

Regulatory Analysis Form (Completed by Promulgating Agency)		INDEPENDENT REGULATORY REVIEW COMMISSION <div style="border: 2px solid black; padding: 5px; text-align: center;"> RECEIVED AUG 14 2020 Independent Regulatory Review Commission </div>	
(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 127			
(4) Short Title: Air Quality Fee Schedule Amendments			
(5) Agency Contacts (List Telephone Number and Email Address): Primary Contact: Laura Griffin, 783-8727, laurgriffi@pa.gov Secondary Contact: Jessica Shirley, 783-8727, jessshirley@pa.gov			
(6) Type of Rulemaking (check applicable box): <input type="checkbox"/> Proposed Regulation <input checked="" type="checkbox"/> Final Regulation <input type="checkbox"/> Final Omitted Regulation		<input type="checkbox"/> Emergency Certification Regulation <input type="checkbox"/> Certification by the Governor <input type="checkbox"/> Certification by the Attorney General	
(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less) <p>This final-form rulemaking amends Chapters 121 (relating to general provisions) and 127, Subchapters F and I (relating to operating permit requirements; and plan approval and operating permit fees). This final-form rulemaking amends existing requirements in Subchapter F and existing air quality plan approval and operating permit fee schedules in Subchapter I. It also establishes fees in Subchapter I to address the disparity between revenue and expenses for the Department of Environmental Protection's (Department) Air Quality Program. These amendments 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).</p> <p>The Department is establishing 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). This final-form rulemaking also amends Subchapter I to add § 127.710 (relating to fees for the use of general plan approvals and general operating permits under Subchapter H), which states that the Department may establish fees for the use of general plan approvals (GPA) and general operating permits (GP) for stationary or portable sources. The Department also adjusted the name of the annual operating permit "administration" fee to an annual operating permit "maintenance" fee that will be due on or before December 31 of each year for the following calendar year.</p> <p>The Department determined the amount for each fee by identifying the number of staff required and the approximate time necessary to complete each review or action, including the cost of salaries and benefits. The Department also compared the fees to those of the Commonwealth's approved local air pollution</p>			

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

This final-form 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 final-form 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 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 the APCA 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.

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 (\$1.73 billion in 2018 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).

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 Department's Air Quality Program is responsible for safeguarding the health and welfare of the citizens of this Commonwealth by achieving the goals of the CAA and the APCA. To achieve this, the Air Quality Program develops regulations, conducts meteorological tracking and air quality modeling studies and develops transportation control measures and other mobile source programs. The Air Quality Program also helps to improve the economic climate for firms to locate and expand in this Commonwealth through programs such as the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

The 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 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 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 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 since 2005 by 84 positions from 349 to 265, or by 24%.

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) (relating to fee determination and certification). 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 along with associated interest 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 associated interest is deposited into the Non-Title V Account. In the early years of the Title V permitting program when there were more facilities and emissions of regulated pollutants were significantly greater than today, the Clean Air Fund balance was large. After many years of drawing down this accumulated balance to cover Air Quality Program costs and expenditures that exceeded annual revenue, the Clean Air Fund balance is now approaching zero. The final-form fee amendments halt this decline in the Clean Air Fund balance and bring annual program revenue in line with annual program expenditures. To maintain solvency in the Clean Air Fund and match revenue to expenditures, the Department needs to generate additional revenue of approximately \$5.0 million for the Title V Account and \$7.7 million for the Non-Title V Account beginning by fiscal year (FY) 2020-2021 to balance the projected expenditures of \$19.2 million for the Title V Account and \$9.4 million for the Non-Title V Account (a combined total expenditure of approximately \$28.6 million).

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 fee structure will 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 final-form rulemaking.

Because deficit spending is not allowed, the Air Quality Program expenditures will need to be decreased by approximately \$13 million per year if these final-form amendments to the fee schedules are not promulgated. To address ongoing shortfalls in Clean Air Fund revenue, the Air Quality Program has seen significant reductions in staff since 2000 (111 positions or 30%). If Clean Air Fund revenue is not restored to sustainable levels, additional reductions in air quality staff at all levels in both the Bureau of Air Quality and the Department's six regional offices will be required. Conservatively, a decrease of 80 staff members, an approximately 30% reduction from current staffing levels of 265 members, 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 the required regulatory and nonregulatory SIP revisions in a timely manner. Failure to maintain an approved SIP could result in the EPA establishing a Federal Implementation Plan (FIP) for the

Commonwealth; under a FIP all fees, penalties and other revenue would be paid to the 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 fee structure is provided in Table 1 for the past year and projected through FY 2024-2025. Revenue includes Title V emission fees, major source plan approval application and operating permit fees, and associated interest. The expenditures exceeded the revenue in the Title V account in FY 2018-2019 and are projected to exceed revenues by \$4 million and rising to over \$5 million in each of the fiscal years going forward. The Title V Account is currently projected to have a decreasing ending balance, from \$20.744 million in FY 2018-2019 to negative \$9.977 million in FY 2024-2025, or a decrease of over \$30 million, as shown in Table 1.

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

	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25
	ACTUAL	BUDGET	PLAN YR 1	PLAN YR 2	PLAN YR 3	PLAN YR 4	PLAN YR 5
Beginning Balance	\$ 22,684	\$ 20,744	\$ 15,117	\$ 11,322	\$ 6,435	\$ 1,113	\$ (4,355)
Total Revenue	\$ 15,938	\$ 12,912	\$ 14,930	\$ 14,213	\$ 14,160	\$ 14,404	\$ 14,647
Total Expenditures	\$ 17,878	\$ 18,539	\$ 18,725	\$ 19,100	\$ 19,482	\$ 19,872	\$ 20,269
Ending Balance	\$ 20,744	\$ 15,117	\$ 11,322	\$ 6,435	\$ 1,113	\$ (4,355)	\$ (9,977)

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 the past year and projected through FY 2024-2025. Revenue includes plan approval application and operating permit fees for Non-Title V sources, penalties and associated interest. The expenditures exceeded the revenue in the Non-Title V Account in FY 2018-2019 and are projected to exceed revenue by approximately \$6 million and rising to over \$6.5 million in each fiscal year going forward. The Non-Title V Account balance is projected to reach zero in FY 2020-2021 with an ending deficit of about \$2.8 million and to have a deficit of around \$28 million by FY 2024-2025, as expenditures outpace revenue, as shown in Table 2.

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

	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25
	ACTUAL	BUDGET	PLAN YR 1	PLAN YR 2	PLAN YR 3	PLAN YR 4	PLAN YR 5
Beginning Balance	\$ 10,940	\$ 8,746	\$ 2,855	\$ (2,817)	\$ (8,842)	\$ (15,057)	\$ (21,468)
Total Revenue	\$ 7,175	\$ 3,644	\$ 3,740	\$ 3,575	\$ 3,577	\$ 3,577	\$ 3,577
Total Expenditures	\$ 9,369	\$ 9,535	\$ 9,412	\$ 9,600	\$ 9,792	\$ 9,988	\$ 10,188
Ending Balance	\$ 8,746	\$ 2,855	\$ (2,817)	\$ (8,842)	\$ (15,057)	\$ (21,468)	\$ (28,079)

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. 7268 (December 14, 2013). This is due, in part, because emissions subject to the Title V emission fee have decreased by 47% since 2000 and continue to decrease as more emission 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. The Title V emission fee is currently \$93.06 per ton of regulated pollutant up to 4,000 tons of any regulated pollutant, excluding carbon monoxide and greenhouse gases, for emissions reported for calendar year 2019. The Department has not made any changes to the Title V emission fee in this final-form rulemaking.

In considering the decreases in emissions subject to the Title V emission fee, the impact of fees on the regulated community, and the needs of the air quality and operating permit programs, the Department evaluated the adjustment of the annual operating permit administration fee to an annual operating permit maintenance fee, as well as increases to the other fees required under §§ 127.702—127.704. The Department adjusted the name of this fee to better describe its purpose since these annual operating permit fees are used to cover the Department’s costs for evaluating the facility to ensure that it is “maintaining” compliance, including the costs of inspections, reviewing records and reviewing permits.

The annual operating permit maintenance fee for the owner or operator of a Title V facility is \$8,000 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 annual operating permit maintenance fee is expected to generate revenue of approximately \$4 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 fees in this final-form rulemaking, including the annual operating permit 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	Projected Revenue with Annual Operating Permit Maintenance Fee of \$8,000 due by December 31, 2020 for calendar year 2021
Title V Emission Fee per ton for 2019 due on September 1, 2020	\$93.06	\$93.06
Emission Fee Revenue	\$13,995,384	\$13,995,384
Operating Permit Administration Fee per year per facility	\$750	
Operating Permit Administration Fee Revenue (30 facilities)	\$22,500	
Operating Permit Maintenance Fee per year per facility	\$0	\$8,000
Operating Permit Maintenance Fee Revenue (all facilities) annually	\$0	\$4,000,000
Number of DEP regulated facilities that pay 90% of the combined Title V Emission Fee	102	289

and Annual Operating Permit Maintenance Fee Revenue		
Other Title V Operating Permit Fee Revenue	\$412,625	\$1,371,800
Total Title V Facility Revenue	\$14,430,509	\$19,367,184

The annual operating permit maintenance fee for the owner or operator of a Non-Title V facility that is a synthetic minor is \$4,000. The annual operating permit maintenance fee for the owner or operator of a Non-Title V facility that is not a synthetic minor is \$2,000. This fee is expected to generate revenue of approximately \$5.5 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 final-form fees, including the annual operating permit 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	Projected Revenue with Annual Operating Permit Maintenance Fee due by December 31, 2020 for calendar year 2021
Plan Approval Application	\$259,000	\$605,500
Operating Permit	\$203,250	\$1,091,300
Operating Permit Administration Fee (all facilities) annually	\$787,500	
Penalties	\$2,000,000	\$2,000,000
Operating Permit Maintenance Fee (all facilities) annually		5,500,000
Requests for Determination (RFD)	\$0	\$260,000
Asbestos Notifications	\$0	\$1,500,000
Risk Assessments	\$0	\$10,000
Total Non-Title V Facility Revenue	\$3,249,750	\$10,966,800

The revenue from the increases to existing plan approval application and operating permit fees and the establishment of new fees would support: current staffing levels and restoration of a portion of the 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 amount of each fee was determined by evaluating the estimated work effort and then calculating the approximate total cost for each service. In many cases, the 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 permit fee revisions for Title V and Non-Title V facilities, when 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 healthy air quality.

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

The amendments to § 127.424(b) and (e) are needed to correct 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 this Commonwealth is in a severe nonattainment area and has different major source thresholds and applicability and permitting requirements compared to the remainder of this 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	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 increases to existing plan approval application fees in this 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 establishing 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 fee of \$75 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 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 establishing 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's final-form rulemaking includes 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. This final-form rulemaking also includes 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 risk assessment applications per year. This final-form rulemaking 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 have lower fee increases overall for plan approval application and operating permits and not increase the Title V emission fee as a result.

This final-form rulemaking establishes 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 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 assess 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 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 thereafter. Taking into account the ability to pay for some small businesses, the Department is proposing to charge \$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 thereafter 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 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 final-form 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.)

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) in the development of this 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 AQTAC on December 14, 2017. On June 14, 2018, the draft proposed Annex A containing the recommended fee schedule (Option 1) was presented. At that meeting, AQTAC concurred with the Department's recommendation to move the draft proposed rulemaking forward to the Board for consideration.

The Department presented and discussed the draft final-form Annex A with AQTAC on December 12, 2019. AQTAC concurred with the Department's recommendation to advance the final-form rulemaking to the Board for consideration. AQTAC also recommended that the Department begin, at the earliest legal opportunity, a rulemaking process so that the air quality fees explicitly address emissions of carbon dioxide as stated in its letter of concurrence, dated December 12, 2019, which accompanies this final-form rulemaking.

The Department also conferred with the Citizens Advisory Council's (CAC) Policy and Regulatory Oversight (PRO) Committee concerning the draft proposed rulemaking on June 15 and 25, 2018. The full CAC discussed the draft proposed rulemaking on July 17, 2018, and concurred with the Department's recommendation to move the draft proposed rulemaking forward to the Board for consideration. The CAC also stated in its letter of concurrence, dated July 17, 2018, a few comments and questions for the Department to consider. The Department has addressed CAC's comments and questions in this final-form rulemaking.

The Department conferred again with the CAC PRO Committee on January 6, 2020, this time presenting the draft final-form rulemaking. The full CAC discussed the draft final-form rulemaking on January 21, 2020, and concurred with the Department's recommendation to advance the final-form rulemaking to the Board for consideration.

An overview of the draft proposed rulemaking was presented to the Small Business Compliance Advisory Committee (SBCAC) on July 25, 2018, and SBCAC concurred with the Department's recommendation to move the draft proposed rulemaking forward to the Board for consideration.

Finally, the Department presented and discussed the draft final-form Annex A with SBCAC on January 22, 2020. SBCAC concurred with the Department's recommendation to move the final-form rulemaking forward to the Board for consideration.

The AQTAC, SBCAC, and CAC meetings are publicized in the *Pennsylvania Bulletin* and on the Department's website and are 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 final-form rulemaking would affect the owners and operators of air contamination sources in this 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 and 2,100 permitted Non-Title V facilities. Approximately 2,000 environmental remediation contractors submit a total of about 7,000 asbestos abatement notifications each year, of which about 5,000 are new notifications. 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 this 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 or hazardous air pollutants) to be subject to air quality permitting and inspection requirements. 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 contractors who submit 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 all Title V facilities regulated by the Department is expected to be an additional cost of approximately \$5 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 \$7 million per year, collectively.

The financial impact on the environmental remediation contractors subject to the asbestos notification fee would be approximately \$1.5 million per year, collectively.

The higher fees, however, will maintain current Air Quality 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 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 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 this Commonwealth will benefit from this final-form 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 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 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 contractors who submit 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, will be additional plan approval and operating permitting costs of approximately \$900,000 per year as well as approximately \$4 million in annual operating permit maintenance fee costs. The Department estimates that Title V small businesses, in total, will pay an additional \$820,000 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 \$1.5 million per year as well as approximately \$5.5 million in annual operating permit maintenance fee costs.

The Department estimates that Non-Title V small businesses, in total, will pay an estimated additional \$3.1 million annually.

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

The revenue from these 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 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 new fees for processing RFD 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 (\$1.73 billion in 2018 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 healthy 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% or 955,374 adults and 10.2% or 269,423 children currently suffer from asthma. This is significantly higher than the National average of 8.3% for both children and adults. A 2018 report from the Asthma and Allergy Foundation of America lists Philadelphia as the 4th 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 21st and Allentown ranked 27th. Without sufficient funding of the Department's Air Quality Program, the air pollution and the prevalence of asthma in this 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 through the inability to increase sales of products or services, and loss of tax revenue to the Commonwealth.

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

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

The anticipated additional revenue to be generated from implementation of these new and increased fees is estimated to be approximately \$13 million per year beginning 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 healthy air quality for the citizens and environment of this Commonwealth, and attract potential employees to work in this Commonwealth. This revenue to the Department would benefit the regulated community by allowing affected 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.

In comparison to the annual costs of \$13 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 2020.¹ 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 2025.² 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 are indicative of the health benefits to Commonwealth residents of attaining the 2008 and 2015 8-hour ozone NAAQS and maintaining healthy air quality throughout this 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 emission fee, due September 1, 2020, for emissions that occurred in calendar year 2019, is \$93.06 per ton for emissions of up to 4,000 tons of each regulated pollutant, except for greenhouse gases and carbon monoxide. This final-form rulemaking retains the existing Title V annual emission fee, as adjusted by the Consumer Price Index.

The additional costs starting in FY 2020-2021 for the owners and operators of Title V facilities are expected to be approximately \$5.0 million per fiscal year. These costs include increased and new fees for permit applications, permit renewals, permit revisions, and the annual operating permit maintenance fee.

The Department is also amending the Non-Title V plan approval application and operating permit fees, as well as establishing fees for processing RFD forms 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

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

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

from these new and amended plan approval application, operating permit and RFD fees is estimated to be around \$7 million per year. Revenue was estimated based on the average number of plan approval applications, operating permit applications, and RFD applications received from Non-Title V permitted owners and operators.

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

The additional costs were estimated by calculating the anticipated future fee revenue from the 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 final-form 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 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 emission fees as provided under section 6.3(f) of the APCA. However, 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 operating permit maintenance fees totaling \$104,000 (\$8,000 x 13 facilities = \$104,000). 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 fee schedule. The fees include an annual operating permit maintenance fee of \$2,000 or \$4,000 per facility (\$168,000--\$336,000 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 of \$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 approximately \$400,000 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 regulatory change.

Twenty-one 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 emission fees as provided under 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 operating permit maintenance fees totaling \$168,000 (\$8,000 x 21 facilities = \$168,000). 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 fee schedules. The fees include an annual operating permit maintenance fee of \$2,000 or \$4,000, per facility (\$72,000--\$144,000 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 \$75,600 (\$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 to be \$310,000 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 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 Department's 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.

	Current FY Year 19/20	FY+1 Year 20/21	FY+2 Year 21/22	FY+3 Year 22/23	FY+4 Year 23/24	FY+5 Year 24/25
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SAVINGS:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	0	0	0	0	0	0
COSTS:						
Regulated Community	\$15,739,098	\$27,711,323	\$27,711,323	\$27,711,323	\$27,711,323	\$27,711,323
Local Government	\$12,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000
State Government	\$16,500	\$310,000	\$310,000	\$310,000	\$310,000	\$310,000
Total Costs	\$15,767,598	\$28,421,323	\$28,421,323	\$28,421,323	\$28,421,323	\$28,421,323
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

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

Program	FY-3 (16/17)	FY-2 (17/18)	FY-1 (18/19)	FY (19/20) Budget
Title V (215-20077)	\$16,931,000	\$17,480,000	\$17,878,000	\$18,539,000
Non-Title V (233-20084)	\$8,228,000	\$8,727,000	\$9,369,000	\$9,535,000

(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 that will be subject to this final-form rulemaking may meet the definition of small business as defined by the Small Business Administration.

The Department estimates that the owners or operators of approximately 1,050 facilities that are not Title V facilities may 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 initial and revised 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 initial notifications will drop to approximately 5,000 when the fee is in place. Imposing the fee on initial notifications is anticipated to curtail over-reporting, not the number of remediation projects.

(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 final-form rulemaking. The owners and operators of subject facilities are familiar with the existing requirements for reporting and recordkeeping 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 amendments to existing plan approval application and operating permits fees and 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 fee of \$300 per notification, the Department is estimating an annual cost to these 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 \$5.8 million in increased plan approval application, operating permit and asbestos notification costs.

This final-form rulemaking includes a reduced fee for small businesses when submitting RFD forms. SBCAC members 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 has determined that the final-form fees are reasonable to cover the Department's 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 RFD applications 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 SBCAC, 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, except as may be required by the CAA or the regulations promulgated thereunder.

All owners or operators of permitted facilities will be impacted by the 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 that requires an air quality permit based on the equipment used or the type or amount of pollution emitted are not affected by this final-form 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 annual 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 a 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 final-form 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 Title V emission fee, due on September 1, 2019, for emissions that occurred in calendar year 2018, was \$91.32 per ton of emissions up to 4,000 tons of each regulated pollutant. The fee for emissions that occurred in calendar year 2019 and due on September 1, 2020, increased to \$93.06 per ton of regulated pollutant due to the required consumer price index 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 sought 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 final-form rulemaking Annex A is to leave the Title V emission fee at \$ 127.705 unchanged and collect an annual operating permit maintenance fee of \$8,000 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 operating permit 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 289 Title V facilities. The recommended option spreads the burden for supporting the Title V Operating Permit Program across almost three times as many Title V facility owners and operators as the current fee structure (289 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	Option 1 No Increase to Current Emission Fee; Annual Operating Permit Maintenance Fee of \$8,000	Option 2 Increased Emission Fee; Annual Operating Permit Maintenance Fee of \$5,000	Option 3 Increased Emission Fee; Emission Fee Floor; No Annual Operating Permit Maintenance Fee
Title V Emission Fee per ton in 2019 due on September 1, 2020	\$93.06	\$93.06	\$110.00	\$118.00
Emission Fee Floor	\$0	\$0	\$0	\$5,000
Emission Fee Revenue	\$13,995,384	\$13,995,384	\$16,388,000	\$17,687,000
Annual Operating Permit Maintenance Fee per year	\$0	\$8,000	\$5,000	\$0
Annual Operating Permit Maintenance Fee Revenue	\$0	\$4,000,000	\$2,500,000	\$0

Number of DEP regulated facilities that pay 90% of the combined Title V Emission Fee and Annual Operating Permit Maintenance Fee Revenue	102	289	206	129
Other Title V Operating Permit Fee Revenue	\$435,125	\$1,371,800	\$1,371,800	\$1,371,800
Total Title V Facility Revenue, FY 2020-2021	\$14,430,509	\$19,367,184	\$20,260,000	\$19,059,000

Two other options were considered by the Department in developing this final-form 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 operating permit 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 operating permit 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 operating permit 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 final-form rulemaking would generate revenue of roughly \$19-20 million, or an increase of approximately \$6 million over current Title V facility revenue. The fee schedules (Option 1) in this final-form rulemaking Annex A and Option 2 spread the generation of Clean Air Fund revenue across a greater number of Title V facility owners and operators due to collecting an annual operating permit maintenance fee from all Title V facility owners and operators. This option spreads the burden for supporting the Title V Operating Permit Program across 289 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 brunt of generating the total emission fee revenue collected, 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 fee schedules in this final-form rulemaking spreads the burden for supporting the Title V Operating Permit Program across 289 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, the amount of revenue generation expected, and the number of affected Title V owners and operators, the Department selected 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 due to the fact that 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 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 final-form rulemaking. The owners and operators of the affected permitted facilities are familiar with the existing requirements for reporting and recordkeeping 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 small businesses.

