners and operators of 206 Title V facilities.

The third option would increase the Title V emission fee to \$118 per ton up to the 4,000-ton cap and not collect an annual maintenance fee from the owners or operators of affected Title V facilities. However, this option would establish a minimum emission fee floor of \$5,000 payable by the owners or operators of all affected Title V facilities. Those that emitted more than \$5,000 in emissions in a calendar year would pay on the actual tonnage emitted up to the 4,000-ton cap per regulated air pollutant. In this instance, Table 23 illustrates that approximately 90% of the Title V emission fee revenue for Option 3 would be generated from emissions at 129 Title V facilities.

As illustrated in Table 23, each of the three options considered by the Department in developing the proposed rulemaking would generate revenue of roughly \$21 million, or an increase of approximately \$6 million over current Title V facility revenue. The recommended option (Option 1) in the proposed

rulemaking Annex A and Option 2 spread the generation of the Clean Air Fund revenues among more Title V facility owners and operators due to collecting an annual maintenance fee from Title V facility owners and operators. The recommended option spreads the burden for supporting the Title V Operating Permit Program across 310 Title V facility owners and operators versus 206 Title V facility owners and operators for Option 2.

Option 3 would affect 129 Title V facility owners and operators who would bear the bulk of generating the total emission fee revenue collected, rather than 102 Title V facility owners and operators under the current fee structure, due to the emission fee floor. Under Option 3, the owner or operator would pay either the calculated emission fees or the minimum of \$5,000, whichever is greater. Again, the recommended option in the proposed rulemaking spreads the burden for supporting the Title V Operating Permit Program across 310 Title V facility owners and operators versus 206 Title V facility owners and operators for Option 2 and 129 for Option 3.

After considering these options based on the number of affected facilities and the amount of revenue generation expected, the Department proposes Option 1 as the recommended option.

## CONCLUSION

Table 3 projects that Title V revenue will be less than \$15 million, and expenditures will be approximately \$19 million, creating a Title V revenue versus expenditure shortfall of more than \$4 million in each of FY 2021-2022 and FY 2022-2023. Table 4 projects a Non-Title V revenue versus expenditures shortfall of more than \$6.5 million in each of FY 2021-2022 and FY 2022-2023. This is a combined revenue versus expenditures shortfall of more than \$10.5 million, by FY 2021-2022 and FY 2022-2023, for the Clean Air Fund. Table 5 illustrates that the Clean Air Fund is projected to have a deficit of \$7.344 million in FY 2021-2022 and \$18.761 million in FY 2022-2023.

Table 21 illustrates that if no amendments are made to the air quality fee schedules, the anticipated Title V revenue to the Department in FY 2020-2021 and thereafter is approximately \$15.5 million, which will not be sufficient to maintain the Air Quality Program and Title V Operating Permit Program in future years, as required by section 502(b) of the CAA and section 6.3(a) of the APCA. The anticipated Non-Title V revenue to the Department in FY 2020-2021 of \$1.2 million based on current fees, illustrated in Table 22, will likewise not be sufficient to maintain Non-Title V activities, including the Non-Title V (State-Only) Operating Permit Program, as required by section 6.3(a) of the APCA.

If this proposed rulemaking is promulgated as final-form regulation in 2020, the anticipated increased revenue would keep the entire Clean Air Fund solvent (see Table 26). For instance, the Clean Air Fund ending balances without the fee amendments would be a \$ 3.457 million surplus in FY 20-21; a \$7.344 million deficit in FY 21-22; and a \$18.761 million deficit in FY 22-23. Conversely, the Clean Air Fund ending balances with the fee amendments would be a \$15.552 million surplus in FY 20-21; \$16.872 million surplus in FY 21-22; and \$16.835 million surplus in FY 22-23.

However, the increased revenue comes too late for the Non-Title V Account to avoid a deficit. In response, the Department is looking at rebalancing some of the Air Quality Program expenses currently falling exclusively on the Non-Title V Account. Tables 24 and 25 show the overall projected balances for the Title V and Non-Title V Accounts.

**Table 24**  
**Title V Account with Fee Amendments**  
(in thousands of dollars)

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
	ACTUAL	ACTUAL	BUDGET	BUDGET	PLAN YR.1	PLAN YR.2	PLAN YR.3	PLAN YR.4
Beginning Balance	\$ 19,533	\$ 22,575	\$ 20,139	\$ 21,826	\$ 20,524	\$ 17,640	\$ 20,112	\$ 21,828
Total Revenue	\$ 20,415	\$ 18,614	\$ 20,278	\$ 16,576	\$ 15,352	\$ 21,602	\$ 21,733	\$ 21,447
Total Expenditures	\$ 17,373	\$ 21,050	\$ 18,591	\$ 17,878	\$ 18,236	\$ 19,130	\$ 20,017	\$ 20,889
Ending Balance	\$ 22,575	\$ 20,139	\$ 21,826	\$ 20,524	\$ 17,640	\$ 20,112	\$ 21,828	\$ 22,386

**Table 25**  
**Non-Title V Account with Fee Amendments**  
(in thousands of dollars)

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
	ACTUAL	ACTUAL	BUDGET	BUDGET	PLAN YR.1	PLAN YR.2	PLAN YR.3	PLAN YR.4
Beginning Balance	\$ 20,493	\$ 15,670	\$ 10,947	\$ 7,253	\$ 1,644	\$ (4,359)	\$ (4,560)	\$ (4,956)
Total Revenue	\$ 5,379	\$ 6,731	\$ 7,192	\$ 3,760	\$ 3,553	\$ 9,546	\$ 9,546	\$ 9,546
Total Expenditures	\$ 10,142	\$ 11,454	\$ 10,886	\$ 9,369	\$ 9,556	\$ 9,747	\$ 9,942	\$ 10,141
Ending Balance	\$ 15,670	\$ 10,947	\$ 7,253	\$ 1,644	\$ (4,359)	\$ (4,560)	\$ (4,956)	\$ (5,551)

**Table 26**  
**Clean Air Fund Ending Balances with Fee Amendments**  
(in thousands of dollars)

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
	ACTUAL	ACTUAL	BUDGET	BUDGET	PLAN YR.1	PLAN YR.2	PLAN YR.3	PLAN YR.4
Title V Ending Balance	\$ 22,575	\$ 20,139	\$ 21,826	\$ 20,524	\$ 17,640	\$ 20,112	\$ 21,828	\$ 22,386
Non-Title V Ending Balance	\$ 15,670	\$ 10,947	\$ 7,253	\$ 1,644	\$ (4,359)	\$ (4,560)	\$ (4,956)	\$ (5,551)
Clean Air Fund Ending Balance	\$ 38,245	\$ 31,086	\$ 29,079	\$ 22,168	\$ 13,281	\$ 15,552	\$ 16,872	\$ 16,835

## ADVISORY COMMITTEE COMMENT

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) in the development of this proposed rulemaking. A fiscal analysis of the Clean Air Fund, the Air Quality Program budget, and the proposed fee concepts, including the three Title V fee options, were discussed with the AQTAC on December 14, 2017. On June 14, 2018, the draft proposed Annex A containing the recommended fee structure (Option 1) was presented. At that meeting, the AQTAC concurred with the Department's recommendation to advance the proposal to the Board for consideration as proposed rulemaking with publication for a minimum 60-day public comment period and three public hearings.

The Department also conferred with the Citizens Advisory Council's (CAC) Policy and Regulatory Oversight Committee concerning this proposed rulemaking on June 15 and 25, 2018. The CAC discussed this proposed rulemaking on July 17, 2018, and concurred with the Department's recommendation to advance the proposal to the Board for consideration as proposed rulemaking, with consideration of the concerns by the CAC in its letter of concurrence, dated July 17, 2018, which accompanies the proposed rulemaking.

An overview of this proposed rulemaking was presented to the Small Business Compliance Advisory Committee on July 25, 2018.

## SUMMARY AND RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD (BOARD)

The Department recommends that the Board approve the proposed air quality fee schedule amendments for public comment and public hearing. The proposed new and revised fee schedules will support continued operation of the Air Quality Program in the Commonwealth.

The proposed rulemaking would amend existing requirements and fee schedules codified in Chapter 127, Subchapter I to ensure that fees are sufficient to cover the costs of administering the Air Quality Program, the Title V Operating Permit Program, and the Non-Title V Operating Permit Program as required by section 502(b) of the CAA and section 6.3 of the APCA. Fee increases would be proposed for the existing plan approval application and operating permit application fee schedules. New fees would be established for the ambient air impact modeling of certain plan approval applications, annual operating permit maintenance for the owners or operators of both Title V and Non-Title V facilities, PAL applications, risk assessment applications, asbestos abatement or demolition or renovation project notifications (asbestos notifications), requests for determination (RFD) applications, and claims of confidential information.

Section 502(b) of the CAA requires the Commonwealth to adopt rules that the owners or operators of all sources subject to the requirement to obtain an operating permit under Title V of the CAA pay an annual fee sufficient to cover all reasonable (direct and indirect) costs incurred by the Commonwealth to develop and administer the operating permit program requirements of Title V.

Section 6.3(a) of the APCA authorizes the Board to establish fees sufficient to cover the indirect and direct costs of administering the air pollution control plan approval process; operating permit program required by Title V of the CAA; other requirements of the CAA; and the indirect and direct costs of



administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, the Small Business Compliance Advisory Committee, and the Office of Small Business Ombudsman. This section also authorizes the Board to establish fees by regulation to support the air pollution control program authorized by the APCA and not covered by fees required by section 502(b) of the CAA.

Table 5 illustrates that the Clean Air Fund is projected to have a deficit of \$7.344 million in FY 2021-2022 and \$18.761 million in FY 2022-2023. Table 21 illustrates that if no amendments are made to the air quality fee schedules, the anticipated Title V revenue to the Department in FY 2020-2021 and thereafter is approximately \$15.6 million, which will not be sufficient to maintain the Air Quality Program and Title V Operating Permit Program in future years, as required by section 502(b) of the CAA and section 6.3(a) of the APCA. Likewise, Table 22 illustrates that the anticipated Non-Title V revenue to the Department in FY 2020-2021 of \$1.2 million based on current fees will not be sufficient to maintain Non-Title V activities, including the Non-Title V (State-Only) Operating Permit Program, as required by section 6.3(a) of the APCA.

The Department considered three options for increasing revenue from the Title V regulated community. Table 23 illustrates the three options. The anticipated Title V revenue to the Department that would be generated from implementation of any one of these options for proposed new fees and increases of existing fees is estimated to be between \$20.1 to \$20.5 million depending upon the selected Title V emission fee option based on public comment, or an increase of approximately \$5 million in revenue over current levels. The Department's recommended option spreads the burden for supporting the Title V Operating Permit Program across three times as many Title V facility owners and operators as the current fee structure (310 versus 102 facility owners). In proposing these amendments, the Department has assumed that other sources of revenue for the Air Quality Program, including General Fund money and Federal Grants, will remain stable.

If this proposed rulemaking is promulgated as final-form regulation in 2020, the anticipated increased revenue would provide sufficient income for the next several years to offset the projected deficits for the Clean Air Fund shown in Table 5 beginning with FY 2021-2022. This would balance the Clean Air Fund budget and allow the Department to administer the Air Quality Program, the Title V Operating Permit Program, and the Non-Title V Operating Permit Program as required under section 502(b) of the CAA and section 6.3(a) of the APCA and ensure continued protection of public health and welfare and the environment.

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE  
BUREAU

(Pursuant to Commonwealth Documents Law)



DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality.  
Attorney General

By: *Angela M. Elbert*  
(Deputy Attorney General)

**MAR 12 2019**  
DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections attached.

Copy below is hereby certified to be true and  
correct copy of a document issued, prescribed or  
promulgated by:

DEPARTMENT OF ENVIRONMENTAL  
PROTECTION  
ENVIRONMENTAL QUALITY BOARD  
  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-536

DATE OF ADOPTION DECEMBER 18, 2018

BY: *Patrick McDonnell*  
TITLE **PATRICK MCDONNELL**  
**CHAIRPERSON**

EXECUTIVE OFFICER CHAIRPERSON OR SECRETARY

Copy below is hereby approved as to form and legality  
Executive or Independent Agencies

BY: *B. L. Emery*  
**JAN 08 2019**  
DATE OF APPROVAL

(Deputy General Counsel)  
(~~Chief Counsel - Independent Agency~~)  
(Strike inapplicable title)

Check if applicable. No Attorney General Approval  
or objection within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL QUALITY BOARD

Air Quality Fee Schedule Amendments

25 Pa. Code Chapters 121 and 127



**PROPOSED RULEMAKING  
ENVIRONMENTAL  
QUALITY BOARD  
[ 25 PA. CODE CHS. 121 AND 127 ]  
Air Quality Fee Schedule Amendments**

The Environmental Quality Board (Board) proposes to amend Chapter 121 (relating to general provisions) and Chapter 127, Subchapters F (relating to operating permit requirements) and I (relating to plan approval and operating permit fees) as set forth in Annex A. This proposed rulemaking amends existing requirements in Subchapter F and existing air quality plan approval and operating permit fee schedules in Subchapter I. It also proposes new fees in Subchapter I to address the disparity between revenue and expenses for the Department of Environmental Protection's (Department) Air Quality Program. These increased fees and new fees would be used to provide a sound fiscal basis for continued air quality assessments and planning that are fundamental to protecting the public health and welfare and the environment. Increased funding for the Air Quality Program will also continue to allow for timely and complete review of plan approval and operating permit applications that provides the certainty businesses need to expand or locate in Pennsylvania.