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

This final-form rulemaking does not include any schedules or deadlines for compliance or reporting requirements. This final-form rulemaking does however include 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 plan approval application.

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

This final-form rulemaking does not include any compliance or reporting requirements.

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

This final-form rulemaking does not include any design or operational standards.

(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 pollutants reported on an annual basis. This 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 pollutants emitted annually.

These owners and operators have been paying permanent annual 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.

This final-form rulemaking includes 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, 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 April 25, 2020, 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 April 25, 2020, 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 (NACAA). A copy is available from the Department upon request. A copy was available on the NACAA web site on April 25, 2020, at this link: http://www.4cleanair.org/sites/default/files/Documents/SummarvofData_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. A copy is available from the Department upon request. A copy was available on the Pennsylvania Asthma Partnership web site on April 25, 2020, at this link: <http://www.paasthma.org/wp-content/uploads/2013/10/Strategic-Asthma-Plan-For-PA-2015-2020.pdf>

2018 Asthma Capitals Report, The Asthma and Allergy Foundation of America (AAFA), accessed April 25, 2020, at this link: <http://www.aafa.org/media/AAFA-2018-Asthma-Capitals-Report.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 were held: | <u>May 13, 15 and 16, 2019</u> |
| C. The expected date of delivery of the final-form regulation: | <u>Quarter 3, 2020</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.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF AIR QUALITY

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 NO_x 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.

A.4 Application Fees

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

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

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 5.

- **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 H₂O:** 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. 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.

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

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 Error! Reference source not found., "Certification" on Page Error! Bookmark not defined. 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

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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

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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.

- **%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:

- a. **Unit ID:** Assign a unique ID number for this control device.
- b. **Company Designation:** Give the name of the control device as designated by the facility.
- c. **Used by Sources:** List and briefly explain all sources controlled through this control equipment.
- d. **Type:** Describe the type of control equipment (scrubber, fabric filter, ESP, etc.)
- e. **Pressure Drop in H₂O:** Provide this information, if applicable.

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- 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.

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- 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 Error! Reference source not found., "Certification" on Page Error! Bookmark not defined. 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: _____ Facility Name: _____	Federal Tax ID: _____
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: _____
Certification by Responsible Official	
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:

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.

Notes: There are four different Fees Schedules depending on what the company proposed.

1. Fees Schedule for New Plan Approval
2. Fees Schedule for Existing Plan Approval
3. Fees Schedule for State Only Operating Permit
4. Fees Schedule for Title V Operating Permit

If the company is submitting a new plan approval application, the fees schedule for a "New Plan Approval" should be used. In this form, the company should check the appropriate boxes depending on the types of review requested and pay accordingly.

Similarly, if the company is submitting a Title V Operating Permit application, the company should use the fees schedule for a "Title V Operating Permit", check all the appropriate boxes, and pay the fees required.

Please make the check payable to the "Commonwealth of PA Clean Air Fund."

Air Quality Fees Schedule

Company Information

Federal Tax ID: _____ Firm Name: _____
 Permit # (If any): _____ Plant Name: _____
 Township/Municipality: _____ County: _____
 Contact Person Name: _____ Telephone Number: _____
 E-mail: _____

New Plan Approval (The following fees are cumulative.)

Line #	Check the appropriate boxes below	Type of review requested	Fee 2021 - 2025	Total Fees
1		Subchapter B	\$2,500	\$2,500
2	<input type="checkbox"/>	New Source Review, Subchapter E	\$7,500	
3	<input type="checkbox"/>	NSPS/NESHAP /MACT standard A. # of NSPS: _____ B. # of NESHAP/MACT: _____ C. Add lines A and B: _____ D. Maximum applicable standards: <u> 3 </u> E. Enter smaller of line C or line D: _____ Multiply line E by \$2,500 and enter the amount in the "Total Fees" column.	\$2,500	
4	<input type="checkbox"/>	Case-by-Case MACT	\$9,500	
5	<input type="checkbox"/>	Prevention of Significant Deterioration (PSD) requirements. Subchapter D	\$32,500	
6	<input type="checkbox"/>	Plantwide Applicability Limit (PAL) for NSR regulated pollutants	\$7,500	
7	<input type="checkbox"/>	PAL for PSD regulated pollutants	\$7,500	
8	<input type="checkbox"/>	Risk Assessment Analysis – Inhalation only	\$10,000	
9	<input type="checkbox"/>	Risk Assessment Analysis – Multi-pathway	\$25,000	
Add Lines 1 thru 9 of Total Fees column and write it here. →				

Air Quality Fees Schedule

Company Information

Federal Tax ID: Firm Name:
 Permit # (If any): Plant Name:
 Township/Municipality: County:
 Contact Person Name: Telephone Number:
 E-mail:

Existing Plan Approval

Line #	Check the appropriate boxes below	Type of Authorization	Fee 2021 - 2025	Total Fees
1	<input type="checkbox"/>	Minor Modification	\$1,500	
2	<input type="checkbox"/>	Extension	\$750	
3	<input type="checkbox"/>	Transfer of Ownership	\$750	
4	<input type="checkbox"/>	Significant Modification, Ambient Impact Analysis	\$9,000	
5	<input type="checkbox"/>	Significant Modification, Reassessment of Control Technology	\$2,500	
6	<input type="checkbox"/>	Risk Assessment Analysis – Inhalation only	\$10,000	
7	<input type="checkbox"/>	Risk Assessment Analysis – Multi-pathway	\$25,000	
Add Lines 1 thru 7 of Total Fees column and write it here. —————▶				

Air Quality Fees Schedule

Company Information

Federal Tax ID: Firm Name:
 Permit # (If any): Plant Name:
 Township/Municipality: County:
 Contact Person Name: Telephone Number:
 E-mail:

State Only Operating Permit

Line #	Check the appropriate box below	Type of Authorization	Fee 2021 - 2025	Total Fees
1	<input type="checkbox"/>	New Application, Subchapter F	\$2,500	
2	<input type="checkbox"/>	Renewal	\$2,100	
3	<input type="checkbox"/>	Minor Modification	\$1,500	
4	<input type="checkbox"/>	Significant Modification	\$2,000	
5	<input type="checkbox"/>	Administrative Amendment / Change of Ownership	\$1,500	
6	<input type="checkbox"/>	Risk Assessment Analysis– Inhalation only	\$10,000	
7	<input type="checkbox"/>	Risk Assessment Analysis – Multi-pathway	\$25,000	
Add Lines 1 thru 7 of Total Fees column and write it here. →				

Air Quality Fees Schedule

Company Information

Federal Tax ID: Firm Name:

Permit # (If any): Plant Name:

Township/Municipality: County:

Contact Person Name: Telephone Number:

E-mail:

Title V Operating Permit

Line #	Check the appropriate box below	Type of Authorization	Fee 2021 - 2025	Total Fees
1	<input type="checkbox"/>	New Application, Subchapter G	\$5,000	
2	<input type="checkbox"/>	Renewal	\$4,000	
3	<input type="checkbox"/>	Minor Modification	\$1,500	
4	<input type="checkbox"/>	Significant Modification	\$4,000	
5	<input type="checkbox"/>	Administrative Amendment / Change of Ownership	\$1,500	
6	<input type="checkbox"/>	Risk Assessment Analysis– Inhalation only	\$10,000	
7	<input type="checkbox"/>	Risk Assessment Analysis – Multi-pathway	\$25,000	
8	<input type="checkbox"/>	Title V Operating Permit – PAL, § 127.218	\$10,000	
9	<input type="checkbox"/>	Title V Operating Permit – PAL, Subchapter D	\$10,000	
Add Lines 1 thru 9 of Total Fees column and write it here. →				



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:

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

FOR OFFICIAL USE ONLY

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: _____



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF AIR QUALITY

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.)



COMMONWEALTH OF PENNSYLVANIA
 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: _____



COMMONWEALTH OF PENNSYLVANIA
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



COMMONWEALTH OF PENNSYLVANIA
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 BUREAU OF AIR QUALITY

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***



***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 can not 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 22nd day following a submittal if a public comment is not received, or on the 29th 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

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 1 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 Mirzakhaili
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 – 57th 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



***How to Complete a Plan Approval Application
to Construct, Modify or Reactivate an Air
Contamination Source
and/or Install an Air Cleaning Device***

***Prepared by:
Bureau of Air Quality
Division of Permits (717)
787-4325
Dec 2019***

DISCLAIMER

This document describes in general the requirements of the Pennsylvania Department of Environmental Protection, Bureau of Air Quality's plan approval and operating permit program, as contained in 25 Pa.

Instructions for Plan Approval Application

Code Chapter 127. Nothing in this document alters or supersedes the requirements contained in those regulations.

To receive a copy of Title 25 of the Pennsylvania Code, Chapters 121 to 143, contact the Bureau of Air Quality, 400 Market St., 12th Floor, Harrisburg, PA 17101 or call (717) 787-9702 or visit DEP's website at www.dep.state.pa.us .

Instructions for Plan Approval Application

Introduction

Before you begin operating a new source of air pollution in Pennsylvania, you may need an air permit. This permit is a regulatory document that is legally enforceable at both federal and state levels. It covers all sources of air pollution, process equipment and air cleaning devices at your facility. In addition, the permit lists applicable rules and requirements pertaining to each source, along with operating requirements, emission limits, stack information and monitoring requirements within a facility.

The process of obtaining the air permit generally consists of two steps. First, you must obtain a construction permit, also known as a "plan approval," from the state Department of Environmental Protection (DEP) to begin construction, installation or modification of your facility. To avoid confusion, DEP uses the term "*plan approval*" throughout this manual. Historically, DEP has used this term in all of its statutes and regulations. You do not need a plan approval if the work is specifically exempt or if DEP determines it to be of minor significance. A list of exemptions is available from the regional DEP offices or can be downloaded from DEP's website, www.dep.state.pa.us (directLINK: air quality). Please refer to page seven for the list of regional offices and phone numbers.

Second, once you build your facility in accordance with the plan approval, you must obtain an operating permit. Depending on the type and size of the source, you will need either a state permit or a Title V permit. DEP generally issues this permit for a maximum five-year term, unless the regulations require a shorter time or you request a shorter term. The state operating permit is for sources that are not subject to Title V permitting requirements. Title V permits are required for major facilities that have the potential to emit air pollutants over a specific threshold as defined in both state and federal regulations. Title V may be extended to smaller facilities when the federal Environmental Protection Agency (EPA) completes further rulemaking in the future. Philadelphia and Allegheny counties have their own permitting programs, and you must submit your plans to those programs. For information about permits in Philadelphia, call (215) 823-7584. In Allegheny County, call (412) 578-8111.

Overview of Plan Approval Process

The process for obtaining a plan approval begins with gathering information and completing all requirements, such as a plan approval application form, application fees, compliance review form, proof of municipal notice, etc. You then submit the completed plan approval application, with all supporting documents, in triplicate to the regional office serving the area in which your facility is located.

DEP conducts an administrative completeness review, which generally includes checking for the appropriate signatures, filing fees, maps, notifications and application forms. The review is normally conducted within 20 days after DEP receives your application.

If everything is in order, DEP notifies you in writing that the application has been accepted for technical review. Included in this correspondence are the name and telephone number of the engineer assigned to review the application.

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If your application has incomplete or missing information, DEP will notify you by telephone or in writing. You will have a reasonable amount of time to submit the required information. If you fail to submit the information within the given time frame, DEP will deny your application.

In addition to a review by DEP's Bureau of Air Quality, the regional office sends the application to other DEP bureaus to determine whether additional permits are necessary. The regional office does this to assist you and ensure that you obtain all required environmental permits. Following these steps, the regional office initiates the technical review process.

The technical review includes the following:

- Checking for conformance with all applicable statutes and regulations
- Analyzing the proposal for potential adverse environmental impacts
- Checking for clarity and engineering soundness of the proposal
- Reviewing the submitted Compliance Review Form for existing violations
- Reviewing all comments submitted by the public

If DEP staff members find deficiencies, they will notify you by telephone or in writing. You will have a reasonable period of time to submit the missing information. If the regional office does not receive the information in the given time frame, your application will be denied. If the material you submit still fails to meet our requirements, DEP will issue a pre-denial letter. You will have one final chance to correct the deficiencies listed in this pre-denial letter. This is your last chance to submit the missing information. At the end of the given time, DEP will deny your application if the regional office does not receive the required information or if the information is inadequate.

Upon technical approval, DEP will publish a public notice in the *Pennsylvania Bulletin*. Depending on the complexity of the plan approval application, you may be required to publish a notice in a local newspaper (refer to § 127.44 and 127.45 of *Pa. Code Title 25* for more information). If you need other environmental permits, the assistant regional director's office will issue them simultaneously.

DEP renders its decision after completing the technical review. Generally, DEP will issue a plan approval within 180 days. However, a more complex application may take as much as one year. Also, plan approval applications are subject to the money-back guarantee program, which has standard, predesignated timetables for each type of application. If DEP does not review your application in the time allotted, your application fees will be returned to you. Further details are available at www.dep.state.pa.us (choose Subjects/Money Back Guarantee).

When DEP issues your plan approval, the complexity of your project determines how long you have to complete it. The plan approval will have a sufficient and reasonable amount of time to complete the project as described in your application. If you do not finish the construction, modification or installation within the approved time, you must either submit a new application or get an extension of your initial plan approval. Applications are available on the DEP website at www.dep.state.pa.us (Choose Subjects/Air Quality/Permits).

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If you are testing and or adjusting new sources and air-cleaning devices, DEP authorizes temporary operations as a condition within the plan approval.

How to Appeal a Decision by DEP

If you disagree with a decision by DEP, you can contact the regional office, or you can appeal to the Pennsylvania Environmental Hearing Board (EHB). If you do appeal, you must file the paperwork within 30 days of DEP's issuing its decision.

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General Plan Approval and Operating Permit

This is a special kind of “general permit” that covers certain categories of pollution sources that are similar in nature. DEP has determined that it can adequately regulate these sources by using standardized specifications and conditions. The primary intention for a General Plan Approval and Operating Permit is to cover a group of smaller and similar facilities. Because this permit requires less individual processing, it may be quicker to obtain after the general permit application or conditions have been drafted and subjected to public and Environmental Protection Agency (EPA) review. These applications are available from DEP’s website.

Profile of these Instructions

This instruction package is intended to assist you in submitting a complete plan approval application. Please type or print clearly in the spaces provided. If you need more space, attach separate sheets of paper to provide detailed information. Do not leave any space on the form blank. In those cases where the question is not relevant, enter “None” or “Not applicable.” Please keep a copy of the completed application for your records.

You are encouraged to contact your regional office to arrange for pre-application meetings, especially if you are filing complex applications, such as Prevention of Significant Deterioration (PSD) or New Source Review (NSR) or where multiple permits are required. See Page 7 for a list of the regional offices and phone numbers.

All plan approval applications must include a *General Information Form (GIF)*. This GIF is used in all of DEP’s bureaus, such as Air Quality, Water Quality, Waste Management, Mining, etc. A copy of the GIF and instructions (Section A through G) are available in our regional offices and central office in Harrisburg or can be downloaded from our website at www.dep.state.pa.us (directLINK: “air quality,” then choose “permits”).

There are three parts in this instruction package, as follows:

Part A: Instructions for submitting Plan Approval Application

Part B: Separate instructions for completing the more intensive sections of the “Plan Approval Application to Construct, Modify or Reactivate an Air Contamination Source and/or Install an Air Cleaning Device” for one of DEP’s 10 types of plan approvals.

**Part C: Appendix A – Glossary of Environmental Terms and Abbreviations
Appendix B – Measurement Units and Abbreviations**

Parts A and C are common for all types of plan approval applications. DEP advises you to choose the appropriate application instructions from Part B for the proposed project.

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How to download an application form

All plan approval application forms, including General Plan Approval and operating permits, compliance review form, and Addendum A for Source Applicable Requirements, are available from our World Wide Web site at www.dep.state.pa.us (directLINK: air quality, then choose "applications, permits").

Resources for obtaining emission estimate information:

The Pennsylvania ENVIROHELP website is at www.pa-envirohelp.org. The phone number is 800-7224743. ENVIROHELP is a free service to help small business people understand and comply with airpollution-control equipment. All requests for information from ENVIROHELP are handled by an outside contractor and are kept confidential.

The EPA also has information about emission estimates. Visit EPA's website at www.epa.gov.

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Part A: Instructions for submitting a Plan Approval Application

1. Application Submission

You must submit your application, with supporting documents, in *triplicate* to the appropriate regional office. DEP's six regional offices are listed below with the counties they serve:

<p>SOUTHEAST REGION</p> <p>Engineering Services Chief 2 East Main Street Norristown, PA 19401 Telephone: (484) 250-5074</p> <p>Counties: Bucks, Chester, Delaware, Montgomery</p>	<p>NORTHEAST REGION</p> <p>Engineering Services Chief Two Public Square Wilkes-Barre, PA 18711-0790 Telephone: 570-826-2538</p> <p>Counties: Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne, Wyoming.</p>
<p>SOUTHCENTRAL REGION</p> <p>Engineering Services Chief 909 Elmerton Avenue Harrisburg, PA 17110-8200 Telephone: 717-705-4868</p> <p>Counties: Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry, York</p>	<p>NORTHCENTRAL REGION</p> <p>Engineering Services Chief 208 W. Third St., Suite 101 Williamsport, PA 17701-6448 Telephone: 570-327-3638</p> <p>Counties: Bradford, Cameron, Centre, Clearfield, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga, Union.</p>
<p>SOUTHWEST REGION</p> <p>Engineering Services Chief 400 Waterfront Drive Pittsburgh, PA 15222-4745 Telephone: 412-442-4174 Fax: 412-442-4194</p> <p>Counties: Armstrong, Beaver, Cambria, Fayette, Greene, Indiana, Somerset, Washington, Westmoreland</p>	<p>NORTHWEST REGION</p> <p>Engineering Services Chief 230 Chestnut St. Meadville, PA 16335-3481 Telephone: 814-332-6940 Fax: 814-332-6940</p> <p>Counties: Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango, Warren.</p>

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You may also obtain forms, guidance documents, or general information on permitting by contacting our central office at 717-787-4325.

In addition to DEP's regional offices, Philadelphia and Allegheny counties have their own air quality programs. If the proposed source is located in either of these counties, the agency's forms can be obtained from:

Philadelphia County	Allegheny County
Department of Public Health Air Management Services 321 University Ave. Spelman Building Philadelphia, PA 19104 Telephone: 215-823-7584	Plan Review Section Allegheny County Health Department Bureau of Air Pollution Control 301 39 th St. Pittsburgh, PA 15201 Telephone: 412-578-8111

2. Plan Approval Application Forms

There are 10 plan approval application forms. Nine plan approval application forms are for specific source categories. One titled "*Processes*" is for a source that does not fall under any one of the nine specific source categories. These application forms are as follows:

1. Processes (for sources not specified below)
2. Combustion Units
3. Incineration
4. Graphic Arts (Rotogravure and Flexographic Operations)
5. Gasoline Bulk Terminals/Plants
6. Surface Coating Operations
7. VOC Storage Tanks
8. Mineral and Coal Preparation Plants
9. Degreasers
10. Batch Asphalt Plants

You should fill out one of the above application forms, depending on the type of source you are proposing. All applications must be submitted in triplicate. If applicable, you must also fill out Addendum A and Addendum B. These two addenda are as follows:

1. Addendum A: Source Applicable Requirements
2. Addendum B: Waste Derived Liquid Fuel

Each of the above plan approval applications has seven sections that concern specific air-quality requirements. Section I deals with identity and a checklist for completing the application package; Section J covers general information on the proposed source; Section K covers information on the aircleaning device; Section L deals with applicable requirements; Section M deals with demonstrating compliance; Section N covers flue and air-contaminant emissions; and Section O deals with attachments.

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When specifying capacity, process or throughput rate, emissions rate etc., use an abbreviation for the throughout the application. The abbreviations are listed here in Part C, Appendix B.

3. Municipal Notification

When you apply for a plan approval, regulations (*25 Pa. Code § 127.43a*) require you to notify the municipality and county where the pollution source will be located. The notification must include the following:

- A statement that you have submitted an application to DEP.
- A detailed description of the source and modifications that you plan to make.
- A statement that a 30-day comment period begins when the municipality and county receive the notice.

Mailing the notice is part of the application process. When you submit your application, you must submit a copy of the correspondence to the municipalities. You are then required to provide evidence that the county and municipality have received the correspondence, either through a certified-mail receipt or written acknowledgment that they have received your notification. You should send this evidence within 30 days of submitting your application.

The Commonwealth Administrative Code provides that “the written notices shall be received by the municipalities at least thirty (30) days before the Department of Environmental Protection may issue or deny the permit.” If you fail to provide a copy of the notification correspondence and subsequent evidence that the municipality received it, there will be a delay in processing your application.

4. Compliance Review

Complete a compliance review form following the instructions provided with the form, and submit it to your regional office. The form must be certified with an original signature. You can choose to submit the form at the time of the plan approval and/or operating permit approval or on a periodic basis of at least once every six months. You may only change how you do this periodic filing with DEP’s approval in writing or upon renewal of a permit application. The form and instructions are available by contacting DEP or can be downloaded from www.dep.state.pa.us. Questions about the compliance review form should be directed to your regional office or to DEP’s central office at 717-787-9257.