This notice is given under Board order at its meeting of December 18, 2018.

*A. Effective Date*

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

If published in the *Pennsylvania Bulletin* as final-form rulemaking, the final-form regulation will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP) or as an amendment to the Title V Program Approval codified in 40 CFR Part 70, Appendix A (relating to approval status of state and local operating permits programs), as appropriate.

*B. Contact Persons*

For further information, contact Viren Trivedi, Chief, Division of Permits, Bureau of Air Quality, Rachel Carson State Office Building, P.O. Box 8468, Harrisburg, PA 17105-8468, (717) 783-9476; or Elizabeth Davis, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposed rulemaking appears in Section J of this preamble. Persons with a disability may use the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection's (Department) website at [www.dep.state.pa.gov](http://www.dep.state.pa.gov) ("Public Participation Center"; select "Environmental Quality Board").

### *C. Statutory Authority*

This proposed rulemaking is authorized under section 5(a)(1) of the Air Pollution Control Act (APCA) (35 P.S. § 4005(a)(1)), which grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth and section 5(a)(8) of the APCA (35 P.S. § 4005(a)(8)), which grants the Board the authority to adopt rules and regulations designed to implement the provisions of the Clean Air Act (CAA) (42 U.S.C.A. §§ 7401—7671q).

This proposed rulemaking is further authorized under section 6.3 of the APCA (35 P.S. § 4006.3), which grants to the Board the authority to adopt regulations to establish fees sufficient to cover the indirect and direct costs of administering the air pollution control plan approval process; operating permit program required by Title V of the CAA (42 U.S.C.A. §§ 7661—7661f); other requirements of the CAA; and the indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, Compliance Advisory Committee and Office of Small Business Ombudsman. This section also authorizes the Board by regulation to establish fees to support the air pollution control program authorized by this act and not covered by fees required by section 502(b) of the CAA (42 U.S.C.A. § 7661a(b)).

### *D. Background and Purpose*

The proposed new and increased fees are needed to cover the Department's costs related to implementing the air pollution control plan approval and operating permit process required under the CAA and APCA to attain and maintain the National Ambient Air Quality Standards (NAAQS) for air pollutants including ozone, particulate matter, lead, carbon monoxide, nitrogen dioxide, and sulfur dioxide, as well as other requirements of the CAA, APCA, and regulations promulgated thereunder. Controlling air pollutant emissions is essential to protecting public health and the environment.

The Department's Air Quality Program issues plan approval and operating permits for two types of sources – major and non-major. See 24 Pa.B. 5899 (November 26, 1994). This program was subsequently reviewed and approved by EPA. See 61 FR 39597 (July 30, 1996). Major sources are those that emit air pollution above designated thresholds under the CAA, and non-major sources are those that emit air pollution below the thresholds. See 42 U.S.C.A. § 7661. Major sources are subject to the statutory requirements under Title V of the CAA and are referred to as Title V sources. *Id.* Conversely, non-major sources are subject to the APCA, but not Title V of the CAA, and are referred to as Non-Title V sources.

In recent years, the Department, like many state and local agencies, has experienced shortfalls in fee revenue due to emissions reductions at major facilities. This shortfall has led many agencies to re-evaluate their fee structures. A number of state and local agencies are currently in the process of adjusting their fee schedules to address the decline in program funding.

The Department currently regulates approximately 500 Title V and 2,100 Non-Title V facilities in Pennsylvania. Establishing the proposed fee structure would provide the necessary financial

support to continue the Department's air quality plan approval application and operating permit process and initiatives to protect the public health and welfare of the approximately 12.8 million Pennsylvania residents and the environment. This financial support will also help ensure the timely issuance of air quality permits for the regulated community, which will help retain and attract businesses to Pennsylvania.

In accordance with 40 CFR 70.10(b) and (c) (relating to Federal oversight and sanctions), EPA may withdraw approval of a Title V Permit Program, in whole or in part, if EPA finds that a state or local agency has not taken "significant action to assure adequate administration and enforcement of the program" within 90 days after the issuance of a notice of deficiency (NOD). EPA is authorized to, among other things, withdraw approval of the program and promulgate a Federal Title V Permit Program in this Commonwealth that would be administered and enforced by EPA. In this instance, all Title V emission fees would be paid to EPA instead of the Department. Additionally, mandatory sanctions would be imposed under section 179 of the CAA (42 U.S.C.A. § 7509) if the program deficiency is not corrected within 18 months after EPA issues the deficiency notice. These mandatory sanctions include 2-to-1 emission offsets for the construction of major sources and loss of Federal highway funds (\$1.5 billion in 2015) if not obligated for projects approved by the Federal Highway Administration. EPA may also impose discretionary sanctions which would adversely impact Federal grants awarded under sections 103 and 105 of the CAA (42 U.S.C.A. §§ 7403 and 7405). The increase in the Title V annual emission fee avoids the issuance of a Federal Title V Permit Program NOD, and Federal oversight and mandatory CAA sanctions.

The APCA provides for the establishment of the Clean Air Fund and separate accounts, if necessary, to comply with the requirements of the CAA. 35 P.S. § 4009.2(a). The CAA and its implementing regulations specifically provide that any fees collected under the Title V Operating Permit Program have to be used solely for the costs of that program. 42 U.S.C.A. § 7661a(b)(3)(C)(iii) and 40 CFR 70.9(a). As a result, in Pennsylvania, the Clean Air Fund consists of two "special fund" appropriations: the Title V Account and the Non-Title V Account. The Title V Account collects the revenue received from the Title V air quality permitting and emission fees. The Non-Title V Account collects the revenue received from the Non-Title V air quality permitting fees and the fines and penalties from both Title V and Non-Title V facilities.

In the Title V account in FY 2016-2017, the expenditures exceeded revenue. Expenditures are projected to be stable for FY 2017-2018 and to exceed revenues again beginning with FY 2018-2019. Expenditures are projected to exceed revenue in each of fiscal years 2021-2022 and 2022-2023 by more than \$4 million. The Title V Account is currently projected to decrease to an ending balance of \$17.122 million (from \$22.575 million in FY 2015-2016 to \$5.453 million in FY 2022-2023).

In the Non-Title V Account, expenditures have exceeded revenue beginning with FY 2015-2016. Expenditures are projected to exceed revenue in each of fiscal years 2021-2022 and 2022-2023 by more than \$6.5 million. The Non-Title V Account is projected to have a deficit of \$4.359 million by FY 2019-2020 and \$24.214 million by FY 2022-2023 as expenditures outpace revenue.



If this proposed rulemaking is promulgated as a final-form regulation in 2020, the anticipated increase in revenue would keep the entire Clean Air Fund solvent. Without the fee amendments, the Clean Air Fund ending balance would be \$ 3.457 million in FY 20-21; a \$7.344 million deficit in FY 21-22; and a \$18.761 million deficit in FY 22-23. Conversely, the Clean Air Fund ending balances with the fee amendments would be \$15.552 million in FY 20-21; \$16.872 million in FY 21-22; and \$16.835 million in FY 22-23.

The Department has sought to maintain parity between its revenue and expenditures over the last several years by reducing costs associated with administering the Air Quality Program. These cost reductions include streamlining the air permitting program through implementing the Permit Decision Guarantee policy, creating the online Request for Determination (RFD) form, developing general plan approvals and general operating permits for 19 source categories, and not filling open staff positions. The remaining reasonable costs that cannot be readily reduced include the cost to perform certain activities related to major facility operations, including the review and processing of plan approvals and operating permits; emissions and ambient air monitoring; compliance inspections; developing regulations and guidance; modeling, analyses, and demonstrations; and preparing emission inventories and tracking emissions. Direct and indirect program costs include personnel costs; office space leases; operating expenses such as telecommunications, electricity, travel, auto supplies, and fuel; and the purchase of fixed assets such as air samplers and monitoring equipment, vehicles, and trailers.

The Department has taken steps to improve the quality, efficiency, and responsiveness of the Air Quality Program, including by increasing its efforts to communicate with applicants for plan approvals and operating permits. These efforts include making greater use of pre-application conferences to help applicants with questions or concerns regarding plan approval and operating permit applications; corresponding with applicants at critical points in the plan approval and operating permit review process; and creating a series of guides about plan approvals and operating permits to provide information to applicants and the public.

A key provision of Title V is the requirement to establish a financially adequate permit fee schedule. Both the APCA and EPA's Part 70 regulations require permitting authorities to charge Title V sources annual fees under a fee schedule that results in the collection and retention of revenues sufficient to cover the entirety of Title V permit program costs. 35 P.S. § 4006.3 and 40 CFR § 70.9. Title V permit fees are used to implement and enforce the permitting program, including review of new permit applications and revisions or renewals of existing permits; monitoring facility compliance; taking enforcement actions for noncompliance; performing monitoring, modeling and analysis; tracking facility emissions; and preparing emission inventories.

Regulations related to the fee schedule for plan approval and operating permit activities were last revised in November 1994, with staged increases occurring over the ensuing 10 years. *See* 24 Pa.B. 5899 (November 26, 1994). The last of the staged plan approval and operating permit fee increases occurred in January 2005.

The Board revised the Title V annual emission fee in 2013. *See* 43 Pa.B. 7268 (December 14, 2013). At that time, the Department projected that the increased annual emission fee would not

be sufficient to maintain the Title V fund and noted that a revised annual emission fee or other revised permitting fees would be needed within 3 years. 43 Pa.B. at 7272. This is due, in part, because emissions subject to the Title V annual emission fee have decreased by 39% since 2000 and continue to decrease as more emissions reductions are required to attain and maintain the revised applicable NAAQS established by EPA. Installation of air pollution control technology over the past two decades on major stationary sources, the retirement or curtailment of operations by major sources including certain refineries and coal-fired power plants and the conversion at many major facilities from burning coal or oil to burning natural gas has resulted in the decreased emission of regulated pollutants that are subject to the Title V annual emission fee, and revenues collected have been decreasing as a result. This is resulting in reduced revenue for the Air Quality Program, even with the revised Title V annual emission fee adopted in 2013.

As revenue for the program has decreased over the past several years, one area of cost cutting has been reducing the staffing complement. Failure to adjust the Air Quality Program fees structure to adequately cover program costs will cause additional staff reductions. Reduced staff will cause delays in processing plan approval and operating permit applications and issuing approved plan approvals and operating permits. Delays in the issuance of the plan approvals and operating permits can cause economic disruptions because the owner or operator of a regulated facility may not operate without an operating permit. The owner or operator may not install a new source or modify an existing source without a plan approval. This may result in delays for industry to implement expanded, new or improved processes, with associated loss of revenue to industry, loss of jobs for the community and loss of tax revenue for the Commonwealth. Delays in receiving plan approvals can have a major impact on an owner's or operator's decision to operate or expand operations in the Commonwealth.

Further, fewer Department staff to conduct inspections, respond to complaints and pursue enforcement actions will result in less oversight of regulated industry compliance or noncompliance. This will result in reduced protection of the environment and public health and welfare of the citizens of this Commonwealth.

Decreased program revenues will also impact the operation and maintenance of the Commonwealth's ambient air monitoring network, which provides the data to measure the Commonwealth's progress in attaining and maintaining the NAAQS established by EPA. Decreased program revenues could also impact the Small Business Stationary Source Technical and Environmental Compliance Assistance Program by reducing the amounts of grants and number of services available to small businesses. This could potentially lead to fewer viable small businesses and reduce the economic vitality of this Commonwealth by reducing the number of available jobs and tax revenue generated by these small businesses.

By addressing the Clean Air Fund deficits, the Department will be able to continue to serve the regulated community and protect the quality of air in this Commonwealth. Furthermore, a failure to attain and maintain the NAAQS and to satisfy the Commonwealth's obligations under the CAA could precipitate punitive actions by EPA, including implementation of a Federal Implementation Plan and collection of all fees and revenue by EPA.

The Board proposes to address these deficits by amending existing fees in Subchapter I related to plan approval and operating permit applications. The Board is also proposing to address these deficits through new fees related to applications for plantwide applicability limits, modifications of existing plan approvals and analyses of ambient impacts of a source as well as RFDs. Fees for claims of confidential information and for submission of notifications for asbestos abatement or regulated demolition or renovation projects as well as annual operating permit maintenance fees are also proposed.

This proposed rulemaking also adds a new section under Subchapter I to address fees for risk assessment applications. Implementation of fees for risk assessment applications will allow for program resources to address this important area of public health and social well-being by evaluating the risks associated with observed levels of contaminants. A new section under Subchapter I is also proposed to address fees for the use of general plan approvals or general operating permits issued by the Department.

These increased fees and new fees would be used to support the Department's Air Quality Program as authorized by the APCA. The fee revisions will allow the Department to maintain staffing levels in the Air Quality Program as well as cover operating expenses such as telecommunications, electricity, travel, auto supplies and fuel along with the purchase of fixed assets such as air samplers and monitoring equipment, vehicles and trailers. The Department established the proposed fees by identifying the number of staff required and the approximate time necessary to complete each review or action, including the amount of salaries and benefits. The Department also compared the proposed fees to those of the Commonwealth's approved local air pollution control agencies (Philadelphia and Allegheny Counties) and to those of surrounding states.

The Department considered three options for revising the Title V emission fee under 25 Pa. Code § 127.705. The first option is no increase to the current emission fee and an annual maintenance fee of \$10,000, under section 127.704(d). The second option would increase the Title V emission fee to \$110 per ton up to the 4,000-ton cap per regulated air pollutant and collect an annual maintenance fee of \$5,000 from the owners or operators of all affected Title V facilities. The third option would increase the Title V emission fee to \$118 per ton up to the 4,000-ton cap and not collect an annual maintenance fee from the owners or operators of affected Title V facilities. The amount of revenue anticipated to be generated is approximately equal between the three options.

The first option of no increase to the emission fee spreads the cost obligation for supporting the Title V Operating Permit Program across 310 Title V facility owners and operators versus 206 Title V facility owners and operators for the second option. The third option would affect 129 Title V facility owners and operators that would bear the bulk of generating the total emission fee revenue collected, rather than 102 Title V facility owners and operators under the current fee structure in section 127.705.

The Department proposes the first option to leave the Title V emission fee listed in section 127.705 unchanged and collect an annual maintenance fee of \$10,000 from the owners and operators of all affected Title V facilities. This approach was chosen based on the equities

involved among the number of impacted facilities. However, the Department is seeking comment on its approach to amend fees payable by the owners and operators of Title V facilities and other potential approaches that spread the cost obligation in an equitable manner.

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) and the Small Business Compliance Advisory Committee (SBCAC) in the development of this proposed rulemaking. On June 14, 2018 and July 25, 2018, respectively AQTAC and SBCAC concurred with the Department's recommendation to move this proposed rulemaking forward to the Board for consideration.

The Department also conferred with the Citizens Advisory Council's (CAC) Policy and Regulatory Oversight Committee concerning this proposed rulemaking on June 15 and June 25, 2018. On July 17, 2018, the CAC concurred with the Department's recommendation to advance the proposal to the Board for consideration as proposed rulemaking.

#### *E. Summary of Regulatory Requirements*

##### *§ 121.1. Definitions*

This section contains definitions relating to the air quality regulations. This proposed rulemaking adds the definition of "synthetic minor facility" to clarify that it is an air contamination source subject to Federally enforceable conditions that limit the facility's potential to emit to less than the major facility thresholds specified in the definition of "Title V facility."

##### *§ 127.424. Public notice*

This section contains procedures the Department will follow to prepare a notice of action to be taken on applications for an operating permit. Revisions to an incorrect cross reference are proposed to subsections (b) and (e)(3). The current cross references are to § 127.44(a)(1)—(4) (relating to public notice) and to § 127.44(a). The correct cross references should be to § 127.44(b)(1)—(5) and to § 127.44(b).

##### *§ 127.465. Significant operating permit modification procedures*

This section is new and would establish the procedures the owner or operator of a stationary air contamination source or facility shall follow to make a significant modification to an applicable operating permit.

Subsection (a) would establish that the owner or operator of a stationary air contamination source or facility may make a significant modification to an applicable operating permit under this section.

Subsection (b) would establish that the significant operating permit modifications must meet the requirements of Chapter 127, including §§ 127.424 and 127.425 (relating to contents of notice).

Subsection (c) would establish that the owner or operator of the facility shall submit to the Department, on a form provided by or approved by the Department, a brief description of the change, the date on which the change is to occur and the proposed language for revising the operating permit conditions proposed to be changed.

Subsection (d) would establish that unless precluded by the CAA or regulations thereunder, the permit shield described in § 127.516 (relating to permit shield) shall extend to an operational flexibility change authorized by this section.

Subsection (e) would establish that the Department will take final action on the proposed change for the significant modification of the applicable operating permit and, after taking final action, will publish notice of the action in the *Pennsylvania Bulletin*.

#### *§ 127.702. Plan approval fees*

Proposed changes to § 127.702 (relating to plan approval fees) provide for, among other things, the following proposed fee provisions:

Subsection (a) would be amended to establish that the applicable fees required under subsections (b)—(h) are cumulative.

Under subsection (b), the owner or operator of a source requiring approval under Chapter 127, Subchapter B (relating to plan approval requirements) shall pay a fee equal to \$1,000 for applications filed during calendar years 2005—2020; \$2,500 for applications filed during calendar years 2021—2025; \$3,100 for applications filed during calendar years 2026—2030; and \$3,900 for applications filed during calendar year 2031 and after.

Under subsection (c), the owner or operator of a source requiring approval under Chapter 127, Subchapter E (relating to new source review) shall pay a fee equal to \$5,300 for applications filed during calendar years 2005—2020; \$7,500 for applications filed during calendar years 2021—2025; \$9,400 for applications filed during calendar years 2026—2030; and \$11,800 for applications filed during calendar year 2031 and after.

Under subsection (d), the owner or operator of a source subject to and requiring approval under Chapter 122, Chapter 124 or § 127.35(b) (relating to national standards of performance for new stationary sources; national emission standards for hazardous air pollutants; and maximum achievable control technology standards for hazardous air pollutants) shall pay the specified fee for each applicable standard up to and including three applicable standards, which is equal to \$1,700 for applications filed beginning the effective date of adoption of this proposed rulemaking through calendar year 2020; \$2,500 for applications filed during calendar years 2021—2025; \$3,100 for applications filed during calendar years 2026—2030; and \$3,900 for applications filed during calendar year 2031 and after. An owner or operator that had more than three applicable standards would pay the fee for a maximum of three standards, but the Department's permitting review would include all applicable standards.

Under subsection (e), the owner or operator of a source subject to and requiring approval under § 127.35(c), (d) or (h) shall pay a fee equal to \$8,000 for applications filed during calendar years 2005—2020; \$9,500 for applications filed during calendar years 2021—2025; \$11,900 for applications filed during calendar years 2026—2030; and \$14,900 for applications filed during calendar year 2031 and after.

Under subsection (f), the owner or operator of a source requiring approval under Chapter 127, Subchapter D (relating to prevention of significant deterioration of air quality) shall pay a fee equal to \$22,700 for applications filed during calendar years 2005-2020; \$32,500 for applications filed during calendar years 2021—2025; \$40,600 for applications filed during calendar years 2026—2030; and \$50,800 for applications filed during calendar year 2031 and after.

Subsection (g) addresses the fees payable by the owner or operator of a source that is proposing a minor modification of a plan approval, an extension of a plan approval or a transfer of a plan approval due to a change of ownership. Subsection (g) would be amended to delete the requirements for the minor modifications and add requirements to establish that the owner or operator of a source that submits a plan approval application for a plantwide applicability limit (PAL) permit under § 127.218(b) (relating to PALs), to cease a PAL permit under § 127.218(j) or to increase a PAL under § 127.218(l) shall pay a fee equal to \$7,500 for applications filed during calendar years 2020—2025; \$9,400 for applications filed during calendar years 2026—2030; and \$11,800 for applications filed during calendar year 2031 and after.

Subsection (h) specifies that the modification of a plan approval that includes the reassessment of a control technology determination or of the ambient impacts of the source will not be considered a minor modification of the plan approval. Subsection (h) would be amended to delete the requirement that the modification of the plan approval is not a minor modification and add requirements to establish that the owner or operator of a source proposing a PAL under Subchapter D that is not included in an application submitted under subsection (f) or subsection (g) shall pay a fee equal to \$7,500 for applications filed during calendar years 2020—2025; \$9,400 for applications filed during calendar years 2026—2030; and \$11,800 for applications filed during calendar year 2031 and after.

Subsection (i) is proposed to be deleted where it specifies that the Department may establish application fees for general plan approvals and plan approvals for sources operating at multiple temporary locations which will not be greater than the fees established by subsection (b). These fees shall be established at the time the plan approval is issued and will be published in the *Pennsylvania Bulletin* as provided in §§ 127.612 and 127.632 (relating to public notice and review period). Subsection (i) would be amended to add requirements to establish that the owner or operator of a source proposing a minor modification of a plan approval, an extension of a plan approval or a transfer of a plan approval due to a change of ownership shall pay the fee in paragraph (1) or paragraph (2) as applicable.

Subsection (i)(1) would establish that an applicant for a minor modification of a plan approval may not include an increase in emissions, an analysis of the ambient impacts of the source or a reassessment of a control technology determination. The applicant shall meet the applicable requirements of § 127.44 and pay a fee equal to \$300 for applications filed during calendar years



2005—2020; \$1,500 for applications filed during calendar years 2021—2025; \$1,900 for applications filed during calendar years 2026—2030; and \$2,400 for applications filed during calendar year 2031 and after.

Subsection (i)(2) would establish that an applicant for an extension or a transfer of a plan approval shall pay a fee equal to \$300 for applications filed during calendar years 2005—2020; \$750 for applications filed during calendar years 2021—2025; \$900 for applications filed during calendar years 2026—2030; and \$1,100 for applications filed during calendar year 2031 and after.

Under subsection (j), the owner or operator of a source proposing a revision to a plan approval application submitted by the applicant that includes one or more of the changes identified in paragraph (1) or paragraph (2) after the Department has completed its technical review shall pay the fee in paragraph (1) or paragraph (2) as applicable.

Subsection (j)(1) would establish that for an analysis of the ambient impacts of the source, the owner or operator would pay a fee equal to \$9,000 for applications filed during calendar years 2020—2025; \$11,300 for applications filed during calendar years 2026—2030; and \$14,100 for applications filed during calendar year 2031 and after.

Subsection (j)(2) would establish that for a reassessment of a control technology determination, the owner or operator would pay the applicable fee under subsection (b).

#### *§ 127.703. Operating permit fees under Subchapter F*

Proposed changes to § 127.703 (relating to operating permit fees under Subchapter F) provide for, among other things, the following proposed fee provisions:

Subsection (a) specifies that each applicant for an operating permit, which is not for a Title V facility, shall, as part of the operating permit application and as required on an annual basis, submit the fees required by this section to the Department. These fees apply to the extension, modification, revision, renewal and reissuance of each operating permit or part thereof. Subsection (a) would be amended to delete the statement that these fees apply to the extension, modification, revision, renewal and reissuance of each operating permit or part thereof or to a transfer of an operating permit due to a change of ownership.

Subsection (b) specifies the fees for processing an application for an operating permit. Subsection (b) would be amended to delete the statement regarding the fee for processing an operating permit and add the requirements that each applicant subject to subsection (a) shall pay a fee equal to the fee specified in paragraphs (1)—(5), as applicable. These fees apply to the application for a new operating permit and for the renewal and reissuance, modification or administrative amendment of an operating permit or part thereof.

Under subsection (b)(1), the fee for a new operating permit would be \$375 for applications filed during calendar years 2005—2020; \$2,500 for applications filed during calendar years 2021—

2025; \$3,100 for applications filed during calendar years 2026—2030; and \$3,900 for applications filed during calendar year 2031 and after.