5. Plan Approval Fees

Plan approval fees are based on the type of review required.

Please refer to either the Air Quality Fees Schedule for a new or existing plan approval for more information.

Make the check payable to the “Commonwealth of PA Clean Air Fund.”

6. Treatment of confidential information

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All information in your application is considered public information and can be made available to anyone requesting the information except in limited circumstances. Some information in a plan approval or an operating permit is confidential, according to state law [25 Pa Code §§ 127.12(d) and 127.411(d)]. This includes information that would divulge production or sales figures or methods, processes or production unique to your facility or would otherwise adversely affect your competitive position by revealing trade secrets, including intellectual property rights. Emission data is never confidential information. Also, nothing in this section prevents the disclosure of the report, record or information to federal, state or local officials so they can administer air-pollution control laws or when relevant in any proceeding under the Air Pollution Control Act.

If you want to keep production or any other qualifying information confidential, place the information on separate pages and mark it "*confidential*," so it can be removed from the rest of the application. Our review engineer will review the information and inform you if it meets the criteria for confidentiality.

Part B

**Detailed Instructions for Completing a
“Plan Approval Application for ‘Processes’ to Construct,
Modify or Reactivate an Air Contamination Source and/or
Install an Air Cleaning Device”**

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As you fill out your plan approval application, you can use these sections to guide you through the process.

Section J: Processes Information

1. Source Information

In this section, give a brief description of the pollution source you have proposed or want to modify. Provide the manufacturer's name from the source's nameplate. If applicable, provide the nameplate information for the model number. Do not use the serial number. Also, give the number of sources you propose to install or modify and the company designation of each source (for example Furnace No. 3, Line A, etc.). Provide the maximum design rating for the source in terms of raw material and finished materials that can be maintained for extended periods, and include the nameplate rated capacity. List the types of materials processed, and provide information for the maximum operating schedule and/or operational restrictions, whichever is applicable. If you operate the proposed source seasonally, indicate the starting and ending months of operation.

2. Fuel Information

List the type and grade of fuel you will be burning (i.e., #2, #4, #6 etc.). The fuel information can be obtained from suppliers. For maximum and rated fuel firing rate, indicate the rates for all burners combined (per hour). Indicate the maximum percentage for both sulfur and ash in the fuel you plan to use. Indicate the higher heating value per unit for that fuel.

If you are using wood/wood waste, liquid petroleum gas, waste-derived liquid fuels, etc., give complete details, including physical and chemical properties and their effects on air pollution, on a separate page. Describe how these fuels will be burned. In the case of waste-derived liquid fuel, also give the maximum concentration of lead, arsenic cadmium, chromium, polychlorinated biphenyls, total halids (TX), sulfur and ash. Use abbreviations in Addendum B for this information. Describe the methods used for sampling oil and monitoring contaminants.

3. Burner Data

Provide the manufacturer's name, the burner type and the manufacturer's model number. Do not use the serial number. Indicate how many burners you have, and give the description and function of each burner. You can get this information from the manufacturer's catalogs. Indicate the rated heat input of each burner in mmBtu per hour and the maximum fuel firing rate for all burners in this unit combined (per hour). Be sure to include units (gallons/hour, cubic feet/hour, tons/hour, etc.).

Miscellaneous Information

Attach a flow diagram or sketch that includes all information requested in the application. Provide a detailed list of monitoring and recording devices, such as pressure, temperature, humidity, air flow rate, leak detector, pH and conductivity measurement device or recorder. Also, show that the monitoring and recordkeeping devices are reasonable and adequate. In addition, describe any restrictions you are

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requesting and how they will be monitored. You must also describe the proposed modification of existing sources, if any. Provide detailed information on all fugitive emission points, all relief and emergency valves and all bypass stacks, as requested in the application. You need to show how you will minimize fugitive emissions during startup, shutdown, process upsets and/or disruption. Provide anticipated milestones of the proposed source.

Section K: Air Cleaning Device

1. Precontrol Emissions

List each pollutant (particulate or gaseous pollutants, including HAPs, etc.) by estimating rates prior to entering air-cleaning devices. Precontrol emissions can be calculated at the restricted physical limitations, design limitations or operating hours. These limits will become part of the permit conditions. If you do not take any limitations, the emissions must be calculated using rated capacity, operating 24 hours per day, 365 days per year. The calculations should include flue (stack) emissions and all additional fugitive emissions from material transfer, use of parking lots and paved and unpaved roads, etc.

Precontrol Maximum design or Emissions rate 8,760 hours per Emissions = operational capacity
X per unit X year unless
 unless restricted capacity restricted

You can obtain emission rates from performance-test data, continuous-emission monitoring (CEM) data, equipment-vendor emission data, mass balance, emission factors from technical reference, AP-42, etc. Attach calculation methods used to estimate precontrol emissions for each applicable pollutant.

The precontrol emissions should be estimated as follows:

First, a source must be evaluated for the physical or design limitations. For example, this could be the fuel delivery capacity of a burner or the tonnage capacity of a kiln. Next, you should assume that a source operates 8,760 hours per year, unless you are allowed to apply for a limitation on operating hours.

Example:

= (5 gallons of paint/hour) X (2 pounds VOC/gallon) X (8,760 hours per year)
= 87,600 pounds/year
= 43.80 tons per year of VOCs

2.-13. Air Cleaning Devices

These items pertain to air cleaning devices, such as gas cooling, settling chambers, cyclone, incinerators/afterburners, fabric collector, wet collection equipment, electrostatic precipitator, adsorption equipment, absorption equipment, selective catalytic reduction/selective non-catalytic reduction/non-

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selective catalytic reduction, flares, etc. These are the common types of air cleaning devices used in a variety of industries. If the air cleaning device you propose differs from Nos. 2 through 12, use No. 13 or provide details on a separate sheet of paper. Please use only the pages for the air cleaning devices that pertain to this project. Remove remaining pages regarding air cleaning devices from the application and number the pages in the upper right hand corner, accordingly.

For reference, a glossary of some environmental terms is included in Part C. You can find technical information from manufacturers or vendors of the control equipment.

14. Cost

Provide the direct cost, indirect cost, total cost and operating cost individually for all air cleaning devices proposed. This information is useful for the permit reviewer to calculate economic feasibility of the proposed project.

Direct cost includes the property, foundations and supports, the primary control device and auxiliary equipment, handling and erection of the equipment, electrical and instrumentation work, piping, insulation and painting, etc.

Indirect cost includes legal and administrative fees, engineering costs, construction and field expenses, contractor fees, startup and performance-test costs, contingencies, etc.

Operating cost includes raw materials; utilities like electricity, fuel, steam, water and compressed air; labor; maintenance and replacement parts; overhead; property taxes; insurance; administrative charges; capital recovery; recovery credits for materials and energy; etc.

Detailed cost examples can be found in EPA's OAQPS Cost Control Manual (EPA 450/3-90-006, January, 1990) and subsequent supplements.

15. Work Practice Standards

The work practice standards require a written plan describing emission control work practices to be implemented for a new or modified existing source. This plan must include provisions for training and procedures for use of materials, processes, or operating practices to reduce or prevent emissions or waste. Work practices are implemented when performance standards are not in effect or when emission limits are violated.

List or describe any work practice standards, including maintenance, cleanup, startup and shutdown procedures, effluent/waste disposal, and controlling fugitive dust, etc.

16. Miscellaneous

Attach all information required in detail.

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Section L: Applicable Requirements

In this section, provide information related to state and federal regulations and limitations affecting the emission unit.

1. Increased Emissions

If the installation or modification of a source(s) will result in the increase of emissions from another source(s) within the plant, explain how you might have a bottleneck if one unit or activity limits the output of a multi-step process. Eliminating the bottleneck, or debottlenecking, can increase the emissions capacity of other steps. These emissions increases must be counted as part of the entire project's emissions increase. For example, if you replace a paper cutter at the end of the printing line and increase the volume of paper, resulting in more printing, emissions will increase. You must examine those increases to determine if they trigger Prevention of Significant Deterioration (PSD) or major source New Source Review (NSR) requirements. Note that the cutter has no emissions by itself, but by replacing it, a bottleneck on the printing process was removed. Another example is a steel mill that increases its capacity by modifying a vessel in the middle of the steel-making process. The application must address associated emissions increases from the entire steel mill.

2. Federal Requirements

In addition to state regulations, your proposed source may be subject to federal requirements such as Prevention of Significant Deterioration (PSD, 40 CFR Part 52), National Standards of Performance for New Stationary Sources (NSPS, 40 CFR Part 60), National Emission Standards for Hazardous Air Pollutants (NESHAP, 40 CFR Part 61), or Maximum Achievable Control Technology (MACT, CAAA 112/40 CFR Part 63). These federal regulations are adopted by reference in DEP's regulations, in Title 25, Article III.

DEP's regulations (*25 Pa Code § 127.1*) require that new sources (installed after July 1, 1972) control emissions to the maximum extent, consistent with the best available technology (BAT). You must provide justification for your selection of controls to show that BAT is being used. DEP has established general BAT guidance for a few source categories such as boilers, hospital and municipal waste incinerators, landfills, coal preparation plants, wood furniture coatings, vapor degreasers, etc. You can get this information by contacting your regional office or DEP's central office (see Page 7), or you can download it from our website: www.dep.state.pa.us.

3. PSD Pollutants

If the proposed source is located in an existing PSD facility, provide emission increases or decreases within the last five years for applicable PSD pollutants.

4. NO_x and VOC Emissions

Provide actual emission increases for nitrogen oxides (NO_x) and volatile organic compounds (VOCs) in potential to emit (PTE) figures and creditable emissions decreases that occurred after January 1, 1991, or

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November 15, 1992. DEP uses this information to determine whether a proposed source is subject to NSR regulations (*25 Pa. Code* Chapter 127, Subchapter E). You may use the attached Checklist-2 found under New Source Review Applicability on subsequent pages to determine which date to use for providing emissions increases and decreases in your plan approval application. Emissions increases include flue emissions (duct, pipe, stack, chimney, etc.), fugitive emissions, secondary emissions and emissions increases from exempted sources, etc.

Creditable emission decreases must satisfy Emission Reduction Credit (ERC) requirements, i.e. surplus, quantifiable, permanent and federally enforceable.

If the facility is located in a moderate ozone nonattainment area, and if you are using your emissions reduction in a netting analysis, submit an ERC registry application at the time of the proposed modification or use banked ERCs in an NSR applicability determination. Please note that emission reductions used to generate ERCs must submit an ERC Registry application within one year from the initiation emissions of emissions.

If your facility is in a severe ozone nonattainment area, you may elect to offset increased emissions internally by a 1.3 to 1 ratio in order to avoid NSR. If you elect this option, you should submit an ERC registry application within one year after you start to reduce emissions. This will generate ERCs that you can use either internally or externally to offset proposed emission increases.

5. NSR Requirements

Instructions below will guide you in determining whether your proposed source is subject to NSR requirements.

New Source Review (NSR) Applicability:

Introduction

The purpose of this document is to assist you in determining whether a source is subject to NSR requirements (*25 Pa. Code* Chapter 127, Subchapter E).

DEP's NSR regulations implement the federal NSR preconstruction permit requirements for a new or modified major facility. NSR requirements are pollutant specific. In other words, a facility can emit many air pollutants, but only one or a few may be subject to NSR requirements, depending on the magnitude of emissions of each pollutant. For example, a major VOC (volatile organic compound) facility is not automatically subject to NSR for NO_x unless it is also a major source for nitrogen oxide (NO_x) pollution.

Since Pennsylvania is included in the Northeast Ozone Transport Region (OTR), any new or modified major NO_x or VOC facility located in the Commonwealth must be in compliance with NSR regulations even though a county might be designated as an ozone attainment or unclassified area. NSR also applies to pollutants emitted from sources in an attainment area if they impact on a nonattainment area in excess of the levels specified in the NSR regulation.

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Table 1: Major Facility and Major Modification Threshold for NO_x and VOCs

Area Classification <i>Column A</i>	Pollutant <i>Column B</i>	Annual emission rate for a new or existing major facility tons per year (tpy) <i>Column C</i>	Modification threshold for an existing major facility <i>Column D</i>
Moderate non-attainment	NO _x	100 tpy	40 tpy or 1,000 pounds per day (lb/day) or 100 pounds per hour (lb/hr).
Moderate non-attainment	VOC	50 tpy	40 tpy or 1,000 lbs/day or 100 lb/hr.
Severe non-attainment	NO _x or VOC	25 tpy	25 tpy or 1,000 lb/day or 100 lb/hr.

Determination of NSR applicability

“Applicability determination” is the process of determining which new source requirements, including netting, apply to a facility. The following steps will identify whether or not the increase in emissions from a new or modified facility located in a moderate nonattainment area is subject to NSR.

- A. The first step is to determine what constitutes a major facility, or major modification. A major facility is one that has the potential to emit a pollutant equal to or greater than the applicable annual emissions rate specified in Table 1, Column C. For example: A facility is considered major if it is located in a moderate nonattainment area for ozone and has the potential to emit equal to or greater than 100 tpy of NO_x or 50 tpy of VOCs. A “facility” constitutes all air contamination sources located on one or more contiguous or adjacent properties and owned or operated by the same person.

Major facility modification threshold is specified in Table 1, Column D.

- B. The next step is the net emissions increase calculation, which depends on the potential to emit. To do the calculation, use either a contemporaneous period (see below) or an applicability accounting period (see below), depending on the magnitude of the potential to emit from a proposed project. These steps are referred to as netting or a netting transaction. Checklist-1 (see next page) can be used to determine whether to use contemporaneous or applicability accounting.

- *Contemporaneous Period:* You must use this period when your project’s potential to emit is equal to or greater than the modification threshold specified in Table 1, Column D. For example: Assume

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your facility is in a moderate nonattainment area for ozone. You submit a plan approval application for a project that is capable of emitting greater than 40 tpy for VOCs or NOx. In this case, you must total the project's potential to emit with all previous increases in the potential to emit and decreases in the actual emissions occurring in the contemporaneous period. That period begins five years before you begin construction of the modification, and ends when the emissions increase occurs.

- Applicability Accounting Period:* You use this period when your project's potential to emit is less than the modification threshold specified in Table 1, Column D. You determine the calculation by totaling your project's potential to emit with all previous increases in the potential to emit and decreases in the actual emissions occurring after January 1, 1991, or November 15, 1992.

You may use Checklist-2 (see next page) to determine when aggregation of emissions begins.

In both cases, emission reductions must be creditable emission decreases, which means they must be permanent, surplus, quantifiable and federally enforceable, according to ERC requirements. DEP's regulations [25 Pa. Code § 127.211(b)(3)(iii)(B)] specify the creditable emissions decreases requirements. Please note that the emissions decreases occurring at a non-adjacent facility may not be used for netting, even if the facility is under the same ownership.

- C. The final step is to compare your net emissions increase with the modification threshold listed in Table 1, Column D. If the net emissions increase is equal to or greater than the modification threshold, the proposed modification is subject to NSR. You may avoid NSR requirements if you keep your project's potential to emit at a lower level. To do so, you may install more efficient control technology or place physical or operational limitations on the proposed project, for example limit the project's potential to emit. Note that the regulations require any new source to be in compliance with BAT.

Checklist-1 for Selecting Net Emissions Increase Period to Determine NSR Applicability

- A. Is the existing facility a major facility for a nonattainment pollutant including NOx or VOC?

Yes: Proceed to C.

No: Proceed to B.

- B. Is the potential to emit from the proposed modification equal to or greater than the annual emission rate specified in the Table 1, Column C?

Yes: The modification is subject to NSR requirements.

No: The modification is not subject to NSR requirements at this time.

- C. Is the proposed modification a major modification?

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- Yes: The modification requires NSR applicability determination. Use the contemporaneous period to calculate the net emissions increase.
- No: The modification requires NSR applicability determination. Use the applicability accounting period to calculate the net emissions increase.

Checklist-2 for Selecting Aggregation Begin Date to Determine NSR Applicability

A. Is the existing facility a major facility for nitrogen oxides (NO_x)?

- Yes: The aggregation of emissions begins after November 15, 1992.
- No: Proceed to B.

B. Is this a major facility for VOCs, and was it previously subjected to 25 Pa. Code Section 127, Subchapter C (currently reserved)?

- Yes: The aggregation of emissions will begin after January 1, 1991.
- No: The aggregation of emissions may not begin until after November 15, 1992.

7. Data Used

Provide all information needed to evaluate the application thoroughly, including calculations and any other details.

Section M: Compliance Demonstration

To verify compliance with applicable requirements, DEP needs information about the type of monitoring chosen, the testing methods used and the type and frequency of recordkeeping. Note: If the facility is subject to federal Compliance Assurance Monitoring (CAM) rule requirements in the Code of Federal Regulations (CFR), 40 CFR 64, a CAM plan must be attached.

Section N: Flue and Air Contamination Emission Information

1. Estimated Atmospheric Emissions

List each pollutant (particulates or gaseous pollutants including HAPs, etc.) as discharged through pollution controls into the open air. DEP will include the estimated emissions in the permit conditions as applicable requirements. These federally enforceable emission limits become allowable emissions or potentials to emit for the source. DEP encourages you to estimate emissions in the application close to the actual emissions from that source. Attach an example of calculation methods used to estimate atmospheric emissions for each applicable pollutant.

Use the same restrictions as those listed in Section J for design, operational capacity or operating conditions.

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Atmospheric Emissions	=	Maximum design or operational capacity unless restricted	X	Emissions rate per unit capacity	X	Control system efficiency (1 minus Control Efficiency)	X	8,760 hours per year unless restricted
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Example:

= (5 gallons of paint/hour) X (2 pounds VOC/gallon) X (1- 0.8) (control system efficiency) X (8,760 hours per year)

= 2.0 tons per year.

2. Stack and Exhauster

If your source is connected to more than one stack and exhauster, make copies of the page to provide information for each stack and exhauster.

Provide the designation/identification number of the stack, stack height above grade elevation, stack diameter/outlet duct area, its distance from the nearest property line, etc. State whether the stack meets Good Engineering Practice (GEP) or not. Using a 7.5-minute topographic map published by the U.S. Geological Survey, locate your site. Enclose a site plan with buildings and their dimensions and other obstructions so we can understand the physical nature of the surrounding area for modeling (estimating) ambient air quality impacts. Indicate the volume of exhaust gas the stack can handle and the temperature and moisture percentage of the exit gases. In addition, sketch (with dimensions) the location of sampling ports with respect to an exhaust fan, breeching, etc. Provide exhauster (blower or fan) pressure drop in inch of water column (in w.g.), horsepower and revolutions per minute (RPM). **Section O: Attachments**

Number and list all attachments submitted with this application.

Part C: GLOSSARY OF ENVIRONMENTAL TERMS AND ABBREVIATIONS

Appendix A

Absorption equipment: A cleaning device in which one or more soluble components of a gas mixture are absorbed by contact with a relatively nonvolatile liquid. Examples of absorption equipment include a spray scrubber, a venturi scrubber, an orifice scrubber, a moving bed, a packed tower scrubber, etc. Absorption equipment is used in removing both particulates and pollutant gases from the exhaust stream of many industrial processes. These devices usually use water to make small, hard-to-collect particles easier to collect by incorporating them in larger water droplets. Gases can be absorbed by virtue of their solubility in water or by adding chemicals to the water.

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ACFM (Actual Cubic Feet per Minute): A measure of the volume of gas at operating temperature and pressure.

Adsorption equipment: An air-cleaning device where the contaminated air stream is passed through a layer of solid particles referred to as the adsorbent bed. As the contaminated air stream passes through the adsorbent bed, the pollutant molecules adsorb or stick to the surface of the adsorbent bed. Several adsorbent materials are used commercially as adsorbing agents. The most common adsorbent types are activated carbon, silica gel, activated alumina, zeolites or molecular sieves. Adsorber systems are used for the control of organic compounds from exhaust streams that are relatively free of particulate matter.

Afterburner: An afterburner uses one or more sets of burners in a chamber to convert combustible material (gases, vapors or odors) to carbon dioxide and water. An afterburner is commonly referred to as a Thermal Oxidizer/Thermal Incinerator.

Air cleaning device: An article, chemical, machine, equipment or other contrivance that may eliminate, reduce or control the emission of air contaminants into the atmosphere. Examples include gas conditioner; settling chambers; cyclone, catalytic or thermal afterburner; fabric collector; scrubber; electrostatic precipitator; adsorption equipment; absorption equipment; low NO_x burner; and flare.

Air dilution: A method of diluting an exhaust gas stream by adding ambient air.

Air pollutant: Any substance in air that could, if in a high enough concentration, harm man, other animals, vegetation or material. It may be in the form of solid particles, liquid droplets gases, or in a combination of these forms.

Air pollution: The presence in the outdoor atmosphere of a contaminant, including discharge from stacks, chimneys, openings, buildings, structures, open fires, vehicles or processes, or any other source of smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic, hazardous or radioactive substances or waste.

Airless spray coating: A type of application method where the coating is atomized by forcing it through a small opening at high pressure. The liquid coating is not mixed with air before exiting the nozzle.

Air spray coating: A type of application method where the coating is atomized by mixing it with compressed air.

Air to cloth (A/C) ratio: How much dirty gas passes through a given surface area of a filter in a given time. It is usually expressed in terms of [(ft³/min)/ft²].

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Alcohol substitutes: Non-alcoholic additives that contain VOCs and are used in a fountain solution. Some additives are used to reduce the surface tension of water; others (especially in the newspaper industry) are added to prevent piling (ink buildup).

Applicability determination: The process of determining which new source review requirements, including netting, apply to a modification to a facility.

Applicable requirements: Requirements that apply to any source at a Title V facility, including the following:

1. Those that have been promulgated or approved by the EPA under the Clean Air Act (CAA) or regulations adopted under the CAA through rulemaking when a Title V permit is issued and having an effective date in the future.
2. A standard provided for in the Commonwealth's state implementation plan approved by the EPA under Title I of the CAA (42 U.S.C.A. §§ 7401-7508) that implements the relevant requirements of the CAA, including revisions to that plan.
3. A term or condition of preconstruction permits issued under regulations approved or promulgated through rulemaking under Title I, including Part C or D, of the CAA.
4. A standard or other requirement under Section 111 of the CAA (42 U.S.C.A. § 7411), including Subsection (d).
5. A standard or other requirement under Section 112 of the CAA (42 U.S.C.A. § 7412), including a requirement concerning accident prevention under Subsection (r)(7).
6. A standard or other requirement of the acid rain program under Title IV of the CAA (42 U.S.C.A. §§ 7641-7651) or the regulations thereunder.
7. Requirements established under Section 504(b) or Section 114(a)(3) of the CAA [42 U.S.C.A. § 7414(a)(3)].
8. A standard or other requirement governing solid waste incineration under Section 129 of the CAA (42 U.S.C.A. § 7429).
9. A standard or other requirement for consumer and commercial products under Section 183(e) of the CAA [42 U.S.C.A. § 7511b(e)].
10. A standard or other requirement for tank vessels under Section 183(f) of the CAA.
11. A standard or other requirement of the program to control air pollution from outer continental shelf sources under Section 328 of the CAA (42 U.S.C.A. § 7627).

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12. A standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the CAA (42 U.S.C.A. §§ 7671-7671q), unless the Administrator of the EPA has determined that the requirements are not necessary in a Title V permit.
13. A national ambient air quality standard or increment or visibility requirement under Title I, Part C of the CAA, but only as it would apply to temporary sources permitted under Section 504(e) of the CAA (42 U.S.C.A. § 7661d).
14. A requirement enforceable by the EPA administrator and by citizens under the Act, limiting emissions for purposes of creating offset credits or for complying with or avoiding applicability of applicable requirements.

Applied solids: Solids that remain on the substrate being coated or painted.

Atmospheric emission: See "Actual emission."

Batch cleaning machine: A solvent cleaning machine in which individual parts or a set of parts move through the entire cleaning cycle before new parts are introduced into the solvent cleaning machine. An open-top vapor cleaning machine is a type of batch cleaning machine. A solvent cleaning machine, such as a Ferris wheel cleaner that cleans multiple batch loads simultaneously and is manually loaded, is a batch cleaning machine.

Best available technology (BAT): Equipment, devices, methods or techniques, as determined by DEP, which will prevent, reduce or control emissions of air contaminants to the maximum degree possible and which are available or may be made available.

Best Achievable Control Technology (BACT): An emission limitation based on the maximum degree of reduction for each pollutant subject to regulation under the Clean Air Act. These pollutants come from a major facility. In issuing BACT permits to control the emissions, DEP determines them on a case-by-case basis and takes into account energy, environmental and economic impacts and other costs.

Biologicals: Preparations made from living organisms and their products, including vaccines, cultures, etc., intended for use in diagnosing, immunizing or treating humans or animals or in research pertaining thereto.

Biological waste: Waste derived from living organisms.

Breakthrough capacity: The adsorption capacity of a packed bed where traces of pollutants begin to appear in the exit gas stream.

Breeching: A duct through which the products of combustion are transported from the furnace to the stack, usually applied in steam boiler.

Btu: British thermal unit. The amount of energy required to raise the temperature of a pound of water one degree Fahrenheit from 32.2⁰ Fahrenheit.

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Bubbling fluidized bed combustor: A fluidized bed combustor in which the majority of the bed material remains in a fluidized state in the primary combustion zone.

Bypass stacks: Devices used for discharging combustion gases to avoid severe damage to the airpollution control device or other equipment.

Can coating: The application of a coating material to a single walled container that is manufactured from metal sheets thinner than 29 gauge (0.0141 in.).

Capture device: A hood, enclosed room, floor sweep or other means of collecting solvent or other pollutants into a duct. The pollutant can then be directed to a pollution control device, such as an incinerator or a carbon adsorber.

Capture efficiency: The fraction of all organic vapors generated by a process that are directed to an abatement or recovery device.

Carbon adsorber: An add-on control device that uses activated carbon to adsorb volatile organic compounds from a gas stream. The VOCs may later be recovered from the carbon, usually by steam stripping.

Catalyst: A substance that causes or speeds a chemical reaction without undergoing a change or participating in the reaction.

Catalytic afterburner: A control device that oxidizes VOCs by using a catalyst to promote the combustion process.

Catalytic incinerator: A control device that oxidizes VOCs by using a catalyst to promote the combustion process. The catalyst allows the combustion process to proceed at a lower temperature (usually around 600⁰ F to 800⁰ F) than a conventional thermal incinerator would (1,100 to 1,400⁰ F), resulting in fuel savings and lower cost incineration.

Chemotherapeutic waste: All waste resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells. Chemotherapeutic waste shall not include any waste containing antineoplastic agents that are listed as hazardous waste under 25 *Pa. Code* Section 75.261 (relating to criteria, identification and listing of hazardous waste).

Circulating fluidized bed combustor: A fluidized bed combustor in which the majority of the fluidized bed material is carried out of the primary combustion zone and is transported back to the primary zone through a recirculation loop.

Clean Air Act (CAA): The CAA (42 U.S.C.A. §§ 7401-7642), and its rules and regulations.

Cleaning solution: A liquid used to remove ink and debris from the surfaces of the printing press and its parts.

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Clear coat: A transparent coating usually applied over a colored opaque coating to give improved gloss and protection to the color coat below. In some cases, a clear coat simply refers to any transparent coating without regard to substrate.

Carbon monoxide (CO): A colorless, odorless, poisonous gas produced by incomplete fossil fuel combustion. When carbon monoxide is inhaled, it replaces oxygen in the blood and impairs vision, alertness and other bodily functions. Sources of carbon monoxide include exhaust from motor vehicles, industrial processes and combustion.

Coal/RDF mixed fuel fired combustor: A combustor that fires coal and RDF simultaneously.

Coating: A protective or decorative film applied in a thin layer to a surface. This term often applies to paints, such as lacquers and enamels, but also is used when referring to films applied to paper, plastics, or foil.

Cocurrent flow: When the flow of exhaust gas and liquid are in the same direction in absorption equipment.

Cold cleaning machine: Any device or piece of equipment that contains and/or uses liquid solvent into which parts are placed to remove soils from the surfaces of the parts or to dry the parts. Cleaning machines that contain and use nonboiling solvent to clean the parts are classified as cold cleaning machines.

Combustion unit: Stationary equipment used to burn fuel primarily for the purpose of producing power or heat by indirect heat transfer.

Compliance review form: The form completed by an applicant periodically or as part of a plan approval or operating permit application to submit information about applicant's compliance status and that of related parties. This also includes information about which DEP does not know about the applicant's compliance status.

Construction: A physical assembly, installation, erection or fabrication of an air contamination source or an air pollution control device, including building supports and foundations and other support functions.

Contaminant: Any physical, chemical, biological, or radiological substance or matter that has an adverse effect on air, water or soil.

Continuous emission monitor (CEM): A CEM is a device that continuously measures the emissions from one or more source operations.

Continuous emission monitoring system (CEMS): A monitoring system for continuously sampling, conditioning (if applicable), analyzing and providing a record of emissions of a pollutant from an affected facility.

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Continuous monitoring system (CMS): CMS is a comprehensive term that may include, but is not limited to, continuous emission monitoring systems, continuous opacity monitoring systems, continuous parameter monitoring systems or other manual or automatic monitoring that is used to demonstrate compliance with an applicable regulation on a continuous basis, as defined by the regulation.

Continuous-feed incinerator: An incinerator into which solid waste is charged almost continuously to maintain a steady rate of burning.

Continuous opacity monitoring system (COMS): A continuous monitoring system that measures the opacity of emissions. Opacity is the fraction of incident light that is attenuated by an optical medium.

Continuous parameter monitoring system: This is the total equipment used to sample, condition (if applicable), analyze and provide a record of process or control-system parameters.

Controlled air incinerator: An incinerator that uses excess or starved air with two or more combustion chambers within which the amounts and distribution of air are controlled.

Conveyorized degreaser: A continuously-loaded device containing either boiling or nonboiling solvents used to clean metal parts or used in production of electronic circuit boards.

Corona: The corona is a discharge phenomenon in which gaseous molecules are ionized by electron collisions in the region of a strong electric field.

Corona power: The amount of power, or electrical energy, supplied to the electrostatic precipitator to provide the desired corona voltage and current.

Corona power density: The amount of power per unit area in a radiated electromagnetic field, usually expressed in units of watts per square feet.

Countercurrent flow: The flow of exhaust gas and liquid that are in the opposite direction in absorption equipment.

Crematory incinerator: Any incinerator designed and used solely for the burning of human remains or animal remains.

Cross flow: When, in absorption equipment, liquid is sprayed from the top of a chamber and the polluted gas flows horizontally across the chamber.

Cubic feet per minute (CFM): A measure of the volume of a substance flowing through a duct, control device or stack within a fixed period of time.

Current density: The current per-unit, cross-sectional area of a conductor, usually expressed in units of microampere per square feet.

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Cyclone collector: A control device used for collecting dust from polluted air. It is a cylindrical or conical chamber, where the dust-laden gas usually enters the chamber at the side or the top, particles separate due to centrifugal forces and settle at the bottom, and the cleaner gas exits from another opening at the top.

Daily: The discrete 24-hour period from 12 p.m. to the next 12 p.m.

Dampening system: Equipment used to deliver fountain solution to a press.

De minimis emission increase: An increase in actual or potential emissions that is below the threshold limits specified in Section 127.203 (relating to facilities subject to special permit requirements).

Demister: See Entrainment separator.

Density: The ratio of the mass of a specimen of a substance to the volume of the specimen. It is expressed in pounds per cubic foot.

Design value: The monitor reading used by the U.S. EPA to determine an area's air quality status.

Dew point: The temperature and pressure at which component of a gas begins to condense to a liquid.

Dioxins/furans: The combined emissions of tetra-through octa-chlorinated dibenzo-para-dioxins and dibenzofurans, as measured by EPA Reference Method 23.

Dry scrubber: An add-on air-pollution control system that injects a dry alkaline sorbent (dry injection) or sprays an alkaline sorbent (spray dryer) into an exhaust stream to react with and neutralize acid gases, forming a dry powder material.

Dust resistivity: The resistance of the collected dust layer to the flow of electric current. It is determined by measuring the leakage current through a dust layer to which a high voltage is applied using conductivity cells. Resistivity can be measured by a number of methods either analyzing dust samples in the laboratory or by using an in-situ resistivity probe in the field.

Electrostatic precipitator (ESP): A control device used for separating dust particles and/or mist from a polluted air stream. An electrostatic field imparts an electrical charge to the particles, causing them to adhere to metal plates inside the precipitator. ESPs have been used in many industrial application to collect particles and liquid aerosols at a very high rate of efficiency.

Emission: Emission is defined in *25 Pa. Code* Section 121.1 as an air contaminant emitted into the outdoor atmosphere.

Emission factor: The relationship between the amount of pollution produced and the amount of raw material processed. For example, an emission factor for a blast furnace making iron would be the number of pounds of particulate per ton of raw materials.

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Emission inventory: A listing, by source, of the amount of air pollutants discharged into the atmosphere. It is used to establish emission standards.

Emission standard: The maximum amount of air-pollution discharge legally allowed from a single source, mobile or stationary.

Entrainment separator (Demister): That part of a gas scrubber designed to remove entrained droplets from a gas stream by centrifugal action, by impingement on internal surfaces of the scrubber or by a bed of packing, mesh or baffles at or near the scrubber gas outlet.

Emission Reduction Credit (ERC): A permanent, enforceable, quantifiable and surplus emissions reduction that can be considered a reduction for the purpose of offsetting emissions increases.

Exempt solvent: Specified organic compounds that are not subject to the requirements of a regulation. Such solvents have been deemed by EPA to have negligible photochemical reactivity.

Fabric collector: An air-pollution control device used to trap particulates by filtering gas streams through large fabric bags. It is similar to a large vacuum cleaner. Various filter materials used are glass fibers, teflon, nylon and cotton. It is also referred to as a baghouse.

Fabric permeability: The volume of air that can be passed through one square foot of filter medium with a pressure drop of no more than 0.5 inches of water.

Facility: Facility is defined in *25 Pa. Code* Section 121.1 as an air-contamination source or a combination of air-contamination sources located on one or more contiguous or adjacent properties and which is owned or operated by the same person or persons under common control.

Felted fabric: The randomly placed fibers compressed into a mat and attached to some loosely woven backing material.

Flue: A duct, pipe, stack, chimney or conduit permitting air contaminants to be emitted into the outdoor atmosphere.

Flue-fed incinerator: An incinerator that is charged through a shaft that functions as a chute for charging waste and as a flue for conveying products of combustion.

Flue gas: The products of combustion, including pollutants, emitted to the air after a production process or combustion takes place.

Flue gas desulfurization: A technology that uses a sorbent, usually lime or limestone, to remove sulfur dioxide from the gases produced by burning fossil fuels.

Fluidized bed combustion: Oxidation of combustible material within a bed of solid, inert (noncombustible) particles which, under the action of vertical hot airflow, will act as a fluid.

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Food waste: The organic residues generated by the handling, storage, sale, preparation, cooking and serving of foods, commonly called garbage.

Fountain solution: A mixture of water, nonvolatile printing chemicals, and an additive that reduces the surface tension of the water so that it spreads easily across the printing surfaces. The fountain solution wets the non-image areas so that the ink is maintained within the image areas. Isopropyl alcohol, a VOC, is the most common additive used to reduce the surface tension of the fountain solution. This is also called wetting solution.

Fugitive air contaminant: Fugitive air contaminant is defined in *25 Pa. Code* Section 121.1 as an air contaminant of the outdoor atmosphere not emitted through a flue, including, but not limited to, industrial process losses, stockpile losses, re-entrained dust and construction/demolition activities.

Garbage: Solid waste resulting from animal, grain, fruit or vegetable matter used or intended for use as food.

Gas conditioner: A device used to cool the process gas stream before the gas goes to the air cleaning device.

Grade elevation: The vertical distance from ground level to the stack exit point, usually expressed in feet.

Hazardous air pollutant (HAP): A pollutant listed in the Clean Air Amendments of 1990, as well as any added by the U.S. EPA that may present a threat of adverse health or environmental effects. Criteria air pollutants cannot be listed as hazardous unless they meet certain conditions. Prior to the 1990 amendments, EPA issued standards for some sources of seven hazardous air pollutants: arsenic, asbestos, benzene, beryllium, mercury, radionuclides and vinyl chlorides. Also called air toxics.

Hazardous waste: A waste or a combination of wastes that may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible or incapacitating, reversible illness, posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Heating value: The amount of heat released in the oxidation of one mole of a substance at constant pressure, or constant volume.

Heat-set: Any operation where heat is required to set the printing ink. Hot-air dryers are used to deliver the heat.

Heel percent: The percentage of the contaminant that remains in the adsorbent bed after the regeneration cycle.

Hood capture efficiency: The percentage of all emissions from a process that are captured by a hood and directed into the control device.

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Hospital waste: Waste generated in any hospital or any health care facility, or any pathological wastes (except for human and animal remains burned in a crematory incinerator), chemotherapeutic wastes or infectious wastes generated in any facility.

Hospital/infectious waste incinerator: Any device specifically designed to provide the controlled combustion of hospital/infectious waste with the products of combustion directed to a flue, as defined in *25 Pa. Code* Section 121.1.

Immersion cold-cleaning machine: A cold-cleaning machine in which the parts are immersed in the solvent to be cleaned. A remote-reservoir cold-cleaning machine that is also an immersion coldcleaning machine.

Incineration: The combustion of wastes, including municipal wastes, in an enclosed device with the products of combustion directed to a flue.

Incinerator: A device used in the process of burning solid, semisolid, liquid or gaseous waste for the primary purpose of destroying matter and/or reducing the volume of the waste by removing combustible matter.

Inertial separator/collector: Pollution-control device that operates by the principle of imparting centrifugal force to the particle to be removed from the carrier gas stream. This force is produced by directing the gas in a circular path or effecting an abrupt change in direction. This is suitable for medium-sized particles (15 to 40 microns) and coarse-sized particulates and is generally unsuitable for fine dusts or metallurgical fumes. (See Cyclone Collector)

Infectious waste: Waste that contains or may contain any disease-producing microorganism or material.

Infectious wastes include, but are not limited to, the following:

1. Those wastes that are generated by hospitalized patients who are isolated in order to protect others from their communicable diseases.
2. All cultures and stocks of etiologic agents.
3. All waste blood and blood products.
4. Tissues, organs, body parts, blood and body fluids that are removed during surgery and autopsy, and other wastes generated by surgery or autopsy of septic cases or patients with infectious diseases.
5. Wastes that were in contact with pathogens in any type of laboratory work, including collection containers, culture dishes, slides, plates and assemblies for diagnostic tests; and devices used to transfer, inoculate and mix cultures.
6. Sharps, including hypodermic needles, suture needles, disposable razors, syringes, Pasteur pipettes, broken glass and scalpel blades.
7. Wastes that were in contact with the blood of patients undergoing hemodialysis at hospitals or independent treatment centers.
8. Carcasses and body parts of all animals that were exposed to zoonotic pathogens.

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9. Animal bedding and other wastes that were in contact with diseased or laboratory research animals or their excretions, secretions, carcasses or body parts.
10. Waste biologicals (e.g., vaccines) produced by pharmaceutical companies for human or veterinary use.
11. Food and other products that are discarded because of contamination with etiologic agents.
12. Discarded equipment and equipment parts that are contaminated with etiologic agents.

Inlet concentration: Gas stream concentration at inlet of control device, usually expressed in grains per dry standard cubic foot (gr/dscf) or pounds per hour (lb/hr).

Lithographic printing: A planographic method of printing, in which the print area and the non-print area are essentially in the same plane on the surface of a thin metal plate. The image area of a lithographic plate is made of a material that is ink-receptive and water-repellent, whereas the non-image area is made of a material that can be made water-receptive. The image plate is wrapped around the plate cylinder. In every revolution of the lithographic press, the plate is wetted by a dampening system with an aqueous solution, called the fountain solution; the ink is applied to the plate adhering only to the image area; the ink is transferred or offset to a rubber-covered blanket cylinder; and the rubber blanket transfers the inked image to the printing substrate.

The printing process requires the paper to be either sheet-fed or web-fed. In the sheet-fed process, the paper is cut into sheets of the proper size before being printed.

In the web-fed process, the paper is supplied to the machine in the form of rolls. At the end of the printing process, the rolls are folded and/or cut into sheets. Web-fed presses are categorized not only by size but by their ability to dry ink. Non-heatset or cold-set presses allow the ink to dry on its own. Cold-set presses can print only on uncoated stock. Heat-set presses pass the printed paper through dryers before cutting it into sheets. Methods of drying include hot air, gas-flame, ultraviolet and infrared radiation. Heat-set presses can print on coated stock.

Low NO_x burner (LNB): A low NO_x burner is one that provides internal staged combustion, thus reducing peak flame temperatures and oxygen availability.

MACT: Maximum Achievable Control Technology (40 CFR Part 63)

Mass burn refractory combustor: A combustor that burns municipal waste and/or refuse derived fuel (RDF) in a refractory wall furnace.

Mass burn rotary waterwall combustor: A combustor that burns municipal waste and/or refuse derived fuel (RDF) in cylindrical rotary waterwall furnace.

Mass transfer zone (MTZ): The mass transfer zone of an adsorbent bed is where the concentration gradient is present. It extends from the location where the concentration is saturated to where the value of concentration approaches zero. The MTZ varies, depending on the adsorbent, packing size, bed depth, gas velocity, temperature and total pressure of the gas stream.

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Method 18: An EPA test method that uses gas chromatographic techniques to measure the concentration of individual VOCs in a gas stream.

Method 24: An EPA reference method to determine density, water content and total volatile content of coatings.

Method 25: An EPA reference method to determine the VOC concentration in a gas stream.

Modification: A physical change in a source or a change in the method of operation of a source that would increase the amount of an air contaminant emitted by the source or that would result in the emission of an air contaminant not previously emitted, with the exception of routine maintenance, repair and replacement, which are not considered physical changes.

Modular excess air combustor: A combustor that burns municipal waste and/or refuse derived fuel (RDF) that is not field-erected and has multiple combustion chambers, all of which are designed to operate at conditions with combustion air in excess of theoretical air requirements.

Modular starved air combustor: A combustor that burns municipal waste and is not field-erected and has multiple combustion chambers in which the primary combustion chamber is designed to operate at substoichiometric conditions.

Moisture: The total water substance (gaseous, liquid and solid) present in a given volume of air.

Monitoring: Periodic or continuous surveillance or testing to determine the level of compliance with statutory requirements and/or pollutant levels in various media or in humans, animals or other living things.

Multiple-chamber incinerator: An incinerator that consists of two or more chambers, arranged as inline or retort types, interconnected by gas passage parts or flues.

Municipal waste incinerator: Any enclosed device designed for combustion of municipal wastes, alone or in conjunction with fossil fuel and/or wood, with the products of combustion directed to a flue, as defined in *25 Pa. Code* Section 121.1.