Under subsection (b)(2), the fee for a renewal and reissuance of an operating permit or part thereof would be \$375 for applications filed during calendar years 2005—2020; \$2,100 for applications filed during calendar years 2021—2025; \$2,600 for applications filed during calendar years 2026—2030; and \$3,300 for applications filed during calendar year 2031 and after.

Under subsection (b)(3), the fee for a minor modification of an operating permit or part thereof would be \$375 for applications filed during calendar years 2005—2020; \$1,500 for applications filed during calendar years 2021—2025; \$1,900 for applications filed during calendar years 2026—2030; and \$2,400 for applications filed during calendar year 2031 and after.

Under subsection (b)(4), the fee for a significant modification of an operating permit or part thereof would be \$375 for applications filed during calendar years 2005—2020; \$2,000 for applications filed during calendar years 2021—2025; \$2,500 for applications filed during calendar years 2026—2030; and \$3,100 for applications filed during calendar year 2031 and after.

Under subsection (b)(5), the fee for an administrative amendment of an operating permit or part thereof would be \$375 for applications filed during calendar years 2005—2020; \$1,500 for applications filed during calendar years 2021—2025; \$1,900 for applications filed during calendar years 2026—2030; and \$2,400 for applications filed during calendar year 2031 and after.

Subsection (c) specifies the annual operating permit administration fee that is payable each year. Subsection (c) would be amended to specify that the annual operating permit administration fee is \$375 for applications filed through the calendar year of the effective date of adoption of this proposed rulemaking.

Language in subsection (d) is proposed to be deleted where it specifies that the Department may establish application fees for general operating permits and operating permits for sources operating at multiple temporary locations which will not be greater than the fees established by this section, and that these fees shall be established at the time the operating permit is issued and will be published in the *Pennsylvania Bulletin* as provided in §§ 127.612 and 127.632. Subsection (d) would then be amended to establish that beginning the effective date of adoption of this proposed rulemaking, the annual operating permit maintenance fee in paragraph (1) or paragraph (2) is due on or before December 31 of each year for the next calendar year.

Subsection (d)(1) would establish that for a synthetic minor facility, the owner or operator shall pay a fee equal to \$2,500 for calendar years 2021—2025; \$3,100 for calendar years 2026—2030; and \$3,900 for the calendar years beginning with 2031.

Subsection (d)(2) would establish that for a facility that is not a synthetic minor, the owner or operator shall pay a fee equal to \$2,000 for calendar years 2021—2025; \$2,500 for calendar years 2026—2030; and \$3,100 for the calendar years beginning with 2031.

*§ 127.704. Title V operating permit fees under Subchapter G*

Proposed changes to § 127.704 (relating to Title V operating permit fees under Subchapter G) provide for, among other things, the following proposed fee provisions:

Subsection (a) specifies that each applicant for an operating permit, which is for a Title V facility, shall, as part of the operating permit application and as required on an annual basis, submit the fees required by this section to the Department. These fees apply to the extension, modification, revision, renewal and reissuance of each operating permit or part thereof. Subsection (a) would be amended to delete the statement that these fees apply to the extension, modification, revision, renewal and reissuance of each operating permit or part thereof.

Subsection (b) specifies the fees for processing an application for an operating permit. Subsection (b) would be amended to delete the statement regarding the fee for processing an operating permit and add the requirements that each applicant subject to subsection (a) shall pay a fee equal to the fee specified in paragraphs (1)—(5), as applicable. These fees apply to the application for a new operating permit and for the renewal and reissuance, modification or administrative amendment of an operating permit or part thereof.

Under subsection (b)(1), the fee for a new operating permit would be \$750 for applications filed during calendar years 2005—2020; \$5,000 for applications filed during calendar years 2021—2025; \$6,300 for applications filed during calendar years 2026—2030; and \$7,900 for applications filed during calendar year 2031 and after.

Under subsection (b)(2), the fee for a renewal and reissuance of an operating permit or part thereof would be \$375 for applications filed during calendar years 2005—2020; \$4,000 for applications filed during calendar years 2021—2025; \$5,000 for applications filed during calendar years 2026—2030; and \$6,300 for applications filed during calendar year 2031 and after.

Under subsection (b)(3), the fee for a minor modification of an operating permit or part thereof would be \$375 for applications filed during calendar years 2005—2020; \$1,500 for applications filed during calendar years 2021—2025; \$1,900 for applications filed during calendar years 2026—2030; and \$2,400 for applications filed during calendar year 2031 and after.

Under subsection (b)(4), the fee for a significant modification of an operating permit or part thereof would be \$375 for applications filed during calendar years 2005—2020; \$4,000 for applications filed during calendar years 2021—2025; \$5,000 for applications filed during calendar years 2026—2030; and \$6,300 for applications filed during calendar year 2031 and after.

Under subsection (b)(5), the fee for an administrative amendment of an operating permit or part thereof would be \$375 for applications filed during calendar years 2005—2020; \$1,500 for applications filed during calendar years 2021—2025; \$1,900 for applications filed during calendar years 2026—2030; and \$2,400 for applications filed during calendar year 2031 and after.

Subsection (c) specifies the annual operating permit administration fee that is payable each year by a facility identified in subparagraph (iv) of the definition of a Title V facility in § 121.1. Subsection (c) would be amended to delete the phrase “to be paid by a facility identified in subparagraph (iv) of the definition of a Title V facility in § 121.1...” and add the requirement for each applicant subject to subsection (a) that is the owner or operator of a facility identified in subparagraph (iv) of the definition of Title V facility in § 121.1 to pay \$750 for applications filed through the calendar year of the effective date of this proposed rulemaking.

The administration fee would then be replaced with the maintenance fee in subsection (d). Beginning the effective date of the final-form regulation, the maintenance fee would be payable each year before December 31 for the next calendar year and is equal to \$10,000 for calendar years 2021—2025; \$12,500 for calendar years 2026—2030; and \$15,600 for the calendar years beginning with 2031. Subsection (d) would also be amended to delete the requirement that specifies that the Department may establish application fees for general operating permits and operating permits for sources operating at multiple temporary locations which will not be greater than the fees established by this section.

Subsection (e) would add requirements to establish that the owner or operator of a source that submits an application for a PAL permit under § 127.218(b), to cease a PAL permit under § 127.218(j) or to increase a PAL under § 127.218(l) shall pay a fee equal to \$10,000 for applications filed during calendar years 2020—2025; \$12,500 for applications filed during calendar years 2026—2030; and \$15,600 for applications filed during calendar year 2031 and after.

Subsection (f) would establish that the owner or operator of a source proposing a PAL under Subchapter D that is not included in an application submitted under subsection (d) shall pay a fee equal to \$10,000 for applications filed during calendar years 2020—2025; \$12,500 for applications filed during calendar years 2026—2030; and \$15,600 for applications filed during calendar year 2031 and after.

#### *§ 127.705. Emission fees*

This section specifies the requirements for the owner or operator of a Title V facility including a Title V facility located in Philadelphia County or Allegheny County, except a facility identified in subparagraph (iv) of the definition of a Title V facility in § 121.1, to pay an annual Title V emission fee.

Subsection (d) specifies that the emission fee imposed under subsection (a) shall be increased in each calendar year after December 14, 2013, by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the previous

calendar year. For purposes of this subsection, paragraph (1) specifies that the Consumer Price Index for All-Urban Consumers shall be used for the adjustment required by this subsection, and paragraph (2) specifies which revision of the Consumer Price Index for All-Urban Consumers shall be used. For clarity, subsection (d) would be amended to move the requirements for the Consumer Price Index All-Urban Consumers to new subsection (e).

*§ 127.708. Risk assessment*

The Department is proposing to add a new section for risk assessment fees. Subsection (a) would provide that each applicant for a risk assessment shall, as part of the plan approval application, submit the application fee required by this section to the Department.

Subsection (b) would establish that the owner or operator of a source applying for a risk assessment that is inhalation only for all modeling shall pay a fee equal to \$10,000 for applications filed during calendar years 2020—2025; \$12,500 for applications filed during calendar years 2026—2030; and \$15,600 for applications filed during calendar year 2031 and after.

Subsection (c) would establish that the owner or operator of a source applying for a multi-pathway risk assessment shall pay a fee equal to \$25,000 for applications filed during calendar years 2020—2025; \$31,300 for applications filed during calendar years 2026—2030; and \$39,100 for applications filed during calendar year 2031 and after.

*§ 127.709. Asbestos abatement or regulated demolition or renovation project notification*

This section is new and would establish that an owner or operator of an asbestos abatement or regulated demolition or renovation project that is subject to 40 CFR Part 61, Subpart M (relating to National emission standards for hazardous air pollutants; Asbestos) or the Asbestos Occupations Accreditation and Certification Act (Act 1990-194, 63 P.S. §§ 2101—2112) and which is not located in Philadelphia County or Allegheny County shall submit to the Department with the required notification form a fee equal to \$300 for forms filed during calendar years 2020—2025; \$400 for forms filed during calendar years 2026—2030; and \$500 for forms filed during calendar year 2031 and after.

*§ 127.710. Fees for requests for determination (RFDs)*

Under this new section, fees would be established for RFDs for whether a plan approval, an operating permit, or both, are needed for the change to the facility. The RFD process allows any owner or operator to avoid the full cost associated with submitting a comprehensive plan approval application to receive a written determination from the Department. Under this section, the owner or operator of a source subject to Chapter 127 that submits an RFD for a plan approval, an operating permit, or for both a plan approval and an operating permit shall pay the applicable fee specified in paragraph (1) or paragraph (2). Paragraph (1) would establish that the owner or operator of a source that meets the definition of small business stationary source set forth in section 3 of the APCA (35 P.S. § 4003) shall pay a fee equal to \$400 for RFDs filed

during calendar years 2020—2025; \$500 for RFDs filed during calendar years 2026—2030; and \$600 for RFDs filed during calendar year 2031 and after.

Paragraph (2) would establish that the owner or operator of a source that does not meet the criterion in paragraph (1) shall pay a fee equal to \$600 for RFDs filed during calendar years 2020—2025; \$800 for RFDs filed during calendar years 2026—2030; and \$1,000 for RFDs filed during calendar year 2031 and after.

*§ 127.711. Fees for claims of confidential information*

Under subsection (a) of this new section, a person submitting information to the Department under Chapter 127 who requests that all or part of that information be kept confidential under section 13.2 of the APCA (35 P.S. § 4013.2) shall include with the request for confidentiality a fee equal to \$300 for requests filed during calendar years 2020—2025; \$400 for requests filed during calendar years 2026—2030; and \$500 for requests filed during calendar year 2031 and after.

Subsection (b) would establish that the Department will review the request for confidentiality submitted under subsection (a) in accordance with the procedures specified in section 13.2 of the APCA.

*§ 127.712. Fees for the use of general plan approvals and general operating permits under Subchapter H*

Under this proposed section, the Department may establish application fees for the use of general plan approvals and general operating permits under Subchapter H (relating to general plan approvals and operating permits) for stationary or portable sources. These application fees will be established when the general plan approval or general operating permit is issued or modified by the Department. These application fees will be published in the *Pennsylvania Bulletin* as provided in §§ 127.612 and 127.632 (relating to public notice and review period).

*F. Benefits, Costs and Compliance*

*Benefits*

The new and revised fees included in this proposed rulemaking will be directed to the Clean Air Fund, comprised of the Title V and Non-Title V Subaccounts. Together, these funds represent approximately 65% of the Air Quality Program budget. The General Fund and Federal Grants make up the remaining 35%. It is unlikely that General Fund monies or Federal Grants directed toward air quality will increase in the foreseeable future. Therefore, to adequately support the Commonwealth's Air Quality Program, the Clean Air Fund must be adequately funded.

The Air Quality Program has seen significant reductions in staff since 2000 (99 positions or 26%). Over that same time, the Clean Air Fund balance has been reduced 43% and is expected to hit a zero balance sometime during FY 2021/22. Because deficit spending is not allowed, the



Air Quality Program expenditures would need to be decreased by approximately \$10 million per year if fee revisions are not approved.

Some decrease in spending would come from shrinking the ambient air quality monitoring network, however, this will virtually eliminate air toxics monitoring and leave large portions of rural areas with no air monitoring. Most of the cost reduction would result in significant decreases in air quality staff, at all levels, in both the Bureau of Air Quality and the Department's six regional offices. Conservatively, a decrease of 80 staff members, an approximately 30% reduction, would be needed. This would severely impact the ability of the Air Quality Program to process and review permit applications; inspect facilities and respond to citizen complaints; initiate compliance and enforcement activities; and develop in a timely manner the required regulatory and non-regulatory SIP revisions. Failure to maintain an approved SIP could result in EPA establishing a Federal Implementation Plan (FIP) for the Commonwealth; under a FIP all fees, penalties and other revenue is paid to EPA. This would likely be unacceptable to the regulated industry, local government and the public.