Municipal waste: Municipal waste, as defined by DEP's Bureau of Waste Management, that is collected by a public or private hauler from more than one waste generator, but excluding waste from construction and demolition, chemotherapy, waste that is pathological, infectious, sewage sludge, radioactive contaminated or hazardous, and other wastes excluded by the Bureau of Air Quality due to their characteristics. Air-quality permitting requirements for the excluded wastes will be established on a case-by-case basis.

NAAQS: National Ambient Air Quality Standards. (40 CFR Part 50)

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NESHAP: National Emission Standard for Hazardous Air Pollutants is a technology-based standard of performance prescribed for hazardous air pollutants from certain stationary source categories under Section 112 of the CAA. (40 CFR Part 61)

NSPS: New Source Performance Standards are an emission standards prescribed for criteria pollutants from certain stationary source categories under Section 111 of the CAA. NSPS can be found in 40 CFR 60.

New Source: A stationary air contamination source that:

1. Was constructed and commenced operation on or after July 1,1972.
2. Was modified, irrespective of a change in the amount or kind of air contaminants emitted, so that the fixed capital cost of new components exceeds 50% of the fixed capital cost that would be required to construct a comparable new source. Fixed capital cost means the capital needed to provide the depreciable components.

Nonattainment area: An area, as designated by the EPA under Section 107 of the CAA (42 U.S.C.A. §7407) in 40 CFR 81.339 (relating to Pennsylvania), that does not meet ambient air quality standards.

Non-heatset: Any operation where the printing inks are set without the use of heat. (For the purpose of this rule, ultraviolet-cured inks are considered non-heatset.)

NOx: Oxides of nitrogen or nitrogen oxides. All the oxides of nitrogen, except nitrous oxide (N₂O), which are the regulated pollutants for both the ozone and nitrogen dioxide NAAQS.

Offset: A printing process that transfers the printing image to an intermediary surface, which, in turn, transfers the image to the printing substrate.

Opacity: The degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

Open top vapor degreaser: A batch-loaded device used to clean metal parts through the condensation of organic solvent on colder metal parts.

Outlet concentration: Gas stream concentration at the outlet of a control device, usually expressed in grains per dry standard cubic foot (gr/dscf).

Overall efficiency: The percentage reduction in pollutant concentration between the inlet and outlet of the air cleaning device.

Particulate loading: The weight of solid particulate suspended in an air stream, usually expressed in terms of grains per dry standard cubic foot.

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Periodic monitoring: The collection, recording and retaining of information that can be used by the source of an emission point, in conjunction with any other relevant information, to assess source's compliance with applicable requirements.

pH: pH is a measure of hydrogen ion concentration in water. It is also a measure of the acid and alkaline content. pH values range from 0 to 14, with 7 indicating neutral water; values less than 7 have increasing acidity; and values greater than 7 have increasing alkalinity.

PPM: Parts per million. A way of expressing concentration of pollutants in air, water and soil.

Prevention of significant deterioration (PSD): A pre-construction air-pollution permit program designed to ensure that air quality does not degrade beyond NAAQS levels or beyond specified incremental amounts above prescribed baseline levels. PSD also ensures application of BACT to major stationary sources and major modifications for regulated pollutants and consideration of soils, vegetation, and visibility impacts in the permitting process. (40 CFR Part 52)

Potential emission rate: The total weight rate at which a particular air contaminant, in the absence of air cleaning devices, would be emitted per unit of time from an air-contaminant source when the source is operated at its rated capacity.

Potential to emit: The maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air-pollution control equipment and limitations on hours of operation or on the type or amount of material combusted, stored or processed shall be treated as part of the design if the limitation or the effect it would have on emissions is federally enforceable.

Predictive emission monitoring system (PEMS): A system that uses process data and other parameters in a computer program or other data-reduction system to produce values in terms of the applicable emission limitation or standard.

Press: A printing-production assembly that can be made up of one or many units to produce a finished product.

Pressure drop: A resistance to the flow of gas across a system. It is determined by measuring the difference in total pressure at two points, usually the inlet and outlet of an air-cleaning device.

Primary condenser: A series of circumferential cooling coils on a vapor cleaning machine through which a chilled substance is circulated or recirculated to provide continuous condensation of rising solvent vapors and, thereby, create a concentrated solvent vapor zone.

Process: A method, reaction or operation in which materials are handled or whereby materials undergo physical change, that is, the size, shape, appearance, temperature, state or other physical property of the material is altered. Also, process is a method, etc., whereby materials are chemically changed, that is, a substance with different chemical composition or properties is formed or created. The term can be used to describe all of the equipment and facilities necessary for the completion of the transformation of the

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materials to produce a physical or chemical change. There may be several processes in a series or parallel that are necessary to the manufacturing of a product.

Radiation and convection cooling: The use of long, uninsulated ducts to allow the process gas stream to cool as heat is released by convection and radiation from the ducts.

Rated capacity: The operating limit of a source as stated by the manufacturer of the source or as determined by good engineering judgment.

Rectifier: A device used in an electrostatic precipitator for converting alternating current into direct current.

RDF stoker: A steam-generating unit that combusts refuse derived fuel (RDF) in a semi-suspension firing mode using air-fed distributors.

Refrigerated chillers: Condensing coils located peripherally along the freeboard (slightly above the primary coils), to condense the solvent vapor before it escapes from the degreaser. This creates a sharper temperature gradient than would otherwise exist. The resulting cold air blanket reduces diffusion losses and the stable inversion layer created by the increased temperature gradient decreases upward convection of solvent laden air.

Refuse derived fuel (RDF): Municipal waste that has been processed through shredding and size classification. All classes of RDF, from low density fluff RDF to densified RDF and RDF fuel pellets, are included.

Regeneration: Any process that accomplishes a partial or complete separation of either an adsorbed substance from an adsorbent or an absorbed substance from an absorbent.

Remote reservoir cold cleaning machine: A device in which liquid solvent is pumped to a sinklike work area that drains the solvent back into an enclosed container while parts are being cleaned, allowing no solvent to pool in the work area.

Retention time: The length of time that a gas stream remains at a given temperature.

SCFM (Standard Cubic Feet Per Minute): An air flow rate at standard pressure and temperature, (i.e., 1 atmosphere and 68 °F)

Settling chamber: An expansion chamber in which gas velocity is reduced, thus allowing the particle to settle down under the action of gravity.

Sewage sludge: Solid, semisolid or liquid residue generated during the treatment of domestic sewage in a treatment facility. Sewage sludge includes, but is not limited to domestic septage; scum or solids removed in primary, secondary or advanced wastewater treatment process; and a material derived from sewage sludge. Sewage sludge does not include ash generated in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment facility.

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Sheet-fed: Any operation where paper is fed to a press in individual sheets.

Solid waste: Solid waste is garbage, refuse, and other discarded solid materials, including solid materials resulting from industrial, commercial and agricultural operations and from community activities. It includes both combustibles and noncombustible materials.

Solvent: A liquid used in a paint or coating to dissolve or disperse film-forming constituents and to adjust viscosity. It evaporates during drying and does not become a part of the dried film.

Solvent density: The weight per unit volume of a solvent or solvent mixture. This number is often used in calculating emissions of volatile organic compounds (VOCs) from coatings. Densities of common organic solvents range from 6.6 lb/gal to 9.5 lb/gal. The EPA has chosen 7.36 lb/gal as an average density of a coating solvent mixture to use in some calculations.

SOx: Sulfur oxides, sulfur dioxide and sulfur trioxide are the dominant oxides of sulfur that are present in the atmosphere. Sulfur dioxide is a heavy, pungent, colorless, gaseous air pollutant formed primarily by the industrial fossil fuel combustion process.

Specific gravity: The ratio of the density of a substance to that of water at 39.2 degrees F and to atmospheric pressure.

Spray nozzle: A device used for the controlled introduction of scrubbing liquid at predetermined rates, distribution patterns, pressures and droplet sizes.

Stack: A vertical duct or conduit that discharges exhaust gases into the atmosphere.

Substrate: The surface to which a coating is applied.

Thinner: A liquid used to reduce the viscosity of a coating and which will evaporate before or during the curing of a film.

Title V facility: A stationary air contamination source, or a group of stationary sources, located on one or more contiguous or adjacent properties, that are under the control of the same person (or persons) and belonging to a single major industrial grouping and that are described below. For the purposes of this definition, a stationary source or group of stationary sources will be considered part of a single industrial grouping if the air-contaminant emitting activities at the source or group of sources on contiguous or adjacent properties belong to the same major group, that is, all have the same two-digit code, as described in the Standard Industrial Classification Manual, 1987.

1. A major stationary source under Section 112 of the CAA, which is defined as one of the following:
 - a. For air contaminants other than radionuclides, a stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 metric tons per year (tpy) or more of any hazardous

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air pollutant, including any fugitive emissions of the pollutant, which has been listed under Section 112(b) of the CAA, 25 tpy or more of a combination of the hazardous air pollutants, including any fugitive emissions of the pollutants, or the lesser quantity as the Administrator of the EPA may establish by regulations promulgated under the CAA. Notwithstanding the preceding sentence, emissions from an oil or gas exploration or production well, with its associated equipment and emissions from a pipeline compressor or pump station, may not be aggregated with emissions from other similar units, whether or not the units are in a contiguous area or under common control, to determine whether the units or stations are a major source.

- b. For radionuclides, the meaning specified by the Administrator of the EPA in regulations promulgated under the CAA.
2. A major stationary source of air pollutants, as defined in Section 302 of the CAA (42 U.S.C.A. Section 7602), that directly emits or has the potential to emit, 100 tpy or more of any air contaminant, including a major source of fugitive emissions of the pollutant, as determined by regulations established under the CAA. The fugitive emissions of a stationary source may not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the CAA, unless the source belongs to one or more of the following categories of stationary source:
- a. Coal cleaning plants, with thermal dryers
 - b. Kraft pulp mills
 - c. Portland cement plants
 - d. Primary zinc smelters
 - e. Iron and steel mills
 - f. Primary aluminum ore reduction plants
 - g. Primary copper smelters
 - h. Municipal incinerators capable of charging more than 250 tons of refuse per day
 - i. Hydrofluoric, sulfuric or nitric acid plants
 - j. Petroleum refineries
 - k. Lime plants
 - l. Phosphate rock processing plants
 - m. Coke oven batteries
 - n. Sulfur recovery plants
 - o. Carbon black plants, furnace process
 - p. Primary lead smelters
 - q. Fuel conversion plants
 - r. Sintering plants
 - s. Secondary metal production plants
 - t. Chemical process plants
 - u. Fossil-fuel boilers, or combination thereof, totaling more than 250 million Btus per hour heat input
 - v. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
 - w. Taconite ore processing plants

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- x. Glass fiber processing plants
 - y. Charcoal production plants
 - z. Fossil-fuel-fired steam electric plants of more than 250 million Btus per hour heat input

 - aa. Other stationary source categories regulated by a standard promulgated under Sections 111 or 112 of the CAA, but only with respect to air contaminants that have been regulated for that category, when required by the CAA or the regulations thereunder
3. A major stationary source as defined in Title I, Part D of the CAA (42 U.S.C.A. §§ 7501- 7515), including:
- a. For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of VOCs or NO_x in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe" and 10 tpy or more in areas classified as "extreme."
 - b. For ozone transport regions established under Section 184 of the CAA (42 U.S.C.A. § 7511c), sources with the potential to emit 50 tpy or more of VOCs or 100 tpy or more of NO_x.
 - c. For carbon monoxide nonattainment areas that are classified as "serious," and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator of the EPA, sources with the potential to emit 50 tpy or more of CO.
 - d. For particulate matter (PM-10) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.
4. A source located at a facility that does not meet the requirements of Subparagraphs (i)-(iii) after the Administrator of the EPA completes a rulemaking requiring regulation of those sources under Title V of the CAA (42 U.S.C.A. §§ 7661-7661f).

Title V permit: An operating permit issued by DEP to a Title V facility.

Title V regulated air pollutant: For purposes of the requirements of Title V of the CAA, the term means one or more of the following:

- 1. NO_x or VOCs.
- 2. An air contaminant for which a national ambient air quality standard has been promulgated.
- 3. An air contaminant that is subject to a standard promulgated under Section 111 of the CAA.
- 4. A Class I or II substance subject to a standard promulgated under or established by Title VI of the CAA (42 U.S.C.A. §§ 7671-7671g).

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5. An air contaminant subject to a standard promulgated under Section 112 or other requirements established under Section 112 of the CAA, including Subsections (g), (j) and (r), including the following:
 - a. An air contaminant subject to the requirements under Section 112(j) of the CAA. If the Administrator of EPA fails to promulgate a standard by the date established under Section 112(e) of the CAA, an air contaminant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established under Section 112(e) of the CAA.
 - b. An air contaminant for which the requirements of Section 112(g)(2) of the CAA have been met, but only with respect to the individual source subject to Section 112(g)(2) requirements.

Top coat: The last coat applied in a coating system.

Transfer efficiency: The ratio of the amount of coating solids deposited onto the surface of the coated parts to the total amount of coating solids used, multiplied by 100 to equal a percentage.

Unit: The smallest complete component of a printing press. Each unit can print only one color.

Velocity: The rate at which a fluid is flowing in a given direction. Gas velocity is normally stated in feet per minute or feet per second and is found by dividing volume by area.

Volatile Organic Compound (VOC): An organic compound which participates in atmospheric photochemical reactions; that is, an organic compound other than those which the Administrator of the EPA designates at 40 CFR 51.100 (s) as having negligible photochemical reactivity.

Water blanket: A layer of water in the dip tank on top of the solvent, providing a vapor barrier between the solvent and the atmosphere. The solvent must be heavier than and insoluble in water.

Water quenching: Also called evaporative cooling. It is accomplished by injecting fine water droplets into a gas stream. The water droplets absorb heat from the gas stream as they evaporate.

Waterwall incinerator: An incinerator whose furnace walls consist of vertically arranged metal tubes through which water passes and absorbs the radiant energy from burning solid waste.

Web: A continuous roll of paper used as the printing substrate.

Weight percent solids: The portion of a coating that remains as part of the cured film expressed as percent by weight. This contrasts with the convention of expressing content by volume percent.

Working capacity of absorbent: The actual adsorbing capacity of the bed under operating condition.

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Woven fabric: Yarn that is woven over and under with a definite repeated pattern.

APPENDIX-B

<u>Measurement Units</u>	<u>Abbreviation</u>
Actual Cubic Feet per Minute	ACFM or acfm
British thermal units	Btu or BTU cu
Cubic foot per hour	ft/hr
Cubic Feet Per Minute	CFM or cfm
Dry standard cubic meters Dry	dscm dscf
standard cubic feet	ft/min
Feet per minute	ft/sec
Feet per second	gph
Gallons per hour	gpm
Gallons per minute	gr/dscf
Grains per dry standard cubic foot	g
Gram	g/bhp-h
Grams per Brake Horsepower-Hour	g/yr
Grams per year	KV
Kilo Volt	KVA Mg
Kilo Volt Ampere	Mg/yr
Megagram	MW m
Megagram per year	t
Megawatt	t/d or tpd
Meter	t/yr or tpy
Metric ton	mcg
Metric tons per day	□g/dscm
Metric tons per year	mmBtu/hr
Microgram	MMm ³
Micrograms per dry standard cubic meter	mv or mV
Million Btu per hour	ng ppm
Million cubic meters	
Millivolt	
Nanogram	
Parts per million	
Parts per million by volume	ppmv
Parts per million by weight	ppmwt
Pound	lb
Pounds per hour	lb/hr
Pounds per million Btu	lb/mmBtu
Pounds per million cubic foot	lb/mmcf
Pounds per square inch atmosphere	psia
Pounds per year	lb/yr
Standard Cubic Feet Per Minute	SCFM or scfm
Square feet	sq ft
Square inch	sq in
Square yard	sq yd

Instructions for Plan Approval Application

This related environmental information are available electronically via Internet. For more information, visit us through the Pennsylvania homepage at <http://www.state.pa.us> or visit DEP directly at <http://www.dep.state.pa.us> (choose directLINK "air quality").



www.GreenWorksChannel.org - A web space dedicated to helping you learn how to protect and improve the environment. The site features the largest collection of environmental videos available on the Internet and is produced by the nonprofit Environmental Fund for Pennsylvania, with financial support from the Pennsylvania Department of Environmental Protection, 800 334-3190.

2700-BK-DEP2451 6/2000



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;">Exemption from Plan Approval Select all that apply (see Instructions): http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf</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;">Exemption from Operating Permit Select all that apply (see Instructions): http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf</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>(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 http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-77119/2700-BK-DEP4103.pdf)
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):

**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.eibrary.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 type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input 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.eibrary.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.eibrary.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

H. Signature of Responsible Person or Authorized Designee (see Instructions)
(<http://www.eibrary.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:



pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Clean Air Fund Fiscal Analysis and Fee Report

December 2019
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. This 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 plan approval and operating permit application fees and Title V emission fees, has not been sufficient to cover the direct and indirect costs of administering the Commonwealth's Air Quality Program for several years. This revenue is deposited into the Department's Clean Air Fund, which contains separate accounts for the Title V and Non-Title V programs. In the early years of the Title V program when there were more facilities and emissions of regulated pollutants were significantly greater than today, the Clean Air Fund balance was large. After many years of drawing down this balance to cover Air Quality Program costs and expenditures that exceeded annual revenue, the Clean Air Fund balance is now approaching zero. The comprehensive revision of the fee schedule is designed to halt this decline in the Clean Air Fund balance and bring annual program revenue in line with annual program expenditures.

DEP's Bureau of Fiscal Management projects that without the amendments, Title V revenue will be less than \$15 million and expenditures will be approximately \$19 million and climbing to approximately \$20 million, creating a Title V revenue versus expenditure shortfall of approximately \$4 million and climbing to \$5 million in each fiscal year (FY) from 2020-2021 to 2024-2025.

The Bureau of Fiscal Management also projects a Non-Title V revenue versus expenditures shortfall of approximately \$6.0 million and climbing to approximately \$6.5 million in each FY from 2020-2021 to 2024-2025 if the fees are not amended. This is a combined revenue versus expenditures shortfall of approximately \$10 to \$11 million in each fiscal year for the Clean Air Fund.

The Clean Air Fund is projected to have a deficit of \$2.4 million in FY 2021-2022, increasing to \$38.1 million in FY 2024-2025, based on the existing fee schedules. The final-form 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 2020-2021, once the amendments are promulgated as final-form regulation in late 2020. This additional revenue is expected to restore solvency to the Clean Air Fund, bringing total program revenue in line with program expenditures. 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 CAA and the APCA 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 final-form 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, and requests for determination are designed to recover the Department's costs for these activities and provide the needed financial support to sustain the Department's Air Quality Program as well as ensure continued protection of public health and welfare and the environment.

STATUTORY AUTHORITY

This 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 final-form fee amendments 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. These pollutants harm public health and the environment and cause property damage.

The Department established an integrated Air Quality Program in 1994 and issues plan approvals and operating permits for two types of sources – major and non-major. See 48 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 or Area) sources.

The Department currently regulates approximately 500 Title V and 2,100 Non-Title V facilities in Pennsylvania not including facilities in Allegheny and Philadelphia Counties. Establishing this revised fee schedule will provide financial support to sustain 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 zero balance for the Clean Air Fund during FY 2022-2023 because program expenses have exceeded program 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 control 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.

In the early years of the Title V program when there were more facilities and emissions of regulated pollutants were significantly greater than today, the Clean Air Fund balance was large. After many years of drawing down this balance to cover Air Quality Program costs and expenditures that exceeded annual revenue, the Clean Air Fund balance is now approaching zero. As fee 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 schedule to generate revenue 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 these fee schedule amendments, the Department will be able to continue to serve the regulated community and protect the Commonwealth's quality of air. 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 revisions to the plan approval application and operating permit fee schedules and establishment of certain fees will affect the owners and operators of approximately 500 Title V facilities and approximately 2,100 permitted Non-Title V facilities under the Department's jurisdiction. This rulemaking will also impact approximately 2,000 environmental remediation contractors who submit approximately 7,000 asbestos abatement project notifications to the Department per year. Facilities and environmental remediation contractors located in Philadelphia and Allegheny Counties, which have their own approved air pollution control programs, are not included in 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_{2.5} 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 FY 2018-2019, 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 2013-14 through 2018-2019. 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. However, revenue significantly decreased from FY 2015-2016 to FY 2018-2019 as the emissions upon which fees are paid decreased. 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, but then rose in the subsequent fiscal years. Revenue from Non-Title V permitting activities, the combined Title V and Non-Title V treasury income (interest on savings accounts), and Federal grants has not changed significantly over the years.

Expenditures for the Air Quality Program are shown in Table 2. Expenditures in the Title V Account have remained relatively level. Expenditures in the Non-Title V Account have fluctuated, rising over FY 2014-2015 and FY 2015-2016 and then leveling back off in the \$9 million range. Federal Grant expenditures match the grant amounts while expenditures covered by the Department’s General Fund Appropriation rose from FY 2013-2014 to FY 2014-2015 and have generally leveled off at approximately \$8.5 million per year.

TABLE I

Air Quality Program Revenue
(in thousands of dollars)

	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19
Clean Air Fund Revenue:						
Title V	13,422	17,523	17,443	16,103	14,275	12,967
Non-Title V	1,775	2,142	2,019	1,879	1,768	1,853
Fines and Penalties	2,201	1,690	1,653	2,828	2,693	3,518
Miscellaneous	4	5	15	31	17	2
Treasury Gain/Loss	0	423	880	475	1,212	1,537
Treasury Investment Income	1,294	1,170	985	1,158	1,296	1,307
Total Clean Air Fund Revenue	18,696	22,953	22,995	22,474	21,261	21,184
Federal Grants:						
Section 103*	830	830	830	830	830	830
Section 105**	5,046	4,951	4,986	4,856	4,924	4,924
Biowatch**	359	390	372	372	372	397
Total Federal Grants	\$6,235	\$6,171	\$6,188	\$6,058	\$6,126	\$6,151
TOTAL FUNDING TOTAL	\$24,931	\$29,124	\$29,183	\$28,532	\$27,387	\$27,335

*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 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19
Clean Air Fund Expenditures						
Title V	18,413	16,870	17,373	16,976	17,480	17,878
Non-Title V	8,036	9,811	10,142	8,116	8,727	9,369
Total Clean Air Fund Expenditures	26,449	26,681	27,515	25,092	26,207	27,247
Federal Grant Expenditures						
Section 103*	830	830	830	830	830	830
Section 105**	5,046	4,951	4,986	4,856	4,924	4,924
Biowatch**	359	390	372	372	372	397
Total Federal Grant Expenditures	6,235	6,171	6,188	6,058	6,126	6,151
General Fund Expenditures	5,231	7,991	8,894	8,239	8,484	8,650
TOTAL EXPENDITURES	\$37,915	\$40,843	\$42,597	\$39,389	\$40,817	\$42,048

*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 2013-2014 through 2018-2019. Tables 3 and 4 illustrate actual revenue and expenditures for FY 2018-2019 and projected revenue and expenditures for fiscal years 2019-2020 (current) through 2024-2025. As shown in Tables 3 and 4, expenditures in both Clean Air Fund accounts exceeded 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 reach a zero balance sometime during FY 2023-2024 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 fee schedule is provided in Table 3 for the past, current and projected fiscal years 2024-2025. Revenue includes Title V emission fees, major source plan approval application and operating permit fees, and interest on the Title V Account balance. The expenditures exceeded the revenue in the Title V account in FY 2018-2019 and are projected to exceed revenues in each fiscal year going forward by approximately \$4 million and rising to over \$5 million, depleting the remaining balance. The Title V Account is currently projected to have a decreasing ending balance, from \$20.744 million in FY 2018-2019 to zero sometime in FY 2023-2024, as shown in Table 3.

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

	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25
	ACTUAL	BUDGET	PLAN YR 1	PLAN YR 2	PLAN YR 3	PLAN YR 4	PLAN YR 5
Beginning Balance	\$ 22,684	\$ 20,744	\$ 15,117	\$ 11,322	\$ 6,435	\$ 1,113	\$ (4,355)
Total Revenue	\$ 15,938	\$ 12,912	\$ 14,930	\$ 14,213	\$ 14,160	\$ 14,404	\$ 14,647
Total Expenditures	\$ 17,878	\$ 18,539	\$ 18,725	\$ 19,100	\$ 19,482	\$ 19,872	\$ 20,269
Ending Balance	\$ 20,744	\$ 15,117	\$ 11,322	\$ 6,435	\$ 1,113	\$ (4,355)	\$ (9,977)

NON-TITLE V ACCOUNT

A comparison of the revenue and expenditures (in thousands) for the Non-Title V Account based on the existing fee schedule is provided in Table 4 for the past, current and projected fiscal years through 2024-2025. Revenue includes plan approval application and operating permit fees for Non-Title V sources, fines and penalties for both Title V and Non-Title V facilities, and interest on the Non-Title V Account balance. The expenditures exceeded the revenue in FY 2018-2019 and are projected to exceed the revenue in the Non-Title V Account in the current FY and each future fiscal year by approximately \$6.0 million and rising to over \$6.5 million, depleting the remaining balance. The Non-Title V Account balance is projected to reach zero sometime in FY 2020-2021, as shown in Table 4, as expenditures outpace revenue.

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

	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25
	ACTUAL	BUDGET	PLAN YR 1	PLAN YR 2	PLAN YR 3	PLAN YR 4	PLAN YR 5
Beginning Balance	\$ 10,940	\$ 8,746	\$ 2,855	\$ (2,817)	\$ (8,842)	\$ (15,057)	\$ (21,468)
Total Revenue	\$ 7,175	\$ 3,644	\$ 3,740	\$ 3,575	\$ 3,577	\$ 3,577	\$ 3,577
Total Expenditures	\$ 9,369	\$ 9,535	\$ 9,412	\$ 9,600	\$ 9,792	\$ 9,988	\$ 10,188
Ending Balance	\$ 8,746	\$ 2,855	\$ (2,817)	\$ (8,842)	\$ (15,057)	\$ (21,468)	\$ (28,079)

CLEAN AIR FUND ENDING BALANCES

Table 5 shows the projected negative balance in the Clean Air Fund during FY 2022-2023 and later based on the existing fee schedules.

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

	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25
	ACTUAL	BUDGET	PLAN YR 1	PLAN YR 2	PLAN YR 3	PLAN YR 4	PLAN YR 5
Title V Ending Balance	\$ 20,744	\$ 15,117	\$ 11,322	\$ 6,435	\$ 1,113	\$ (4,355)	\$ (9,977)
Non-Title V Ending Balance	\$ 8,746	\$ 2,855	\$ (2,817)	\$ (8,842)	\$ (15,057)	\$ (21,468)	\$ (28,079)
Clean Air Fund Ending Balance	\$ 29,490	\$ 17,972	\$ 8,505	\$ (2,407)	\$ (13,944)	\$ (25,823)	\$ (38,056)

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 expenditures for the Title V Account were \$17,878,000 for FY 2018-2019. Salaries and benefits for the Title V Account were estimated at \$14,626,000 for FY 2018-2019 and represented approximately 82% of all expenditures in the account. As of December 2019, there are 194 positions on the authorized Title V complement: 182 positions statewide in the Air Quality Program and 12 positions in the following areas of the Department: Office of Chief Counsel; Special Investigations; Small Business; 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 expenditures for the Non-Title V Account were \$9,369,000 for FY 2018-2019. The Non-Title V Account budget for FY 2018-2019 included \$1,633,000 for Air Quality Program personnel costs, which represented approximately 17% of the expenditures from the account. In addition, in FY 2018-2019 the Non-Title V Account paid \$329,000 in information technology costs and \$3,860,000 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 not filling open staff positions, reducing or eliminating contracts by bringing specialized work inside the program, reducing or eliminating grants, optimizing the ambient air quality monitoring network, 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. 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 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 application 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 (\$1.73 billion in 2018 if not obligated for projects approved by the Federal Highway Administration). The final-form amendments to the Title V plan approval application and operating permit fees would avoid 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 consists of 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

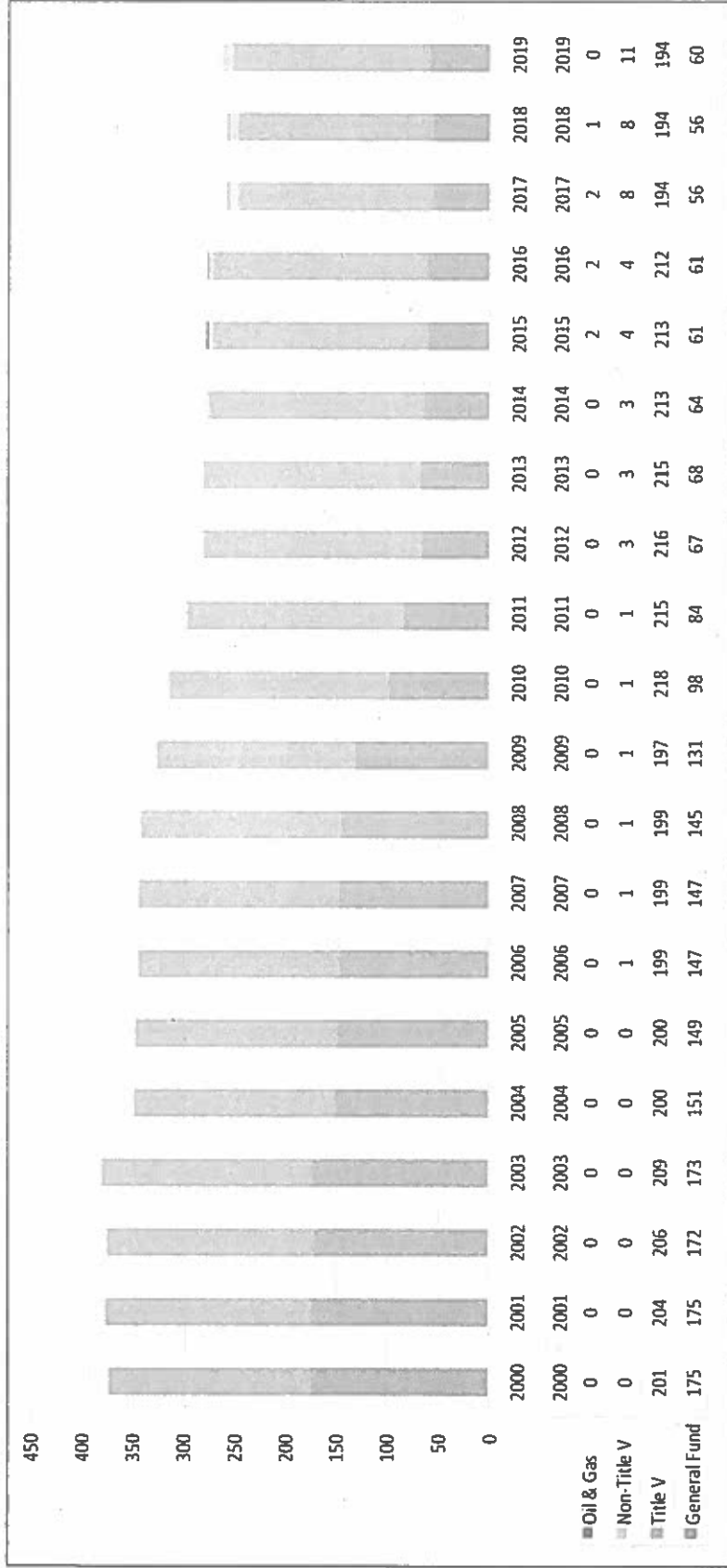
As of December 2019, there were 265 positions on the Air Quality complement, including Title V, Non-Title V, and General Fund positions. These positions consist of managers, engineers, air monitoring equipment specialists, inspectors, program specialists, compliance specialist, chemists and administrative support 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 105 permanent positions, of which 96 were filled and 9 were vacant.

Field Operations includes six regional offices that have a combined total of 157 positions, of which 17 are vacant. The number of staff in each regional office as of December 2019, were as follows: Northwest Regional Office had a total of 24 positions, with 23 filled and 1 vacant; Southwest Regional Office had a total of 26 positions, with 23 filled and 3 vacant; Northcentral Regional Office had a total of 18 positions, with 17 filled and 1 vacant; Southcentral Regional Office had a total of 29 positions, with 27 filled and 2 vacant; Northeast Regional Office had a total of 24 positions, with 21 filled and 3 vacant; and Southeast Regional Office had a total of 36 positions, with 29 filled and 7 vacant.

In addition to the staff in the Bureau of Air Quality and Field Operations, there are also 3 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: 2 staff in the Small Business Ombudsman Office and 1 person in DEP's Grants Center. It should be noted that other DEP staff provide support to the Air Quality Program but sit on the General Fund complement. Some are paid by the General Fund while others are paid from either the Title V or Non-Title V appropriation based upon the timesheets they complete.

Graph 1 shows the total number of Air Quality Program staffing positions and the complement upon which they sit since 2000. As of December 2019, there were 265 positions on the Air Quality complement. For comparison, in 2000, there were 376 positions on the Air Quality complement.

GRAPH 1
Air Quality Staffing
2000-2019



WORKLOAD ANALYSIS AND PERSONNEL COSTS

Tables 3 and 4 show projected shortfalls in Title V revenue versus expenditures of approximately \$4 million and Non-Title V revenue versus expenditures of approximately \$6.0 million, respectively, or a combined revenue versus expenditures shortfall of approximately more than \$10.5 million. 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 revising existing fees for plan approval application and operating permit activities and establishing fees for certain activities for which the costs are currently absorbed by the existing fee revenue.

Prior to developing the 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, the analysis of the staff time directly associated with the review and issuance of plan approvals and operating permits did 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 activity 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 issues approximately 175 plan approvals per year to the

owners or operators of major and nonmajor facilities which are not subject to NSPS, NESHAP, MACT, NSR, or PSD review.

TABLE 6
Plan Approval Application Review Hours

Plan Approval	Review Hours
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 issues approximately 80 plan approvals per year with NSPS and MACT standards.

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 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 a plan approval application that is subject to NSR regulation. The Department issued 3 NSR plan approvals in 2018.

TABLE 9
Plan Approval Application Review Hours for NSR

NSR	Review Hours
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
Estimated Hours	343

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 a plan approval application with a modification, extension, or transfer of ownership. The Department issued 25 modifications and 361 extensions in 2018.

TABLE 10
Other Plan Approval Application Action Review Hours

	Review Hours
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 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 52 new Non-Title V permits in 2018.

TABLE 11

Non-Title V Operating Permit Review Hours

	Review Hours
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 a Non-Title V operating permit.

Table 12 provides the estimated review hours for a Non-Title V operating permit amendment or minor modification. The Department renewed 395, amended 95, and modified 12 Non-Title V operating permits in 2018.

TABLE 12

Other Non-Title V Operating Permit Review Hours

	Review Hours
Non-Title V Operating Permit - Amendment	28
Non-Title V Operating Permit - Minor Modification	28

Table 12 represents that the Non-Title V permit amendment time is approximately \$1,630 of personnel costs and 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 a Title V operating permit.

(Note: "permit issuance" includes section and division chiefs' review including public notices and comment/response document.) The Department issued 11 new Title V operating permits in 2018.

TABLE 13

Title V Operating Permit Review Hours

	Review Hours
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 a Title V operating permit administrative amendment, minor modification, major modification, or renewal. An administrative amendment includes a transfer of ownership. The Department renewed 73, amended 59, and modified 52 Title V operating permits in 2018.

TABLE 14
Other Title V Operating Permit Review Hours

	Review Hours
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 establishing 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 a separate fee 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 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 fee will be \$300 for notifications filed during calendar years 2020—2025; \$400 for initial notifications filed during calendar years 2026—2030; and \$500 for notifications filed for the calendar years beginning with 2031. The fees for asbestos abatement or regulated demolition or renovation project notifications will 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, Philadelphia AMS, and ACHD. For comparison purposes, Philadelphia County receives about 1,800 asbestos notifications per year and Allegheny County receives about 1,200 per year. Philadelphia County receives revenue of approximately \$300,000 annually from asbestos notification fees; Allegheny County received revenue of approximately \$520,000 in calendar year 2019 from asbestos notification fees.

REQUESTS FOR DETERMINATION

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

GENERAL PLAN APPROVAL AND GENERAL OPERATING PERMIT

The Department has developed and issued 19 General Plan Approvals and General Operating Permits (GP) since 1996. Issuance of a general plan approval or general operating permit and applications for authorization to use a general plan approval or general operating permit are regulated 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 Department issued 370 authorizations to use GP in 2018. This rulemaking establishes 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 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).

FACILITY INSPECTIONS

Each type of facility described above requires 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. Because of staff shortages this has not been happening since the mid-2000s. 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 the inspection report.

TABLE 15
Facility Inspections

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

Table 15 represents the following: 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 FINAL-FORM 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)

Plan Approval Application Fees	Section	Current Fee
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
Operating Permit Fees Under Subchapter E (Non-Title V Facilities)		
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
Title V Operating Permit Fees Under Subchapter G		
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

FINAL-FORM 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)

This 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 amended 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 will be due on or before December 31 of each year for the succeeding calendar year.

Assessed plan approval application fees will consist of a base fee plus additional 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 2021-2025 with one applicable NSPS and one applicable NESHAP will 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 will pay the base fee plus the fees for a maximum of three additional applicable standards. The Department's permitting review will include all applicable standards even though the applicant only pays for a maximum of three.

The 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, and Requests for Determination).

TABLE 17
Final-Form Air Quality Fee Schedule for Title V Facilities
(Major Facilities Account)

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

TABLE 18

**Final-Form Air Quality Fee Schedule for Non-Title V Facilities
(Non-Major Facilities Account)**

Non-Title V Facilities Account			2021 - 2025	2026 - 2030	2031+
Description of Activity	Section	Current Fee	New Fee	New Fee	New Fee
Plan Approval Application Fee, Subchapter B	127.702(b)	\$1,000	\$2,500	\$3,100	\$3,900
Plan Approval – Review of NSPS/NESHAPs/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)(1)	\$0	\$9,000	\$11,300	\$14,100
Plan Approval – Significant Modification, Reassessment of control technology	127.702(j)(2)	\$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	\$4,000	\$5,000	\$6,300
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

Final-Form Air Quality Fee Schedule for Risk Assessments, Asbestos Notifications and Requests for Determination.

Fees at §§ 127.702, 127.708 and 708			2021 - 2025	2026 - 2030	2031+
Description of Activity	Section	Current Fee	New Fee	New Fee	New Fee
Risk Assessment Analysis – Inhalation only	127.702(k)(1)	\$0	\$10,000	\$12,500	\$15,600
Risk Assessment Analysis – Multi-pathway	127.702(k)(2)	\$0	\$25,000	\$31,300	\$39,100
Asbestos Notification	127.708	\$0	\$300	\$400	\$500
Request for Determination (RFD) Form – At small business stationary source (Section 3 of the APCA)	127.709(1)	\$0	\$400	\$500	\$600
RFD – Not a small business stationary source under § 127.709	127.709(2)	\$0	\$600	\$800	\$1,000

SUMMARY OF PERSONNEL COSTS, CURRENT FEES, AND FINAL-FORM FEES

Table 20 compares the personnel costs to perform each plan approval application or operating permit activity with the current fees and the final-form 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 final-form 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 final-form 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 final-form 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 Final-Form Fee Per Activity

Description of Activity	Section	Average Time (hrs), Tables 6—14	Cost based on average salary including benefits, Tables 6—14	Current Fee, Table 16	Final 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	\$4,000
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	\$8,000
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	127.702(k)(1)	-	-	\$0	\$10,000
Risk Assessment Analysis – Multi-pathway	127.702(k)(2)	-	-	\$0	\$25,000
Asbestos Notification	127.708	-	-	\$0	\$300
Request for Determination (RFD) Form – At small business stationary source (Section 3 of the APCA)	127.709(1)	-	-	\$0	\$400
RFD – Not a small business stationary source under § 127.709	127.709(2)	-	-	\$0	\$600

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 a State's Title V operating permit program, 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 respective 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;

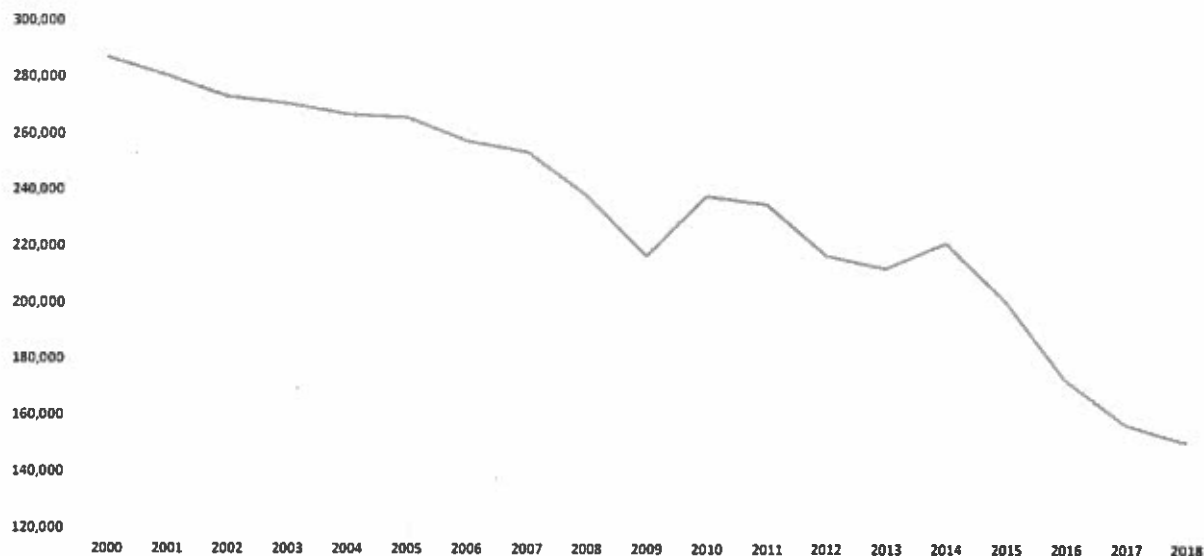
inspections and complaint investigations; and preparing emission inventories and tracking emissions. Direct and indirect program costs include personnel costs; operating expenses such as electricity, telecommunications, travel, auto supplies, and fuel; and the purchase of fixed assets such as air samplers and monitoring equipment, vehicles, and trailers.

However, Title V emission fee revenues have been decreasing annually due to decreasing emissions of regulated pollutants. These decreased emissions are due to several factors including 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 control 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 emission fee or other fees 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. The emissions data was retrieved from the Department's air emissions Point Source Inventory in September 2019.

GRAPH 2
Title V Facility Total Emissions, 2000 through 2018
(Tons)



ANNUAL OPERATING PERMIT ADMINISTRATION FEE AND ANNUAL OPERATING PERMIT 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 operating permit maintenance fee to amend the annual operating permit 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 operating permit administration fee amounts were set in 2005 and have not increased since then.