Overall, Pennsylvania citizens would suffer from the loss of continued air quality planning, monitoring, permitting and inspection that are fundamental to the economy and protecting public health and welfare and the environment. With this proposed rulemaking, the Air Quality Program could maintain its current level of effort, gradually fill 17 currently vacant Title V positions, expand its air monitoring network in shale gas areas and develop new and improved IT systems including ePermitting and publicly available online air quality data.

Moreover, delays in the issuance of plan approvals and operating permits can cause economic disruptions because the owner or operator of a regulated facility may not operate without an operating permit. Delays in receiving plan approvals can have a major impact on an owner's or operator's decision to expand or locate an industrial operation in Pennsylvania. Increased funding for the plan approval and operating permit process will continue to allow for timely and complete review of plan approval and operating permit applications, and help retain the current industry and provide certainty for businesses.

#### *Compliance costs*

The financial impact on the owners and operators of all Title V facilities regulated by the Department, collectively, would be additional plan approval and operating permitting costs of approximately \$900,000 per year as well as approximately \$5 million in annual maintenance fee costs. Title V small businesses, in total, will pay an estimated additional \$800,000 annually.

The financial impact on the owners and operators of non-Title V facilities regulated by the Department, collectively, would be additional plan approval and operating permitting costs of approximately \$2 million per year as well as approximately \$4.6 million in annual maintenance fee costs. Non-Title V small businesses, in total, will pay an estimated additional \$2.5 million annually.

Approximately \$1.5 million in asbestos notification fees will be collected from 2,000 entities, most of which will be small businesses.

#### *Compliance assistance plan*

The Department plans to educate and assist the public and regulated community in understanding and complying with the newly revised requirements. This will be accomplished through the Department's ongoing compliance assistance program.

#### *Paperwork requirements*

There are no additional paperwork requirements associated with this proposed rulemaking. The existing applications and forms would be updated with the new fees.

#### *G. Pollution Prevention*

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance.

This proposed rulemaking would allow the Department to maintain staffing levels in the air quality program, which would provide a sound basis for continued air quality assessments and planning that are fundamental to a strong economy, reducing pollution, and protecting public health and the environment.

#### *H. Sunset Review*

The Board is not establishing a sunset date for this proposed regulation because it is needed for the Department to carry out its statutory authority. If approved as a final-form regulation, the Department will closely monitor its effectiveness and recommend updates to the Board as necessary. At least every 5 years, the Department will provide the Board with an evaluation of the fees in this subchapter and recommend regulatory changes to the Board to address any disparity between the program income generated by the fees and the Department's cost of administering the air quality program with the objective of ensuring sufficient fees to meet all program costs.

#### *I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 27, 2019, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the

House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to this proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

#### *J. Public Comments*

Interested persons are invited to submit written comments, suggestions, support or objections regarding this proposed rulemaking to the Board. Comments, suggestions, support or objections must be received by the Board by June 17, 2019.

Comments may be submitted to the Board online, by email, by mail or express mail as follows. Comments submitted by facsimile will not be accepted.

Comments may be submitted to the Board by accessing eComment at <https://www.ahs.dep.pa.gov/eComment/>.

Comments may be submitted to the Board by email at [RegComments@pa.gov](mailto:RegComments@pa.gov). A subject heading of this proposed rulemaking and a return name and address must be included in each transmission.

If an acknowledgement of comments submitted online or by email is not received by the sender within 2 business days, the comments should be retransmitted to the Board to ensure receipt.

Written comments should be mailed to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477. Express mail should be sent to the Environmental Quality Board, Rachel Carson State Office Building, 16<sup>th</sup> Floor, 400 Market Street, Harrisburg, PA 17101-8477.

#### *K. Public Hearings*

The Board will hold three public hearings for accepting comments on this proposed rulemaking. The hearings will be held at 1 p.m. on the following dates:

May 13, 2019 Department of Environmental Protection  
Southwest Regional Office  
Waterfront Conference Rooms A&B  
400 Waterfront Drive  
Pittsburgh, PA 15222

May 15, 2019 Department of Environmental Protection  
Southeast Regional Office  
Delaware and Schuylkill Conference Rooms  
2 East Main Street  
Norristown, PA 19401

May 16, 2019 Department of Environmental Protection  
Southcentral Regional Office  
Susquehanna Conference Rooms A&B  
909 Elmerton Avenue  
Harrisburg, PA 17110

Persons wishing to present testimony at a hearing are requested to call (717) 783-8727 or contact the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477, at least 1 week in advance of the hearing to reserve a time to present testimony. Verbal testimony is limited to 5 minutes for each witness. Witnesses are requested to submit three written copies of their verbal testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact (717) 783-8727 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) or (800) 654-5988 (voice users) to discuss how the Board may accommodate their needs.

Patrick McDonnell,  
*Chairperson*



**PROPOSED RULEMAKING**  
**Annex A**  
**TITLE 25. ENVIRONMENTAL PROTECTION**  
**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Subpart C. PROTECTION OF NATURAL RESOURCES**  
**ARTICLE III. AIR RESOURCES**

**CHAPTER 121. GENERAL PROVISIONS**

**§ 121. 1. Definitions.**

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*Synthesized pharmaceutical manufacturing*—Manufacture of pharmaceutical products by chemical synthesis.

**Synthetic minor facility**—**An air contamination source subject to Federally enforceable conditions that limit the facility’s potential to emit less than the major facility thresholds specified in the definition of “Title V facility.”**

*TPY*—Tons per year.

\* \* \* \* \*

**CHAPTER 127. CONSTRUCTION, MODIFICATION, REACTIVATION  
AND OPERATION OF SOURCES**

**Subchapter F. OPERATING PERMIT REQUIREMENTS**

**REVIEW OF APPLICATIONS**

**§ 127.424. Public notice.**

(a) Except as provided in § 127.462 (relating to minor operating permit modifications), the Department will prepare a notice of action to be taken on applications for an operating permit.

(b) For sources identified in § ~~127.44(a)(1)—(4)~~ 127.44(b)(1)—(5) (relating to public notice), the notice required by subsection (a) will be completed and sent to the applicant, the EPA, any state within 50 miles of the facility and any state whose air quality may be affected and that is contiguous to this Commonwealth. The applicant shall, within 10 days of receipt of notice, publish the notice on at least 3 separate days in a prominent place and size in a newspaper of general circulation in the county in which the source is to be located. Proof of the publication shall be filed with the Department within 1 week thereafter. An operating permit will not be issued by the Department if the applicant fails to submit the proof of publication. The



Department will publish notice for the sources identified in § [127.44(a),] 127.44(b) in the *Pennsylvania Bulletin*.

(c) If the Department denies an operating permit, written notice of the denial will be given to requestors and to the applicant and will be published in the *Pennsylvania Bulletin*.

(d) In each case, the Department will publish notices required in subsection (a) in the *Pennsylvania Bulletin*.

(e) The notice will state, at a minimum, the following:

(1) The location at which the application may be reviewed. This location shall be in the region affected by the application.

(2) A 30-day comment period, from the date of publication, will exist for the submission of comments.

(3) Permits issued to sources identified in § [127.44(a)(1)—(4)] 127.44(b)(1)—(5) or permits issued to sources with limitations on their potential to emit used to avoid otherwise applicable Federal requirements may become a part of the SIP and will be submitted to the EPA for review and approval.

## OPERATING PERMIT MODIFICATIONS

### § 127.465. Significant operating permit modification procedures.

(a) The owner or operator of a stationary air contamination source or facility may make a significant modification to an applicable operating permit under this section.

(b) Significant operating permit modifications must meet the requirements of this chapter, including §§ 127.424 and 127.425 (relating to public notice; and contents of notice).

(c) The owner or operator of the facility shall submit to the Department, on a form provided by or approved by the Department, a brief description of the change, the date on which the change is to occur and the proposed language for revising the operating permit conditions proposed to be changed.

(d) Unless precluded by the Clean Air Act or the regulations thereunder, the permit shield described in § 127.516 (relating to permit shield) shall extend to an operational flexibility change authorized by this section.

(e) The Department will take final action on the proposed change for the significant modification of the applicable operating permit and, after taking final action, will publish notice of the action in the *Pennsylvania Bulletin*.

## Subchapter I. PLAN APPROVAL AND OPERATING PERMIT FEES

### § 127.702. Plan approval fees.

(a) Each applicant for a plan approval shall, as part of the plan approval application, submit the application [fee] **fees** required by this section to the Department. **The applicable fees required under subsections (b)—(h) are cumulative.**

(b) [Except as provided in subsections (c)—(g)] **The owner or operator of** a source requiring approval under Subchapter B (relating to plan approval requirements) shall pay a fee equal to:

**(1) Seven hundred fifty dollars for applications filed during the 1995—1999 calendar years.**

**(2) Eight hundred fifty dollars for applications filed during the 2000—2004 calendar years.**

**(3) (1) One thousand dollars (\$1,000) for applications filed [for the calendar years beginning in 2005] during calendar years 2005—2020.**

**(2) Two thousand five hundred dollars (\$2,500) for applications filed during calendar years 2021—2025.**

**(3) Three thousand one hundred dollars (\$3,100) for applications filed during calendar years 2026—2030.**

**(4) Three thousand nine hundred dollars (\$3,900) for applications filed during calendar year 2031 and after.**

(c) [A] **The owner or operator of** a source requiring approval under Subchapter E (relating to new source review) shall pay a fee equal to:

**(1) Three thousand five hundred dollars for applications filed during the 1995—1999 calendar years.**

**(2) Four thousand three hundred dollars for applications filed during the 2000—2004 calendar years.**

**(3) (1) Five thousand three hundred dollars (\$5,300) for applications filed [beginning in 2005] during calendar years 2005—2020.**

**(2) Seven thousand five hundred dollars (\$7,500) for applications filed during calendar years 2021—2025.**

**(3) Nine thousand four hundred dollars (\$9,400) for applications filed during calendar years 2026—2030.**

(4) Eleven thousand eight hundred dollars (\$11,800) for applications filed for the calendar years beginning with 2031.

(d) [A] The owner or operator of a source subject to and requiring approval under standards adopted under Chapter 122 (relating to national standards of performance for new stationary sources) [or to standards adopted under], Chapter 124 (relating to national emission standards for hazardous air pollutants) or § 127.35(b) (relating to maximum achievable control technology standards for hazardous air pollutants) shall pay [a] the specified fee for each applicable standard up to and including three applicable standards per plan approval application. Applicants that have more than three applicable standards shall pay the fee for a maximum of three standards. The Department's permitting review will include all applicable standards. The fee for each applicable standard is equal to:

[(1) One thousand two hundred dollars for applications filed during the 1995—1999 calendar years.

(2) One thousand four hundred dollars for applications filed during the 2000—2004 calendar years.

(3)] (1) One thousand seven hundred dollars (\$1,700) for applications filed beginning [in 2005] blank (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.) through calendar year 2020.

(2) Two thousand five hundred dollars (\$2,500) for applications filed during calendar years 2021—2025.

(3) Three thousand one hundred dollars (\$3,100) for applications filed during calendar years 2026—2030.

(4) Three thousand nine hundred dollars (\$3,900) for applications filed for the calendar years beginning with 2031.

(e) [A] The owner or operator of a source subject to and requiring approval under § 127.35(c), (d) or (h) [(relating to maximum achievable control technology standards for hazardous air pollutants)] shall pay a fee equal to:

[(1) Five thousand five hundred dollars for applications filed during the 1995—1999 calendar years.

(2) Six thousand seven hundred dollars for applications filed during the 2000—2004 calendar years.

(3)] (1) Eight thousand dollars (\$8,000) for applications filed [beginning in 2005] during calendar years 2005—2020.

(2) Nine thousand five hundred dollars (\$9,500) for applications filed during calendar years 2021—2025.

(3) Eleven thousand nine hundred dollars (\$11,900) for applications filed during calendar years 2026—2030.

(4) Fourteen thousand nine hundred dollars (\$14,900) for applications filed for the calendar years beginning with 2031.

(f) [A] The owner or operator of a source requiring approval under Subchapter D (relating to prevention of significant deterioration of air quality) shall pay a fee equal to:

(1) Fifteen thousand dollars for applications filed during the 1995—1999 calendar years.