The revenue generated from the annual operating permit administration fees does not adequately cover the costs of Department services provided to facility owners and operators for this fee. These fees are used to cover some of the Department’s costs for evaluating the facility to ensure that it is ‘maintaining’ compliance, including the costs of inspections, reviewing records, and reviewing permits. To remedy this, the Department will stop collecting the annual operating permit administration fee and instead collect an annual operating permit maintenance fee. This annual operating permit maintenance fee for Title V, synthetic minor and natural minor facilities is designed to cover 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 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 OPERATING PERMIT ADMINISTRATION FEE VERSUS ANNUAL OPERATING PERMIT MAINTENANCE FEE

The annual operating permit 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 operating permit administration fee for the 30 affected Title V owners and operators generates revenue of only \$22,500.

The annual operating permit maintenance fee for the owner or operator of a Title V facility is \$8,000 for calendar years 2021-2025. This fee applies 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 fee is expected to generate revenue of approximately \$4 million from the 500 Title V facility owners and operators for calendar years 2021-2025. Table 21 illustrates the revenue generated from existing emission fees compared to anticipated revenue generated from the emission fees and the annual operating permit maintenance fee.

TABLE 21

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

	Current Fees	Projected Revenue with Annual Maintenance Fee of \$8,000 due by December 31, 2020 for calendar year 2021
Title V Emission Fee per ton for 2019 due on September 1, 2020	\$93.06	\$93.06
Emission Fee Revenue	\$13,995,384	\$13,995,384
Administration Fee per year per facility	\$750	
Administration Fee Revenue (30 facilities)	\$22,500	
Maintenance Fee per year per facility	\$0	\$8,000
Maintenance Fee Revenue (all facilities)	\$0	\$4,000,000
Number of DEP regulated facilities that pay 90% of the combined Title V Emission Fee and Maintenance Fee Revenue	102	289
Other Title V Operating Permit Fee Revenue	\$412,625	\$1,371,800
Total Title V Facility Revenue	\$14,430,509	\$19,367,184

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

The annual operating permit administration fee is \$375 for the owners and operators of Non-Title V facilities. 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 annual operating permit maintenance fee for the owner or operator of a Non-Title V facility that is a synthetic minor is \$4,000. The annual operating permit maintenance fee for the owner or operator of a Non-Title V facility that is not a synthetic minor is \$2,000. These fees are expected to generate combined revenue of approximately \$5.50 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 annual operating permit maintenance fee.

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

	Current	Projected Revenue with Annual Maintenance Fee 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	
Penalties	\$2,000,000	\$2,000,000
Annual Maintenance		5,500,000
Requests for Determination (RFD)	\$0	\$260,000
Asbestos Notifications	\$0	\$1,500,000
Risk Assessments	\$0	\$10,000
Total Non-Title V Facility Revenue	\$3,249,750	\$10,966,800

OPTIONS FOR REVISING THE TITLE V EMISSION FEE

FEE OPTIONS CONSIDERED FOR PERMITTED FACILITY OWNERS AND OPERATORS

The current Title V emission fee, due September 1, 2020, for emissions that occurred in calendar year 2019, is \$93.06 per ton of emissions up to 4,000 tons of each regulated pollutant, except greenhouse gases (GHG). Approximately 90% of the current Title V emission fee revenue of approximately \$14.083 million is generated from emissions at 102 Title V facilities as illustrated in Table 23.

The Department sought public comment on its recommendation to amend the fees payable by the owners and operators of Title V facilities. The recommended option, which was included in the proposed rulemaking Annex A, was to leave the Title V emission fee at § 127.705 unchanged and collect an annual operating permit maintenance fee of \$10,000 from the owners or operators of all affected Title V facilities for calendar years 2021—2025, \$12,500 for calendar years 2026—2030, and \$15,600 for the calendar years beginning with 2031. After evaluating the comments received on this proposal, the annual Title V operating permit maintenance fee was reduced to \$8,000 for calendar years 2021—2025, \$10,000 for calendar years 2026—2030, and \$12,500 for the calendar years beginning with 2031. This reduction in the Title V operating permit maintenance fee has been offset by an increase in the Synthetic Minor operating permit maintenance fee resulting in no net change in the revenue collected overall. In addition, the projected future emissions upon which Title V emission fees will be due has been updated in the tables and charts to reflect recently announced closures and recently started construction of EGUs.

Table 23 illustrates that approximately 90% of the combined Title V emission fee revenue and annual operating permit maintenance fee revenue for this recommendation (Option 1 for purposes of this report and Table 23) will be paid by the owners and operators of 289 Title V facilities. The recommended option spreads the burden for supporting the Title V Operating Permit Program across nearly three times as many Title V facility owners and operators as the current fee schedule (289 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; Revised Annual Maintenance Fee of \$8,000	Option 2 Increased Emission Fee; Annual Maintenance Fee of \$5,000	Option 3 Increased Emission Fee; Emission Fee Floor; No Annual Maintenance Fee
Title V Emission Fee per ton in 2019 due on September 1, 2020	\$93.06	\$93.06	\$110.00	\$118.00
Emission Fee Floor	\$0	\$0	\$0	\$5,000
Emission Fee Revenue	\$13,995,384	\$13,995,384	\$16,388,000	\$17,687,000
Annual Maintenance Fee per year	\$0	\$8,000	\$5,000	\$0
Annual Maintenance Fee Revenue	\$0	\$4,000,000	\$2,500,000	\$0
Number of DEP regulated facilities that pay 90% of the combined Title V Emission Fee and Annual Maintenance Fee Revenue	102	289	206	129
Other Title V Operating Permit Fee Revenue	\$435,125	\$1,371,800	\$1,371,800	\$1,371,800
Total Title V Facility Revenue, FY 2020-2021	\$14,430,509	\$19,367,184	\$20,260,000	\$19,059,000

Two other options were considered by the Department in developing the 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 operating permit 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 operating permit 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 operating permit 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 this final-form rulemaking would generate revenue of roughly \$19-20 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 all Title V facility owners and operators. The revised \$8,000 annual operating permit maintenance fee for the recommended option in this final-form rulemaking spreads the burden for supporting the Title V Operating Permit Program across 289 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 brunt of generating the total emission fee revenue collected, rather than 102 Title V facility owners and operators under the current fee schedule, 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 revised annual operating permit maintenance fee for the recommended option spreads the burden for supporting the Title V Operating Permit Program across 289 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, the amount of revenue generation expected, and the public comments received, the Department selected Option 1 as the recommended option with the following two revisions:

1. The annual operating permit maintenance fee for Synthetic Minor Facilities is increased to four thousand dollars (\$4000) for calendar years 2021—2025; five thousand dollars (\$5,000) for calendar years 2026—2030; and six thousand two hundred dollars (\$6,200) for the calendar years beginning with 2031.
2. The annual operating permit maintenance fee for Title V Facilities is lowered to eight thousand dollars (\$8000) for calendar years 2021—2025; ten thousand dollars (\$10,000) for calendar years 2026—2030; and twelve thousand five hundred dollars (\$12,500) for the calendar years beginning with 2031.

The Synthetic Minor Operating Permit Maintenance fee was raised in response to comments from the Air Quality Technical Advisory Committee (AQTAC) about the level of effort needed to regulated synthetic minor facilities. Synthetic Minor facilities are facilities which would be Title V facilities except that they accept enforceable permit conditions to limit their potential emissions below major facility thresholds. Because of these limiting permit conditions these facilities require more regulatory oversight than facilities whose potential to emit are naturally below major facility thresholds (Natural Minor). Therefore, the Synthetic Minor maintenance fee has been raised from \$2,500 to \$4,000. However, because of the number of Synthetic Minor and Title V facilities in the state this change is revenue neutral overall.

CONCLUSION

Table 3 projects that Title V revenue will be less than \$15 million and expenditures will rise from approximately \$19 million to approximately \$20 million, creating a Title V revenue versus expenditure shortfall of approximately \$4 million rising to \$5 million in each fiscal year going forward. Table 4 projects a Non-Title V revenue versus expenditures shortfall of approximately \$6.0 million rising to \$6.5 million in each fiscal year going forward. This is a combined revenue versus expenditures

shortfall of approximately over \$11 million in the out years. Table 5 illustrates that the Clean Air Fund is projected to have a deficit of \$2.4 million in FY 2022-2023, increasing to over \$38 million by FY 2024-2025.

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 \$14.5 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 \$3.2 million based on current fees and estimated penalties, 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 rulemaking is promulgated as final-form regulation in 2020, the anticipated increased revenue is projected to keep the Clean Air Fund solvent (see Table 26 and Graph 3). For instance, the Clean Air Fund ending balances without the fee amendments are projected to be \$ 8.5 million in FY 2020-2021; a deficit of \$2.4 million in FY 2021-2022; and a deficit of \$13.9 million in FY 2022-2023. Conversely, the Clean Air Fund ending balances with the fee amendments are projected to be \$18.6 million in FY 2020-2021; \$19.5 million in FY 2021-2022; and \$19.4 million in FY 2022-2023. The increased revenue will come in time for the Non-Title V Account to avoid a deficit. 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 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25
	ACTUAL	BUDGET	PLAN YR 1	PLAN YR 2	PLAN YR 3	PLAN YR 4	PLAN YR 5
Beginning Balance	\$ 22,684	\$ 20,744	\$ 15,117	\$ 13,122	\$ 12,166	\$ 10,382	\$ 8,419
Total Revenue	\$ 15,938	\$ 12,912	\$ 17,229	\$ 19,149	\$ 19,102	\$ 19,340	\$ 19,583
Total Expenditures	\$ 17,878	\$ 18,539	\$ 19,224	\$ 20,105	\$ 20,886	\$ 21,303	\$ 21,729
Ending Balance	\$ 20,744	\$ 15,117	\$ 13,122	\$ 12,166	\$ 10,382	\$ 8,419	\$ 6,273

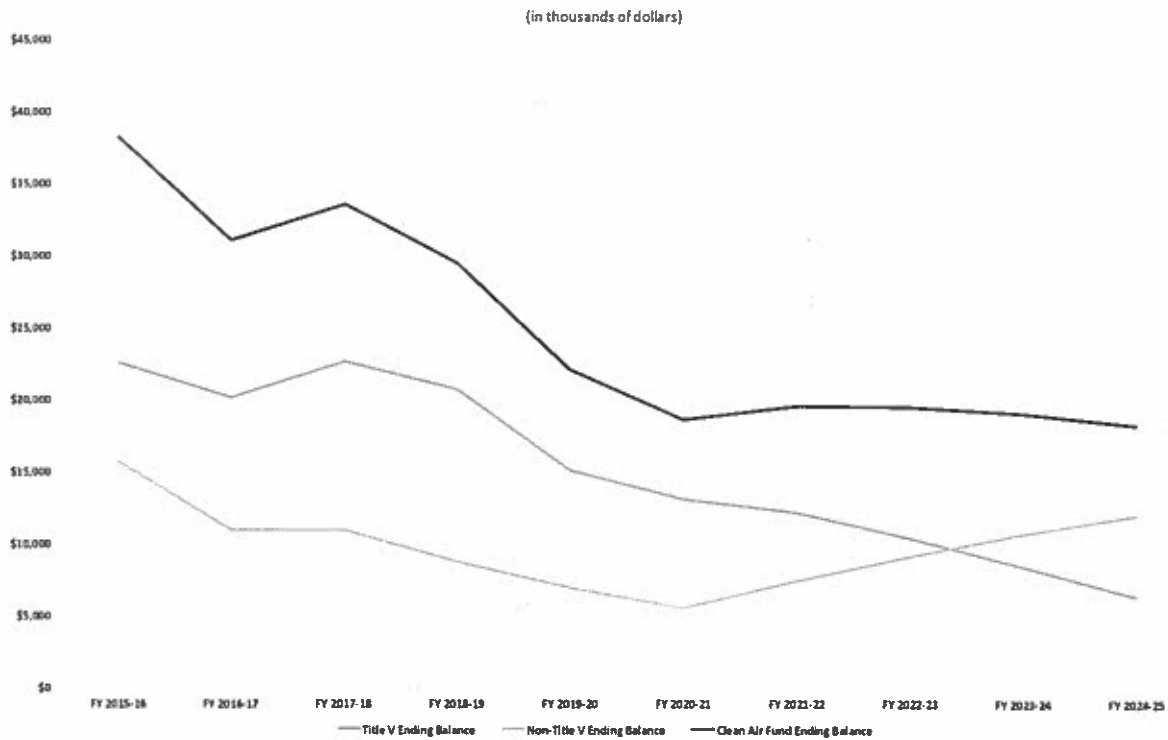
TABLE 25
Non-Title V Account with Fee Amendments
(in thousands of dollars)

	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25
	ACTUAL	BUDGET	PLAN YR 1	PLAN YR 2	PLAN YR 3	PLAN YR 4	PLAN YR 5
Beginning Balance	\$ 10,940	\$ 8,746	\$ 6,955	\$ 5,494	\$ 7,390	\$ 9,096	\$ 10,606
Total Revenue	\$ 7,175	\$ 7,744	\$ 7,951	\$ 11,496	\$ 11,498	\$ 11,498	\$ 11,498
Total Expenditures	\$ 9,369	\$ 9,535	\$ 9,412	\$ 9,600	\$ 9,792	\$ 9,988	\$ 10,188
Ending Balance	\$ 8,746	\$ 6,955	\$ 5,494	\$ 7,390	\$ 9,096	\$ 10,606	\$ 11,916

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

	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25
	ACTUAL	BUDGET	PLAN YR 1	PLAN YR 2	PLAN YR 3	PLAN YR 4	PLAN YR 5
Title V Ending Balance	\$ 20,744	\$ 15,117	\$ 13,122	\$ 12,166	\$ 10,382	\$ 8,419	\$ 6,273
Non-Title V Ending Balance	\$ 8,746	\$ 6,955	\$ 5,494	\$ 7,390	\$ 9,096	\$ 10,606	\$ 11,916
Clean Air Fund Ending Balance	\$ 29,490	\$ 22,072	\$ 18,616	\$ 19,556	\$ 19,478	\$ 19,025	\$ 18,189

GRAPH 3
Clean Air Fund Balances



ADVISORY COMMITTEE COMMENT

The Department consulted with the AQTAC in the development of this 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 schedule (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 presented and discussed the final-form Annex A with AQTAC on December 12, 2019. AQTAC again concurred with the with the Department's recommendation to advance the proposal to the Board with the recommendation that the Department begin, at the earliest legal opportunity, a rulemaking process so that the air quality fees explicitly address emissions of carbon dioxide (CO₂) as stated in its letter of concurrence, dated July 12, 2019, which accompanies the rulemaking.

The Department also conferred with the Citizens Advisory Council's (CAC) Policy and Regulatory Oversight Committee concerning the 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.

The Department conferred again with the CAC Policy and Regulatory Oversight Committee on January 6, 2020, this time presenting the final-form rulemaking. The CAC discussed the final-form rulemaking on January 21, 2020 and concurred with the Department's recommendation to advance the proposal to the Board for consideration as final rulemaking.

An overview of the proposed rulemaking was presented to the Small Business Compliance Advisory Committee (SBCAC) on July 25, 2018 and they concurred with the Department's recommendation to advance the proposal to the Board for consideration as proposed rulemaking.

Finally, the Department presented and discussed the final-form Annex A with SBCAC on January 22, 2020. AQTAC again concurred with the with the Department's recommendation to advance the proposal to the Board for consideration.

SUMMARY AND RECOMMENDATION TO THE ENVIRONMENTAL QUALITY BOARD (BOARD)

The Department recommends that the Board approve these air quality fee schedule amendments for promulgation as a final-form regulation. The amended fee schedules will support continued operation of the Air Quality Program in this Commonwealth.

This rulemaking amends 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. The existing plan approval application and operating

permit application fee schedules are amended to increase the applicable fees. Fees are established for 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), and requests for determination (RFD) applications.

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 \$2.4 million in FY 2021-2022 and \$13.9 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 of approximately \$14.5 million 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 \$3.2 million based on current fees and projected penalties 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 regulated community. After evaluating the comments received, the annual Title V operating permit maintenance fee was reduced to \$8,000 for calendar years 2021—2025, \$10,000 for calendar years 2026—2030, and \$12,500 for the calendar years beginning with 2031. The reduction in the Title V operating permit maintenance fee has been offset by an increase in the Synthetic Minor operating permit maintenance fee to \$4000 for calendar years 2021—2025; \$5,000 for calendar years 2026—2030; and \$6,200 for the calendar years beginning with 2031. These changes result in no net change in overall revenue collected from the original proposal.

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 new fees and increases of existing fees is estimated to be between \$19 and \$20 million depending upon the selected Title V emission fee option based on public comment, or an increase of approximately \$6 million in revenue over current levels. The Department's recommended option spreads the burden for supporting the Title V Operating Permit Program across approximately three times as many Title V facility owners and operators as the current fee schedule (289 versus 102 facility owners). In developing these final-form 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.

The changes to the Non-Title V revenue are shown in Table 22. This includes both Synthetic Minor and Natural Minor facilities plus all penalties collected. Based on recent years, the projected amount of penalties collected in the future years has been increased to \$2.0 million per year. The increased revenue from the Synthetic Minor annual operating maintenance fee as explained above has also been included. Synthetic Minor facilities are facilities which would be Title V facilities except that they accept enforceable permit conditions to limit their potential emissions below major facility thresholds. Because of these emission-limiting permit conditions these facilities require significant regulatory oversight.

If this rulemaking is promulgated as final-form regulation in 2020, the anticipated increased revenue will 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 increased revenue will balance the Clean Air Fund budget and allow the Department to sustain 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.

Air Quality Technical Advisory Committee

to the Pennsylvania Department of Environmental Protection

PO Box 8468

Harrisburg, PA 17105-8468

December 12, 2019

Honorable Patrick McDonnell
Secretary
Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063

Re: Final-Form 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 December 12, 2019, the Air Quality Technical Advisory Committee (Committee) discussed the final-form 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 final-form 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 are amended. The annual operating permit administration fee is amended to establish an annual operating permit maintenance fee. Fees are also established for requests for determination of whether a plan approval is required, for risk assessment applications, and for notifications of asbestos abatement, regulated demolition, and renovation projects.

These amendments are designed 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 established in § 121.1 (relating to definitions) to support the amendments to Chapter 127, Subchapter I. Section 127.424 (relating

to public notice) under Chapter 127, Subchapter F (relating to operating permit requirements) is amended to correct an error in a cross reference. Section 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 10-3-0 (yes-no-abstain) to concur with the Department's recommendation to present the final-form rulemaking amendments to the Environmental Quality Board for consideration for adoption and publication as a final-form rulemaking.

Immediately following the vote regarding presenting the final-form rulemaking amendments to the Environmental Quality Board, it was moved that the Committee recommend that the Department begin, at the earliest legal opportunity, a rulemaking process so that the air quality fees explicitly address emissions of carbon dioxide (CO₂) and air quality program sustainability. The Committee voted 11-0-2 on this motion and recommends to the Department that a rulemaking be started at the earliest legal opportunity to establish fees for the emissions of CO₂ as a regulated pollutant.

Sincerely,



Patrick K. O'Neill Esq.
Chair

cc: Viren Trivedi, Acting Director, PA DEP BAQ
Kirit Dalal, PA DEP BAQ
Susan Hoyle, PA DEP BAQ
John Krueger, PA DEP BAQ



Citizens Advisory Council

to the Department of Environmental Protection

P.O. Box 8459 • Rachel Carson State Office Building
Harrisburg, PA 17105-8459 • 717-787-8171 • Fax 717-705-4980

January 21, 2020

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Indiana County
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Tioga County
Thaddeus K. Stevens

Washington County
Mark Caskey

Viren Trivedi
Acting Director
Bureau of Air Quality
P.O. Box 8468
Harrisburg, PA 17105-8468

Dear Mr. Trivedi:

Pursuant to the requirements of Section 7.6 of the Air Pollution Control Act, on January 6, 2020, staff from the Bureau of Air Quality briefed the Citizens Advisory Council's (Council) Policy and Regulatory Oversight Committee (Committee) on the draft final Air Quality Fees rulemaking.

On the recommendation of the Committee, Council voted at its January 21, 2020, meeting to support advancement of the above-referenced final rulemaking to the Environmental Quality Board for action. Council notes that overreliance on permit fees risks an uncertain and volatile revenue stream and recommends that the Department and Administration continue to evaluate Air Quality program funding to ensure a balance of revenue sources that provides a stable foundation for effective program administration.

Council appreciates the Bureau's cooperation in providing detailed briefings on air rulemakings. If you have any questions regarding Council's action on the above-referenced rulemaking, please contact me at 717.787.8171 or by email at ksalador@pa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'KS', is written over a light blue horizontal line.

Keith J. Salador
Executive Director
Citizens Advisory Council

Small Business Compliance Advisory Committee

to the Pennsylvania Department of Environmental Protection

PO Box 8468

Harrisburg, PA 17105-8468

January 22, 2020

Honorable Patrick McDonnell
Secretary
Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063

Re: Final-Form 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 January 22, 2020, the Small Business Compliance Advisory Committee (Committee) discussed the final-form 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 final-form 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 risk assessment applications, and for notifications of asbestos abatement, regulated demolition, and renovation projects.