(2) Eighteen thousand five hundred dollars for applications filed during the 2000—2004 calendar years.

(3) (1) Twenty-two thousand seven hundred dollars (\$22,700) for applications filed [beginning in 2005] during calendar years 2005—2020.

(2) Thirty-two thousand five hundred dollars (\$32,500) for applications filed during calendar years 2021—2025.

(3) Forty thousand six hundred dollars (\$40,600) for applications filed during calendar years 2026—2030.

(4) Fifty thousand eight hundred dollars (\$50,800) for applications filed for the calendar years beginning with 2031.

[(g) Except as provided in subsection (h), the source proposing a minor modification of a plan approval, extension of a plan approval, and transfer of a plan approval due to a change of ownership, shall pay a fee equal to:

(1) Two hundred dollars for applications filed during the 1995—1999 calendar years.

(2) Two hundred thirty dollars for applications filed during the 2000—2004 calendar years.

(3) Three hundred dollars for applications filed beginning in 2005.]

(g) The owner or operator of a source that submits a plan approval application for a PAL permit under § 127.218(b) (relating to PALs), to cease a PAL permit under § 127.218(j) or to increase a PAL under § 127.218(l) shall pay a fee equal to:

(1) Seven thousand five hundred dollars (\$7,500) for applications filed during calendar years 2020—2025.

(2) Nine thousand four hundred dollars (\$9,400) for applications filed during calendar years 2026—2030.

(3) Eleven thousand eight hundred dollars (\$11,800) for applications filed for the calendar years beginning with 2031.

(h) [The modification of a plan approval that includes the reassessment of a control technology determination or of the ambient impacts of the source will not be considered a minor modification of the plan approval.] The owner or operator of a source proposing a PAL under Subchapter D that is not included in an application submitted under subsection (f) or subsection (g) shall pay a fee equal to:

(1) Seven thousand five hundred dollars (\$7,500) for applications filed during calendar years 2020—2025.

(2) Nine thousand four hundred dollars (\$9,400) for applications filed during calendar years 2026—2030.

(3) Eleven thousand eight hundred dollars (\$11,800) for applications filed for the calendar years beginning with 2031.

(i) [The Department may establish application fees for general plan approvals and plan approvals for sources operating at multiple temporary locations which will not be greater than the fees established by subsection (b). These fees shall be established at the time the plan approval is issued and will be published in the *Pennsylvania Bulletin* as provided in §§ 127.612 and 127.632 (relating to public notice and review period).] The owner or operator of a source proposing a minor modification of a plan approval, an extension of a plan approval or a transfer of a plan approval due to a change of ownership shall pay the fee in paragraph (1) or paragraph (2) as applicable.

(1) An applicant for a minor modification of a plan approval may not include an increase in emissions, an analysis of the ambient impacts of the source or a reassessment of a control technology determination. The applicant shall do all of the following:

(i) Meet the applicable requirements of § 127.44 (relating to public notice).

(ii) Pay a fee equal to:

(A) Three hundred dollars (\$300) for applications filed during calendar years 2005—2020.

(B) One thousand five hundred dollars (\$1,500) for applications filed during calendar years 2021—2025.

(C) One thousand nine hundred dollars (\$1,900) for applications filed during calendar years 2026—2030.

(D) Two thousand four hundred dollars (\$2,400) for applications filed for the calendar years beginning with 2031.

(2) An applicant for an extension of a plan approval or a transfer of a plan approval due to a change of ownership shall pay a fee equal to:

(i) Three hundred dollars (\$300) for applications filed during calendar years 2005—2020.

(ii) Seven hundred fifty dollars (\$750) for applications filed during calendar years 2021—2025.

(iii) Nine hundred dollars (\$900) for applications filed during calendar years 2026—2030.

(iv) One thousand one hundred dollars (\$1,100) for applications filed for the calendar years beginning with 2031.

(j) The owner or operator of a source proposing a revision to a plan approval application submitted by the applicant that includes one or more of the following changes after the Department has completed its technical review shall pay the fee in paragraph (1) or paragraph (2) as applicable.

(1) For an analysis of the ambient impacts of the source, a fee equal to:

(i) Nine thousand dollars (\$9,000) for applications filed during calendar years 2020—2025.

(ii) Eleven thousand three hundred dollars (\$11,300) for applications filed during calendar years 2026—2030.

(iii) Fourteen thousand one hundred dollars (\$14,100) for applications filed for the calendar years beginning with 2031.

(2) For a reassessment of a control technology determination, the applicable fee under subsection (b).

#### **§ 127.703. Operating permit fees under Subchapter F.**

(a) Each applicant for an operating permit, which is not for a Title V facility, shall, as part of the operating permit application and as required on an annual basis, submit the fees required by this section to the Department. [These fees apply to the extension, modification, revision, renewal and reissuance of each operating permit or part thereof.]

(b) [The fee for processing an application for an operating permit is:] Each applicant subject to subsection (a) shall pay a fee equal to the following, as applicable. These fees



**apply to the application for a new operating permit and for the renewal and reissuance, modification or administrative amendment of an operating permit or part thereof or to a transfer of an operating permit due to a change of ownership.**

**(1) Two hundred fifty dollars for applications filed during the 1995—1999 calendar years.**

**(2) Three hundred dollars for applications filed during the 2000—2004 calendar years.**

**(3) (1) For a new operating permit:**

**(i) Three hundred seventy-five dollars (\$375) for applications filed [for the calendar years beginning in 2005] during calendar years 2005—2020.**

**(ii) Two thousand five hundred dollars (\$2,500) for applications filed during calendar years 2021—2025.**

**(iii) Three thousand one hundred dollars (\$3,100) for applications filed during calendar years 2026—2030.**

**(iv) Three thousand nine hundred dollars (\$3,900) for applications filed for the calendar years beginning with 2031.**

**(2) For a renewal and reissuance of an operating permit or part thereof:**

**(i) Three hundred seventy-five dollars (\$375) for applications filed during calendar years 2005—2020.**

**(ii) Two thousand one hundred dollars (\$2,100) for applications filed during calendar years 2021—2025.**

**(iii) Two thousand six hundred dollars (\$2,600) for applications filed during calendar years 2026—2030.**

**(iv) Three thousand three hundred dollars (\$3,300) for applications filed for the calendar years beginning with 2031.**

**(3) For a minor modification of an operating permit or part thereof:**

**(i) Three hundred seventy-five dollars (\$375) for applications filed during calendar years 2005—2020.**

**(ii) One thousand five hundred dollars (\$1,500) for applications filed during calendar years 2021—2025.**

**(iii) One thousand nine hundred dollars (\$1,900) for applications filed during calendar years 2026—2030.**

(iv) Two thousand four hundred dollars (\$2,400) for applications filed for the calendar years beginning with 2031.

(4) For a significant modification of an operating permit or part thereof:

(i) Three hundred seventy-five dollars (\$375) for applications filed during calendar years 2005—2020.

(ii) Two thousand dollars (\$2,000) for applications filed during calendar years 2021—2025.

(iii) Two thousand five hundred dollars (\$2,500) for applications filed during calendar years 2026—2030.

(iv) Three thousand one hundred dollars (\$3,100) for applications filed for the calendar years beginning with 2031.

(5) For an administrative amendment of an operating permit or part thereof or a transfer of an operating permit due to a change of ownership:

(i) Three hundred seventy-five dollars (\$375) for applications filed during calendar years 2005—2020.

(ii) One thousand five hundred dollars (\$1,500) for applications filed during calendar years 2021—2025.

(iii) One thousand nine hundred dollars (\$1,900) for applications filed during calendar years 2026—2030.

(iv) Two thousand four hundred dollars (\$2,400) for applications filed for the calendar years beginning with 2031.

(c) [The] For applications filed through calendar year *blank* (*Editor's Note: The blank refers to the year of the effective date of adoption of this proposed rulemaking.*), each applicant subject to subsection (a) shall pay the annual operating permit administration fee of three hundred seventy-five dollars (\$375). [is:

(1) Two hundred fifty dollars for applications filed during the 1995—1999 calendar years.

(2) Three hundred dollars for applications filed during the 2000—2004 calendar years.

(3) Three hundred seventy-five dollars for applications filed during the years beginning in 2005].

(d) [The Department may establish application fees for general operating permits and operating permits for sources operating at multiple temporary locations which will not be greater than the fees established by this section. These fees shall be established at the time the operating permit is issued and will be published in the *Pennsylvania Bulletin* as provided in §§ 127.612 and 127.632 (relating to public notice and review period.)] Beginning blank (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.), each applicant subject to subsection (a) shall pay the annual operating permit maintenance fee in paragraph (1) or paragraph (2) on or before December 31 of each year for the next calendar year.

(1) For a synthetic minor facility, a fee equal to:

(i) Two thousand five hundred dollars (\$2,500) for calendar years 2021—2025.

(ii) Three thousand one hundred dollars (\$3,100) for calendar years 2026—2030.

(iii) Three thousand nine hundred dollars (\$3,900) for the calendar years beginning with 2031.

(2) For a facility that is not a synthetic minor, a fee equal to:

(i) Two thousand dollars (\$2,000) for calendar years 2021—2025.

(ii) Two thousand five hundred dollars (\$2,500) for calendar years 2026—2030.

(iii) Three thousand one hundred dollars (\$3,100) for the calendar years beginning with 2031.

#### § 127.704. Title V operating permit fees under Subchapter G.

(a) Each applicant for an operating permit, which is for a Title V facility, shall, as part of the operating permit application and as required on an annual basis, submit the fees required by this section to the Department. [These fees apply to the extension, modification, revision, renewal and reissuance of each operating permit or part thereof.]

(b) [The fee for processing an application for an operating permit is:] Each applicant subject to subsection (a) shall pay a fee equal to the following, as applicable. These fees apply to the application for a new operating permit and for the renewal and reissuance, modification or administrative amendment of an operating permit or part thereof or a transfer of an operating permit due to a change of ownership.

[ (1) Five hundred dollars for applications filed during the 1995—1999 calendar years.

(2) Six hundred fifteen dollars for applications during the 2000—2004 calendar years.

(3)] (1) For a new operating permit:

(i) Seven hundred fifty dollars (\$750) for applications filed during [the calendar years beginning in 2005] calendar years 2005—2020.

(ii) Five thousand dollars (\$5,000) for applications filed during calendar years 2021—2025.

(iii) Six thousand three hundred dollars (\$6,300) for applications filed during calendar years 2026—2030.

(iv) Seven thousand nine hundred dollars (\$7,900) for applications filed for the calendar years beginning with 2031.

(2) For a renewal and reissuance of an operating permit or part thereof:

(i) Three hundred seventy-five dollars (\$375) for applications filed during calendar years 2005—2020.

(ii) Four thousand dollars (\$4,000) for applications filed during calendar years 2021—2025.

(iii) Five thousand dollars (\$5,000) for applications filed during calendar years 2026—2030.

(iv) Six thousand three hundred dollars (\$6,300) for applications filed for the calendar years beginning with 2031.

(3) For a minor modification of an operating permit or part thereof:

(i) Three hundred seventy-five dollars (\$375) for applications filed during calendar years 2005—2020.

(ii) One thousand five hundred dollars (\$1,500) for applications filed during calendar years 2021—2025.

(iii) One thousand nine hundred dollars (\$1,900) for applications filed during calendar years 2026—2030.

(iv) Two thousand four hundred dollars (\$2,400) for applications filed for the calendar years beginning with 2031.

(4) For a significant modification of an operating permit or part thereof:

(i) Three hundred seventy-five dollars (\$375) for applications filed during calendar years 2005—2020.

(ii) Four thousand dollars (\$4,000) for applications filed during calendar years 2021—2025.

(iii) Five thousand dollars (\$5,000) for applications filed during calendar years 2026—2030.

(iv) Six thousand three hundred dollars (\$6,300) for applications filed for the calendar years beginning with 2031.

(5) For an administrative amendment of an operating permit or part thereof or a transfer of an operating permit due to a change of ownership:

(i) Three hundred seventy-five dollars (\$375) for applications filed during calendar years 2005—2020.

(ii) One thousand five hundred dollars (\$1,500) for applications filed during calendar years 2021—2025.

(iii) One thousand nine hundred dollars (\$1,900) for applications filed during calendar years 2026—2030.

(iv) Two thousand four hundred dollars (\$2,400) for applications filed for the calendar years beginning with 2031.

(c) [The] Each applicant subject to subsection (a) that is the owner or operator of a facility identified in subparagraph (iv) of the definition of Title V facility in § 121.1 (relating to definitions) shall pay the annual operating permit administration fee of seven hundred fifty dollars (\$750) for applications filed through calendar year blank (Editor's Note: The blank refers to the year of the effective date of adoption of this proposed rulemaking.) [to be paid by a facility identified in subparagraph (iv) of the definition of a Title V facility in § 121.1 (relating to definitions) is:

(1) Six hundred fifteen dollars for applications filed during the 2000—2004 calendar years.

(2) Seven hundred fifty dollars for applications filed during the years beginning in 2005]

(d) [The Department may establish application fees for general operating permits and operating permits for sources operating at multiple temporary locations which will not be greater than the fees established by this section. These fees shall be established at the time the operating permit is issued and will be published in the *Pennsylvania Bulletin* as provided in §§ 127.612 and 127.632 (relating to public notice and review period).] Beginning blank (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.), each applicant subject to subsection (a) shall pay the annual operating permit maintenance fee. The annual operating permit maintenance fee is due on or before December 31 of each year for the next calendar year and is equal to:

(1) Ten thousand dollars (\$10,000) for calendar years 2021—2025.

(2) Twelve thousand five hundred dollars (\$12,500) for calendar years 2026—2030.

(3) Fifteen thousand six hundred dollars (\$15,600) for the calendar years beginning with 2031.

(e) The owner or operator of a source that submits an application for a PAL permit under § 127.218(b) (relating to PALs), to cease a PAL permit under § 127.218(j) or to increase a PAL under § 127.218(l) shall pay a fee equal to:

(1) Ten thousand dollars (\$10,000) for applications filed during calendar years 2020—2025.

(2) Twelve thousand five hundred dollars (\$12,500) for applications filed during calendar years 2026—2030.

(3) Fifteen thousand six hundred dollars (\$15,600) for applications filed for the calendar years beginning with 2031.

(f) The owner or operator of a source proposing a PAL under Subchapter D that is not included in an application submitted under subsection (d) shall pay a fee equal to:

(1) Ten thousand dollars (\$10,000) for applications filed during calendar years 2020—2025.

(2) Twelve thousand five hundred dollars (\$12,500) for applications filed during calendar years 2026—2030.

(3) Fifteen thousand six hundred dollars (\$15,600) for applications filed for the calendar years beginning with 2031.

#### **§ 127.705. Emission fees.**

(a) The owner or operator of a Title V facility including a Title V facility located in Philadelphia County or Allegheny County, except a facility identified in subparagraph (iv) of the definition of a Title V facility in § 121.1 (relating to definitions), shall pay an annual Title V emission fee of \$85 per ton for each ton of a regulated pollutant actually emitted from the facility. The owner or operator will not be required to pay an emission fee for emissions of more than 4,000 tons of each regulated pollutant from the facility. The owner or operator of a Title V facility located in Philadelphia County or Allegheny County shall pay the emission fee to the county Title V program approved by the Department under section 12 of the act (35 P. S. § 4012) and § 127.706 (relating to Philadelphia County and Allegheny County financial assistance).

(b) The emissions fees required by this section shall be due on or before September 1 of each year for emissions from the previous calendar year. The fees required by this section shall be paid for emissions occurring in calendar year 2013 and for each calendar year thereafter.



(c) As used in this section, the term “regulated pollutant” means a VOC, each pollutant regulated under sections 111 and 112 of the Clean Air Act (42 U.S.C.A. § § 7411 and 7412) and each pollutant for which a National ambient air quality standard has been promulgated, except that carbon monoxide shall be excluded from this reference.

(d) The emission fee imposed under subsection (a) shall be increased in each calendar year after December 14, 2013, by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the previous calendar year.

(e) For purposes of [this] subsection (d):

(1) The Consumer Price Index for a calendar year is the average of the Consumer Price Index for All-Urban Consumers, published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

(2) The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

#### **§ 127.708. Risk assessment.**

**(a) Each applicant for a risk assessment shall, as part of the plan approval application, submit the application fee required by this section to the Department.**

**(b) The owner or operator of a source applying for a risk assessment that is inhalation only for all modeling shall pay a fee equal to:**

**(1) Ten thousand dollars (\$10,000) for applications filed during calendar years 2020—2025.**

**(2) Twelve thousand five hundred dollars (\$12,500) for applications filed during calendar years 2026—2030.**

**(3) Fifteen thousand six hundred dollars (\$15,600) for applications filed for the calendar years beginning with 2031.**

**(c) The owner or operator of a source applying for a multi-pathway risk assessment shall pay a fee equal to:**

**(1) Twenty-five thousand dollars (\$25,000) for applications filed during calendar years 2020—2025.**

**(2) Thirty-one thousand three hundred dollars (\$31,300) for applications filed during calendar years 2026—2030.**

**(3) Thirty-nine thousand one hundred dollars (\$39,100) for applications filed for the calendar years beginning with 2031.**

**§ 127.709. Asbestos abatement or regulated demolition or renovation project notification.**

**An owner or operator of an asbestos abatement or regulated demolition or renovation project that is subject to 40 CFR Part 61, Subpart M (relating to National emission standards for hazardous air pollutants; Asbestos) or the Asbestos Occupations Accreditation and Certification Act (Act 1990-194, 63 P.S. §§ 2101—2112) and which is not located in Philadelphia County or Allegheny County shall submit to the Department with the required notification form a fee equal to:**

**(1) Three hundred dollars (\$300) for forms filed during calendar years 2020—2025.**

**(2) Four hundred dollars (\$400) for forms filed during calendar years 2026—2030.**

**(3) Five hundred dollars (\$500) for forms filed for the calendar years beginning with 2031.**

**§ 127.710. Fees for requests for determination.**

**The owner or operator of a source subject to this chapter that submits a request for determination under § 127.14 (relating to exemptions) for a plan approval, an operating permit or for both a plan approval and an operating permit shall pay the applicable fee specified in paragraph (1) or paragraph (2):**

**(1) The owner or operator of a source that meets the definition of small business stationary source set forth in section 3 of the act (35 P.S. § 4003) shall pay a fee equal to:**

**(i) Four hundred dollars (\$400) for requests for determination filed during calendar years 2020—2025.**

**(ii) Five hundred dollars (\$500) for requests for determination filed during calendar years 2026—2030.**

**(iii) Six hundred dollars (\$600) for requests for determination filed for the calendar years beginning with 2031.**

**(2) The owner or operator of a source that does not meet the criterion in paragraph (1) shall pay a fee equal to:**

**(i) Six hundred dollars (\$600) for requests for determination filed during calendar years 2020—2025.**

**(ii) Eight hundred dollars (\$800) for requests for determination filed during calendar years 2026—2030.**

**(iii) One thousand dollars (\$1,000) for requests for determination filed for the calendar years beginning with 2031.**

**§ 127.711. Fees for claims of confidential information.**

**(a) A person submitting information to the Department under this chapter who requests that all or part of that information be kept confidential under section 13.2 of the act (35 P.S. § 4013.2) shall include with the request for confidentiality a fee equal to:**

**(1) Three hundred dollars (\$300) for requests filed during calendar years 2020—2025.**

**(2) Four hundred dollars (\$400) for requests filed during calendar years 2026—2030.**

**(3) Five hundred dollars (\$500) for requests filed for the calendar years beginning with 2031.**

**(b) The Department will review the request for confidentiality submitted under subsection (a) in accordance with the procedures specified in section 13.2 of the act (35 P.S. § 4013.2).**

**§ 127.712. Fees for the use of general plan approvals and general operating permits under Subchapter H.**

**The Department may establish application fees for the use of general plan approvals and general operating permits under Subchapter H (relating to general plan approvals and operating permits) for stationary or portable sources. These application fees will be established when the general plan approval or general operating permit is issued or modified by the Department. These application fees will be published in the *Pennsylvania Bulletin* as provided in §§ 127.612 and 127.632 (relating to public notice and review period).**

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# Air Quality Technical Advisory Committee

to the Pennsylvania Department of Environmental Protection

PO Box 8468

Harrisburg, PA 17105-8468

June 14, 2018

Honorable Patrick McDonnell  
Secretary  
Department of Environmental Protection  
Rachel Carson State Office Building  
P.O. Box 2063  
Harrisburg, PA 17105-2063

Re: Proposed Rulemaking to Revise Certain Existing Air Quality Fee Schedules and Establish New Air Quality Fee Schedules (*25 Pa. Code* Chapters 121 and 127)

Dear Secretary McDonnell:

On June 14, 2018, the Air Quality Technical Advisory Committee (Committee) discussed the proposed rulemaking draft Annex A to amend *25 Pa. Code* Chapters 121 and 127 (relating to general provisions; and construction, modification, reactivation and operation of sources). The proposed rulemaking draft Annex A amends the provisions of Chapter 127, Subchapter I (relating to plan approval and operating permit fees) to revise certain existing fees and to establish new fees to support the Department's air quality program. In addition to increasing certain existing fees for plan approval applications and operating permits, fees applicable to modifications of a plan approval or operating permit as well as an annual operating permit maintenance fee are established. Fees are also established for requests for determination of whether a plan approval is required, for claims of confidential information, for risk assessment applications, and for notifications of asbestos abatement, regulated demolition, and renovation projects.

The proposed rulemaking draft Annex A amends the existing requirements and fee schedules codified in Chapter 127, Subchapter I, and establishes new fees to ensure that fee revenue is sufficient to cover the indirect and direct costs of administering the air pollution control plan approval process, the operating permit program required by Title V of the Clean Air Act, other requirements of the Clean Air Act, and the indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, the Small Business Compliance Advisory Committee, and the Office of the Small Business Ombudsman, as required under section 6.3 of the Air Pollution Control Act (35 P.S. § 4006.3). Section 6.3 also authorizes the Board by regulation to establish fees to support the air pollution control program authorized by the Air Pollution Control Act and not covered by fees required by section 502(b) of the Clean Air Act.



A definition for the term “synthetic minor facility” is proposed for § 121.1 (relating to definitions) to support the amendments to Chapter 127, Subchapter I. Minor revisions to § 127.424 (relating to public notice) under Chapter 127, Subchapter F (relating to operating permit requirements) are proposed to correct an error in a cross reference. Proposed § 127.465 (relating to significant operating permit modification procedures) establishes the procedures that the owner or operator of a stationary air contamination source or facility shall follow to make a significant modification to an applicable operating permit.

The Committee voted 8-2-0 to concur with the Department’s recommendation to present the proposed rulemaking amendments to the Environmental Quality Board for consideration for adoption and publication as a proposed rulemaking for public comment.

Sincerely,

A handwritten signature in cursive script that reads "Patrick K. O'Neill". The signature is written in black ink and is positioned above the printed name and title.

Patrick K. O’Neill Esq.  
Chair

cc: Krishnan Ramamurthy, Director, PA DEP BAQ  
Kirit Dalal, PA DEP BAQ  
Susan Hoyle, PA DEP BAQ



July 17, 2018

*Allegheny County*  
Cynthia Currow  
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*Bedford County*  
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*Cumberland County*  
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*Fayette County*  
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*Lancaster County*  
James Sandoe

*Philadelphia County*  
David Dunphy  
Jerome Shabazz

*Tioga County*  
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*Washington County*  
Mark Caskey

Secretary Patrick  
McDonnell, Ex-officio

Honorable Patrick McDonnell  
Secretary  
Department of Environmental Protection  
Rachel Carson State Office Building  
P.O. Box 2063  
Harrisburg, PA 17105-2063

Re: Draft Air Quality Fees (25 Pa. Code Chapters 121 and 127)

Dear Secretary McDonnell:

On July 17, 2018, the Citizens Advisory Council ("CAC" or "Council") discussed the draft proposed rulemaking to amend 25 Pa. Code Chapters 121 and 127 (relating to general provisions and review of applications, respectively). The draft proposed rulemaking proposes to increase permitting and other fees that accrue to the Clean Air Fund and are utilized to fund elements of the Department's air pollution control program.

CAC has heard from Department staff that the Clean Air Fund is projected to experience multi-million-dollar deficits in the coming fiscal years, particularly the non-Title V account. Application fees are intended to support the Department's administrative and technical responsibilities, but they have not been updated since 2005. At the same time, emission fees collected from Title V major sources, which are based on annual emissions, are declining because actual emissions of regulated pollutants have trended steadily downward for several years. Reduced emissions are an undeniable benefit to Pennsylvania's environment, but they do not directly correspond to reduced program costs because the number of facilities that must be inspected, as well as expenses for equipment, contracts, and grants, have not followed the same downward trend. The Department believes the increased fees are necessary to ensure that the operations of the Air Quality program can continue at the appropriate level.

While Council members appreciate the need for adjustments to permit application and annual operating fees in order to provide a more sustainable funding base for the Department's clean air program, Council members share a concern with respect to the large increase in fees reflected in

this proposal and its impacts on regulated facilities. In reviewing this proposal, the Council identified a series of questions that warrant further examination as this proposed rulemaking is considered, and before fee increases are finalized:

(1) The Department and EQB need to carefully consider whether all activities funded by the proposed fee schedule are necessary to adequately fulfill the Department's core roles and responsibilities in air quality protection. As seen in other programs, efforts need to be pursued to examine the entire permit review process to assure maximum efficiency in focusing reviews on the really important aspects that are core to DEP's mission. For example, concern has been expressed that some Department staff completely replicate (not just review) air quality modeling efforts, consuming time to run the same models that others have already run. In other cases, requests have been made for risk impact analyses not mandated by federal or state regulations – analyses which then engender extensive, and expensive, staff reviews.

(2) The Council suggests that the proposed rulemaking package be clarified as to whether fees will be charged for permit extensions that become necessary due to a delay in the Department's review (e.g., extension of temporary operating authority under plan approvals pending agency review of performance stack test protocols, which are predicate to approval of an operating permit).

(3) The Council suggests that language be included in §127.465(c) to allow the submission of permit applications and other documents via "reputable express services," such as Federal Express and UPS, which are commonplace and effective for this purpose. The currently proposed language only allows for submission "by hand delivery," certified mail or electronic submission. In fact, express services are frequently used by applicants, and the rules should allow for use of such services.

Subject to the foregoing comments and suggested amendments, at the meeting on July 17, 2018, the Council voted to concur with the Department's proposal to present the proposed Air Quality Fees rulemaking package to the Environmental Quality Board for publication as proposed rules, with provision for an adequate period for public comment. The Council will be most interested in seeing and reviewing those public comments before providing a recommendation on the ultimate final rulemaking proposal.

Sincerely,



Donald S. Welsh, Chair  
Citizens Advisory Council

**cc: Krishnan Ramamurthy, Director, PA DEP BAQ  
Kirit Dalal, PA DEP BAQ  
Viren Trivedi, PA DEP BAQ  
Susan Hoyle, PA DEP BAQ  
Elizabeth Davis, PA DEP BRC**



# Small Business Compliance Advisory Committee

to the Pennsylvania Department of Environmental Protection

PO Box 8468

Harrisburg, PA 17105-8468

July 25, 2018

Honorable Patrick McDonnell  
Secretary  
Department of Environmental Protection  
Rachel Carson State Office Building  
P.O. Box 2063  
Harrisburg, PA 17105-2063

Re: Proposed Rulemaking to Revise Certain Existing Air Quality Fee Schedules and Establish New Air Quality Fee Schedules (25 Pa. Code Chapters 121 and 127)

Dear Secretary McDonnell:

On July 25, 2018, the Small Business Compliance Advisory Committee (Committee) discussed the proposed rulemaking draft Annex A to amend 25 Pa. Code Chapters 121 and 127 (relating to general provisions; and construction, modification, reactivation and operation of sources). The proposed rulemaking draft Annex A amends the provisions of Chapter 127, Subchapter I (relating to plan approval and operating permit fees) to revise certain existing fees and to establish new fees to support the Department's air quality program. In addition to increasing certain existing fees for plan approval applications and operating permits, fees applicable to modifications of a plan approval or operating permit as well as an annual operating permit maintenance fee are established. Fees are also established for requests for determination of whether a plan approval is required, for claims of confidential information, for risk assessment applications, and for notifications of asbestos abatement, regulated demolition, and renovation projects.

The proposed rulemaking draft Annex A amends the existing requirements and fee schedules codified in Chapter 127, Subchapter I, and establishes new fees to ensure that fee revenue is sufficient to cover the indirect and direct costs of administering the air pollution control plan approval process, the operating permit program required by Title V of the Clean Air Act, other requirements of the Clean Air Act, and the indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, the Small Business Compliance Advisory Committee, and the Office of the Small Business Ombudsman, as required under section 6.3 of the Air Pollution Control Act (35 P.S. § 4006.3). Section 6.3 also authorizes the Board by regulation to establish fees to support the air pollution control program authorized by the Air Pollution Control Act and not covered by fees required by section 502(b) of the Clean Air Act.

A definition for the term "synthetic minor facility" is proposed for § 121.1 (relating to definitions) to support the amendments to Chapter 127, Subchapter I. Minor revisions to



§ 127.424 (relating to public notice) under Chapter 127, Subchapter F (relating to operating permit requirements) are proposed to correct an error in a cross reference. Proposed § 127.465 (relating to significant operating permit modification procedures) establishes the procedures that the owner or operator of a stationary air contamination source or facility shall follow to make a significant modification to an applicable operating permit.

The Committee voted 4-0-0 to concur with the Department's recommendation to present the proposed rulemaking amendments to the Environmental Quality Board for consideration for adoption and publication as a proposed rulemaking for public comment.

Sincerely,

Dale I. Kaplan  
Chair

A handwritten signature in black ink that reads "Dale I. Kaplan". The signature is written in a cursive style with a large, sweeping "D" and "K".

cc: Krishnan Ramamurthy, Director, PA DEP BAQ  
Susan Hoyle, PA DEP BAQ  
Susan Foster, PA DEP BAQ  
Nancy Herb, PA DEP BAQ



March 27, 2019

David Sumner  
Executive Director  
Independent Regulatory Review Commission  
333 Market Street, 14th Floor  
Harrisburg, PA 17120

Re: Proposed Rulemaking: Air Quality Fee Schedule Amendments (#7-536)

Dear Mr. Sumner:

Pursuant to Section 5(a) of the Regulatory Review Act, please find enclosed a copy of a proposed rulemaking for review by the Independent Regulatory Review Commission (Commission). This proposal is scheduled for publication in the *Pennsylvania Bulletin* on April 13, 2019, with a 66-day public comment period. The Environmental Quality Board (EQB or Board) adopted this proposal on December 18, 2018.

As required by section 502(b) of the Clean Air Act (CAA) and section 6.3 of the Air Pollution Control Act (APCA), the proposed rulemaking would amend existing requirements and fee schedules codified in Chapter 127, Subchapter I to ensure that fees are sufficient to cover the costs of administering the Air Quality Program. The proposed new and increased fees are needed to cover the Department's costs related to performing the air quality program activities required under the CAA and APCA to attain and maintain the National Ambient Air Quality Standards (NAAQS) for air pollutants, including ozone, particulate matter, lead, carbon monoxide, nitrogen dioxide, and sulfur dioxide, as well as other requirements of the CAA, APCA, and regulations promulgated thereunder. Establishing the proposed fee structure would provide financial support for continuation of the Air Quality Program and ensure continued protection of the public health and welfare of Pennsylvanians and the environment.

The Department of Environmental Protection's (Department) Air Quality Program is funded by several sources, including the General Fund, grant monies, and the Clean Air Fund (comprised of revenue received from the Title V annual emissions fee, air quality permitting fees, and imposed penalties). The Department receives a grant under Section 105 of the CAA for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards, including any activity related to planning, developing, establishing, implementing, improving, or maintaining such programs. The Department also receives a grant under Section 103 to support the PM<sub>2.5</sub> monitoring network and a grant to support specialized monitoring.



The EQB revised the Title V emission fee in 2013. At that time, the Department projected that the fee increase would not be enough to maintain the Title V fund and noted that an increase would be needed within three years. This is due, in part, because Title V emissions have reduced by 41% since 2000. This results in reduced revenue for the program, even with the revised emission fee adopted in 2013.

The Department is currently projecting a deficit for the Clean Air Fund during fiscal year 2021-22 because expenses have exceeded revenue for several years. Regulations related to the fees schedule for plan approval and operating permits activities were last revised on November 26, 1994. The last of the staged plan approval and operating permit fee increases occurred in January 2005, which were part of the 1994 amendments. The decline in interest rates paid on savings account balances has also affected the funds as the investments earn less interest in the current economy compared to the early years of the program.

Section 502(b) of the CAA requires the Commonwealth to adopt annual fees for owners or operators of all Title V (major) sources sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of Title V. The Title V program must be fully funded from fees on Title V sources. No other sources of funding, including from the general fund, can be used.

Section 6.3 of the APCA authorizes the EQB to establish fees sufficient to cover the costs of administering the air pollution control plan approval process, operating a permit program required by Title V of the CAA, other requirements of the CAA and the costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, Small Business Compliance Advisory Committee (SBCAC), and the Office of Small Business Ombudsman. Section 6.3 of the APCA also authorizes the Board to establish fees to support the costs of the air pollution control program not covered by fees required by the CAA.

Fee increases are proposed for the existing plan approval application and operating permit application fee schedules, as well as for the annual administration fee for both Title V and non-Title V (non-major) sources. New fees would be established for plantwide applicability limitation (PAL) applications, risk assessment applications, ambient air impact modeling of certain plan approval applications, request for determination (RFD) applications, and asbestos notifications. Both Philadelphia Air Management Services and Allegheny County Health Department have been charging asbestos fees since 1989. The Department is also proposing an annual maintenance fee that will replace the current yearly administration fee. The proposed rulemaking does not include an increase in the Title V emission fee beyond the yearly Consumer Price Index increase built into the existing regulation.

The Department developed the proposed fee amendments based on the actual revenue and spending history and the projected revenue and expenditures of the Air Quality Program. In addition, the Department reviewed work hours spent on various permitting activities. The proposed rulemaking would affect the owners and operators of approximately 562 Title V permitted facilities, 2,700 permitted non-Title V facilities, and 2,000 environmental remediation contractors or other entities submitting approximately 7,000 asbestos notifications annually. State and local government agencies would also be affected if they have a permitted air



March 27, 2019

contamination source. There is also a proposed RFD fee schedule that lowers the fee for small businesses as defined by the APCA.

With the proposed fees, the Air Quality Program will be able to maintain its current level of effort, gradually fill 17 vacant Title V positions, expand air monitoring in shale gas areas, and develop new and improved IT systems including ePermitting and publicly available online air quality data.

The Department worked with the Air Quality Technical Advisory Committee (AQTAC), the SBCAC, and the Citizens Advisory Council (CAC) during the development of this proposed rulemaking. The Air Quality Program staff discussed proposed fee concepts, including three Title V fee options, the Clean Air Fund fiscal analysis, and Program budget with AQTAC several times in 2017 and 2018. On June 14, 2018, AQTAC reviewed the draft proposed Annex A containing the Department's recommended fee structure and concurred with the Department's recommendation to advance the proposal to the EQB for consideration.

The Department conferred with CAC's Policy and Regulatory Oversight (PRO) Committee on June 15 and 25, 2018, and on July 17, 2018, the full CAC concurred with the Department's recommendation to advance the proposal to the EQB for consideration. On July 25, 2018, SBCAC voted to concur with the Department's recommendation to forward the proposed rulemaking to the EQB with no comments or concerns.

As set forth in the Regulatory Review Act, the Department will consider any comments and recommendations made by the Commission, as well as the House and Senate Environmental Resources and Energy Committees and public commenters, prior to final adoption of the enclosed rulemaking.

Please contact me by e-mail at [ledinger@pa.gov](mailto:ledinger@pa.gov) or by telephone at 717.783.8727 if you have any questions or need additional information.

Sincerely,



Laura Edinger  
Regulatory Coordinator

Enclosures



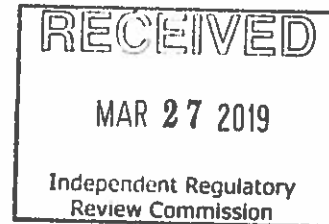


**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO  
 THE REGULATORY REVIEW ACT**

I.D. NUMBER: 7-536  
 SUBJECT: Air Quality Fee Schedule Amendments  
 AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a.  With Revisions
  - b.  Without Revisions



**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
3-27-19	<u>Regina K. Deppa</u>	Majority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY Representative Daryl Metcalfe
3/27/19	<u>Juni K. Kelle</u>	Minority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY Representative Greg Vitali
3/27/19	<u>Monica Armstrong</u>	Majority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY Senator Gene Yaw
3/27/19	<u>Carly Simpson</u>	Minority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY Senator John Yudichak
3/27/19	<u>K. Cooper</u>	INDEPENDENT REGULATORY REVIEW COMMISSION David Sumner
		ATTORNEY GENERAL (for Final Omitted only)
3/27/19	<u>Courtena Deant</u>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