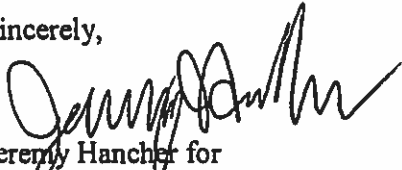
These amendments are designed to ensure that fee revenue is sufficient to cover the indirect and direct costs of administering the air pollution control plan approval process, the operating permit program required by Title V of the Clean Air Act, other requirements of the Clean Air Act, and the indirect 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 established in § 121.1 (relating to definitions) to support the amendments to Chapter 127, Subchapter I. Section 127.424 (relating to public notice) under Chapter 127, Subchapter F (relating to operating permit requirements) is amended to correct an error in a cross reference. Section 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 3-2-0 (yes-no-abstain) to concur with the Department's recommendation to present the final-form rulemaking amendments to the Environmental Quality Board for consideration for adoption and publication as a final-form rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeremy Hancher', written over a printed name.

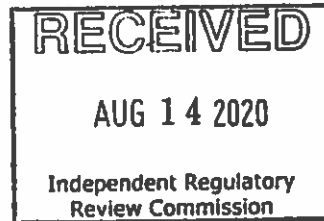
Jeremy Hancher for
Dale I. Kaplan
Chair

cc: Viren Trivedi, Acting Director, PA DEP BAQ
Susan Foster, PA DEP BAQ
Nancy Herb, PA DEP BAQ
Lucas Hershey, PA DEP BAQ
Susan Hoyle, PA DEP BAQ
John Krueger, PA DEP BAQ

CDL-1

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Attorney General

By: _____
(Deputy Attorney General)

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promulgated by:

DEPARTMENT OF ENVIRONMENTAL
PROTECTION
ENVIRONMENTAL QUALITY BOARD

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-536

DATE OF ADOPTION JULY 21, 2020

BY

TITLE PATRICK MCDONNELL
CHAIRPERSON

EXECUTIVE OFFICER CHAIRPERSON OR SECRETARY

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Executive or Independent Agencies

BY

DATE OF APPROVAL
8/11/2020
(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 FINAL RULEMAKING

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD**

Air Quality Fee Schedule Amendments

25 Pa. Code Chapters 121 and 127

Final-Form Rulemaking
ENVIRONMENTAL QUALITY BOARD
[25 PA. CODE CHS. 121 AND 127]
Air Quality Fee Schedule Amendments

The Environmental Quality Board (Board) amends Chapters 121 (relating to general provisions) and 127, Subchapters F and I (relating to operating permit requirements; and plan approval and operating permit fees) as set forth in Annex A. This final-form rulemaking amends existing requirements in Subchapter F and existing air quality plan approval and operating permit fee schedules in Subchapter I. It also establishes 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 will 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 this Commonwealth.

This final-form 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) 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, following promulgation of the final-form regulation.

This final-form rulemaking was adopted by the Board at its meeting of July 21, 2020.

A. Effective Date

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

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 Jennie Demjanick, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department's web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board").

C. Statutory Authority

This final-form 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 final-form 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 the APCA and not covered by fees required by section 502(b) of the CAA (42 U.S.C.A. § 7661a(b)).

D. Background and Purpose

This final-form rulemaking amends Chapters 121 (relating to general provisions) and 127, Subchapters F and I (relating to operating permit requirements; and plan approval and operating permit fees). This final-form rulemaking amends existing requirements in Subchapter F and existing air quality plan approval and operating permit fee schedules in Subchapter I. It also establishes fees in Subchapter I to address the disparity between revenue and expenses for the Department of Environmental Protection's (Department) Air Quality Program. These amendments 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 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). This final-form rulemaking also includes a provision stating that the Department may establish fees for the use of general plan approvals (GPA) and general operating permits (GP) for stationary or portable sources and the fees will be established when the GPA or GP is issued or modified by the Department. The Department also adjusted the name of the annual operating permit "administration" fee to an annual operating permit "maintenance" fee that will be due on or before December 31 of each year.

The fee structure will 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 final-form rulemaking.

The plan approval application and operating permit fee schedules in this final-form rulemaking are designed to bring the Department's Air Quality Program's permitting fee revenue in line with expenditures so that the Air Quality Program is self-sustaining as required under the

CAA. The new and increased fees in this final-form rulemaking 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 welfare and the environment.

The Department's Air Quality Program issues plan approval and operating permits for two types of sources—major and nonmajor. See 24 Pa.B. 5899 (November 26, 1994). This permitting 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 nonmajor 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. Conversely, nonmajor 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 this Commonwealth. Establishing the fee schedules in this final-form rulemaking will 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 residents of this Commonwealth 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 this Commonwealth.

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 Operating 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 Operating 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 (\$1.73 billion in 2018) if not obligated for projects approved by the Federal Highway Administration. 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). Implementation of the increased fees and new fees in Subchapter I would avoid the issuance of a Federal Title V Operating Permit Program NOD and Federal oversight and mandatory CAA sanctions.

Section 9.2(a) of the APCA (35 P.S. § 4009.2(a)) provides for the establishment of the Clean Air Fund and separate accounts, if necessary, to comply with the requirements of the CAA. 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. See 42 U.S.C.A. § 7661a(b)(3)(C)(iii) and 40 CFR 70.9(a) (relating to fee determination and certification). As a result, in this Commonwealth, 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.

Projected Revenue and Expenditures

In the early years of the Title V operating permitting program when there were more facilities and emissions of regulated pollutants were significantly greater than today, the Clean Air Fund balance was large. After many years of drawing down this accumulated balance to cover Air Quality Program costs and expenditures that exceeded annual revenue, the Clean Air Fund balance is now approaching zero. The fee amendments in this final-form rulemaking halt this decline in the Clean Air Fund balance and bring annual program revenue in line with annual program expenditures.

To maintain solvency in the Clean Air Fund and match revenue to expenditures, the Department needs to generate additional revenue of approximately \$5.0 million for the Title V Account and \$7.7 million for the Non-Title V Account beginning by fiscal year (FY) 2020-2021 to balance the projected expenditures of \$19.2 million for the Title V Account and \$9.4 million for the Non-Title V Account (a combined total expenditure of approximately \$28.6 million).

The Title V Account expenditures exceeded revenue in FY 2018-2019 and are projected to exceed revenues by \$4 million and rising to over \$5.0 million in each fiscal year going forward. The Title V Account is currently projected to have a decreasing ending balance, from \$20.744 million in FY 2018-2019 to negative \$9.977 million in FY 2024-2025, or a decrease of over \$30 million, as shown in Table 1.

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

	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25
	ACTUAL	BUDGET	PLAN YR 1	PLAN YR 2	PLAN YR 3	PLAN YR 4	PLAN YR 5
Beginning Balance	\$ 22,684	\$ 20,744	\$ 15,117	\$ 11,322	\$ 6,435	\$ 1,113	\$ (4,355)
Total Revenue	\$ 15,938	\$ 12,912	\$ 14,930	\$ 14,213	\$ 14,160	\$ 14,404	\$ 14,647
Total Expenditures	\$ 17,878	\$ 18,539	\$ 18,725	\$ 19,100	\$ 19,482	\$ 19,872	\$ 20,269
Ending Balance	\$ 20,744	\$ 15,117	\$ 11,322	\$ 6,435	\$ 1,113	\$ (4,355)	\$ (9,977)

The Non-Title V Account expenditures exceeded revenue in FY 2018-2019 and are projected to exceed revenue by approximately \$6 million and rising to over \$6.5 million in each fiscal year going forward. The Non-Title V Account balance is projected to reach zero in FY 2020-2021

and to have a deficit of around \$28 million by FY 2024-2025, as expenditures outpace revenue, as shown in Table 2.

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

	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25
	ACTUAL	BUDGET	PLAN YR 1	PLAN YR 2	PLAN YR 3	PLAN YR 4	PLAN YR 5
Beginning Balance	\$ 10,940	\$ 8,746	\$ 2,855	\$ (2,817)	\$ (8,842)	\$ (15,057)	\$ (21,468)
Total Revenue	\$ 7,175	\$ 3,644	\$ 3,740	\$ 3,575	\$ 3,577	\$ 3,577	\$ 3,577
Total Expenditures	\$ 9,369	\$ 9,535	\$ 9,412	\$ 9,600	\$ 9,792	\$ 9,988	\$ 10,188
Ending Balance	\$ 8,746	\$ 2,855	\$ (2,817)	\$ (8,842)	\$ (15,057)	\$ (21,468)	\$ (28,079)

Clean Air Fund Ending Balances

Table 3 shows the Title V and Non-Title V Accounts combined projected negative balance in the Clean Air Fund during FY 2022-2023 and later based on the existing fee schedules.

TABLE 3
Clean Air Fund Ending Balances without Fee Amendments
(in thousands of dollars)

	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25
	ACTUAL	BUDGET	PLAN YR 1	PLAN YR 2	PLAN YR 3	PLAN YR 4	PLAN YR 5
Title V Ending Balance	\$ 20,744	\$ 15,117	\$ 11,322	\$ 6,435	\$ 1,113	\$ (4,355)	\$ (9,977)
Non-Title V Ending Balance	\$ 8,746	\$ 2,855	\$ (2,817)	\$ (8,842)	\$ (15,057)	\$ (21,468)	\$ (28,079)
Clean Air Fund Ending Balance	\$ 29,490	\$ 17,972	\$ 8,505	\$ (2,407)	\$ (13,944)	\$ (25,823)	\$ (38,056)

If this rulemaking is promulgated as final-form regulation in 2020, the anticipated increased revenue is projected to keep the Clean Air Fund solvent (see Table 6). For instance, the Clean Air Fund ending balances without the fee amendments are projected to be \$8.5 million in FY 2020-2021; a deficit of \$2.4 million in FY 2021-2022; and a deficit of \$13.9 million in FY 2022-2023. Conversely, the Clean Air Fund ending balances with the fee amendments are projected to be \$18.6 million in FY 2020-2021; \$19.5 million in FY 2021-2022; and \$19.4 million in FY 2022-2023. The increased revenue will come in time for the Non-Title V Account to avoid a deficit. Tables 4 and 5 show the overall projected balances for the Title V and Non-Title V Accounts.

TABLE 4
Title V Account with Fee Amendments
(in thousands of dollars)

	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25
	ACTUAL	BUDGET	PLAN YR 1	PLAN YR 2	PLAN YR 3	PLAN YR 4	PLAN YR 5
Beginning Balance	\$ 22,684	\$ 20,744	\$ 15,117	\$ 13,122	\$ 12,166	\$ 10,382	\$ 8,419
Total Revenue	\$ 15,938	\$ 12,912	\$ 17,229	\$ 19,149	\$ 19,102	\$ 19,340	\$ 19,583
Total Expenditures	\$ 17,878	\$ 18,539	\$ 19,224	\$ 20,105	\$ 20,886	\$ 21,303	\$ 21,729
Ending Balance	\$ 20,744	\$ 15,117	\$ 13,122	\$ 12,166	\$ 10,382	\$ 8,419	\$ 6,273

TABLE 1
Non-Title V Account with Fee Amendments
(in thousands of dollars)

	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25
	ACTUAL	BUDGET	PLAN YR 1	PLAN YR 2	PLAN YR 3	PLAN YR 4	PLAN YR 5
Beginning Balance	\$ 10,940	\$ 8,746	\$ 6,955	\$ 5,494	\$ 7,390	\$ 9,096	\$ 10,606
Total Revenue	\$ 7,175	\$ 7,744	\$ 7,951	\$ 11,496	\$ 11,498	\$ 11,498	\$ 11,498
Total Expenditures	\$ 9,369	\$ 9,535	\$ 9,412	\$ 9,600	\$ 9,792	\$ 9,988	\$ 10,188
Ending Balance	\$ 8,746	\$ 6,955	\$ 5,494	\$ 7,390	\$ 9,096	\$ 10,606	\$ 11,916

TABLE 2
Clean Air Fund Ending Balances with Fee Amendments
(in thousands of dollars)

	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25
	ACTUAL	BUDGET	PLAN YR 1	PLAN YR 2	PLAN YR 3	PLAN YR 4	PLAN YR 5
Title V Ending Balance	\$ 20,744	\$ 15,117	\$ 13,122	\$ 12,166	\$ 10,382	\$ 8,419	\$ 6,273
Non-Title V Ending Balance	\$ 8,746	\$ 6,955	\$ 5,494	\$ 7,390	\$ 9,096	\$ 10,606	\$ 11,916
Clean Air Fund Ending Balance	\$ 29,490	\$ 22,072	\$ 18,616	\$ 19,556	\$ 19,478	\$ 19,025	\$ 18,189

Essential Program Functions and Cost-Saving Measures

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, issuing 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 preapplication 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 section 6.3 of the APCA (35 P.S. § 4006.3) and the EPA's 40 CFR 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 operating permit program costs. See 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.

Prior Fee Rulemakings

Regulations related to the fee schedules 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. As a result, these fees have not increased in 15 years, while expenses have continued to increase.

The Board revised the Title V annual emission fee under § 127.705 (relating to emission fees) in 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. See 43 Pa.B. 7268 (December 14, 2013). This is due, in part, because emissions subject to the Title V annual emission fee have decreased by 47% since 2000 and continue to decrease as more emissions reductions are required to attain and maintain the revised applicable NAAQS established by the EPA. 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 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 consequence. This is resulting in reduced fee 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 fee schedules 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 or operator's decision to operate or expand operations in this 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, in turn, will result in reduced protection of the environment and public health and welfare of the citizens of this Commonwealth.

Decreasing program revenues also impacts 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 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, 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 the EPA, including implementation of a Federal Implementation Plan (FIP) and collection of all fees and revenue by the EPA.

Annual Operating Permit Administration Fee

The revenue generated from the annual operating permit administration fees does not adequately cover the costs of Department services provided to facility owners and operators for this fee. In particular, the current annual operating permit 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 operating permit administration fee for the 30 affected Title V owners and operators generates revenue of only \$22,500. To remedy this, the current annual operating permit administration fee under §§ 127.703(c) and 127.704(c) is amended with the annual operating permit maintenance fee under §§ 127.703(d) and 127.704(d). The annual operating permit 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 the emission fees paid by the owners and operators of Title V facilities, permitting fee

revenue from the owners and operators of both Title V and Non-Title V facilities, and General Fund money. These services include facility inspections and review of facility records and operating permit conditions to ensure that the facility is in compliance with its operating permit. The annual operating permit maintenance fees in this final-form rulemaking apply to the owners and operators of affected Non-Title V and Title V facilities.

Amended, New and Deleted Fees

In addition, in this final-form rulemaking, the Board is addressing the potential Clean Air Fund deficits by amending existing fees in Subchapter I related to plan approval and operating permit applications for the owners and operators of both Non-Title V and Title V facilities. The Board is also establishing fees related to applications for plantwide applicability limits (PAL), modifications of existing plan approvals and analyses of ambient impacts of a source. Fees for RFDs and for submission of notifications for asbestos abatement or regulated demolition or renovation projects are also established. The fee for claims of confidential information in proposed § 127.711 (relating to fees for claims of confidential information) is deleted in this final-form rulemaking because the Department determined that it is unneeded at this time.

In this final-form rulemaking, the Board moved the fees for risk assessment analyses from its own section under proposed § 127.708 (relating to risk assessment) to the newly established subsection (k) under § 127.702 (relating to plan approval fees). The Board made this revision to clarify that the fee for a risk assessment is part of the fees for a plan approval application, in response to comments received. A risk assessment analysis report is prepared by the Department in response to a plan approval application that identifies the presence of hazardous air pollutants, which include carcinogenic and teratogenic compounds. The Department conducts a risk assessment analysis to assess the potential adverse public health and welfare effects under both current and planned future conditions caused by the presence of hazardous air pollutants after the source is controlled. Implementation of plan approval application fees for risk assessment analyses will support program resources to address this important area of public health and social well-being. The cost of this analysis is currently borne by the owners and operators of all permitted facilities through the plan approval application and permitting fees that they pay. Since risk assessment analyses are not required for all plan approval applications, the Board established the plan approval application fee for a risk assessment to allocate these costs to owners and operators that are required to have the analysis rather than burdening all owners and operators of permitted sources with costs for services that they do not use or need.

Asbestos Abatement Fee

The Board renumbered the proposed § 127.709 to final-form § 127.708 (relating to asbestos abatement or regulated demolition or renovation project notification). The Board also revised this section to clarify that this final-form rulemaking fee applies only to the initial notification by 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) 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. Final-form § 127.708(b) specifies that the Department will waive the fee for a subsequent notification form submitted for the asbestos abatement or regulated demolition or renovation

project. The Department receives upwards of 5,000 initial asbestos abatement notifications and a total of about 7,000 asbestos abatement notifications each year, which require staff review and site inspections.

The Department's costs for performing these asbestos abatement notification-related services are currently absorbed by the owners and operators of all permitted facilities through the plan approval application and permitting fees that they pay. The Department currently inspects around 200 asbestos abatement projects per year due to staffing constraints. The fee for asbestos abatement notifications is designed to recover the Department's costs for these services and will provide the support to maintain and increase the number of staff assigned to inspect asbestos abatement projects and the number of asbestos abatement project inspections performed. The Philadelphia Department of Health, Air Management Services (AMS) and the Allegheny County Health Department (ACHD) have established fee schedules for notifications of asbestos abatement projects. For comparison, Philadelphia AMS receives about 1,800 asbestos abatement notifications per year and revenue of approximately \$300,000 annually from asbestos abatement notification fees. ACHD receives about 1,200 notifications per year and received revenue of approximately \$520,000 in calendar year 2019 from asbestos abatement notification fees.

Requests for Determination

The Board renumbered proposed § 127.710 to final-form § 127.709 (relating to fees for requests for determination). Final-form § 127.709 establishes fees for the owner or operator of a source that submits an RFD under § 127.14 (relating to exemptions) for a plan approval, an operating permit or for both a plan approval and an operating permit. The RFD process allows an owner or operator to obtain a written case-by-case exemption from the requirement to apply for a plan approval or operating permit, if the Department determines the requestor meets the exemption criteria. The RFDs are reviewed by Department staff in much the same way as other applications and this final-form rulemaking establishes a fee to recover the costs to the Department.

General Plan Approval and General Operating Permit Fees

The Board also renumbered proposed § 127.712 to final-form § 127.710 (relating to fees for the use of general plan approvals and general operating permits under Subchapter H). Final-form § 127.710 is established to address fees for the use of general plan approvals or general operating permits issued by the Department for stationary or portable sources. The Department develops a proposed general plan approval or general operating permit along with the proposed application fees and provides notice in the *Pennsylvania Bulletin* and the opportunity to comment as provided in §§ 127.612 and 127.632 (relating to public notice and review period). The Department may also revise the application fee for an existing general plan approval or general operating permit and provide notice in the *Pennsylvania Bulletin* and an opportunity to comment on the revised application fee as provided in §§ 127.612 and 127.632. The Department has developed and issued general plan approvals and general operating permits for 19 source categories since 1996.

Annual Operating Permit Maintenance Fee

The Board is changing the name of the annual operating permit administration fee under § 127.703(c) to the annual operating permit maintenance fee under § 127.703(d) for the owners or operators of affected Non-Title V facilities. The annual operating permit maintenance fee for the owners or operators of all affected synthetic minor facilities for calendar years 2021—2025 is \$4,000. This is increased from the proposed amount of \$2,500 in response to comments from members of AQTAC that the proposed fees were too low for these facilities. The annual operating permit maintenance fee for the owners or operators of all affected facilities that are not synthetic minors for calendar years 2021—2025 is \$2,000. The annual operating permit maintenance fees collected under § 127.703(d) are projected to generate revenue of approximately \$5.5 million for the Non-Title V Account.

The Board is also changing the name of the annual operating permit administration fee under § 127.704(c) to the annual operating permit maintenance fee under § 127.704(d) for the owners or operators of affected Title V facilities. The annual operating permit maintenance fee for the owners or operators of all affected Title V facilities for calendar years 2021—2025 is \$8,000. This is decreased from the proposed amount of \$10,000 in response to comments from members of AQTAC that the proposed fee was too high for these facilities relative to the proposed annual operating permit maintenance fee for synthetic minor facilities under § 127.703(d)(1). This reduction in the Title V annual operating permit maintenance fee offsets the increase in the annual operating permit maintenance fee for synthetic minor facilities. These revisions result in no net change in the revenue collected by the Department in this final-form rulemaking. The annual operating permit maintenance fees collected under § 127.704(d) are projected to generate revenue of approximately \$4 million for the Title V Account.

No Increase to the Title V Emission Fee

The Board considered three options for revising the Title V emission fee under § 127.705 (relating to emissions fees) and implementing an annual operating permit maintenance fee for the owners and operators of affected Title V facilities. The first option would not increase the current emission fee under § 127.705 and would collect an annual operating permit maintenance fee of \$8,000 from the owners or operators of affected Title V facilities. The second option would have increased the Title V emission fee to \$110 per ton up to the 4,000-ton cap per regulated air pollutant and collected an annual operating permit maintenance fee of \$5,000 from the owners or operators of all affected Title V facilities. The third option would have increased the Title V emission fee to \$118 per ton up to the 4,000-ton cap, established an emission fee floor of \$5,000 per facility and not collected an annual operating permit maintenance fee from the owners or operators of affected Title V facilities. The Department anticipated that the amount of revenue to be generated was approximately equal between the three options. Each of the options would have generated annual revenue of approximately \$19-20 million or an increase of approximately \$6 million over current Title V facility revenue. The three options varied in the number of owners and operators of Title V facilities that would pay 90% of the combined Title V emission fee and annual operating permit maintenance fee revenue.

This final-form rulemaking implements the first option, leaving the Title V emission fee established in § 127.705 unchanged and collecting an annual operating permit maintenance fee

of \$8,000 from the owners and operators of all affected Title V facilities. The Board chose this approach based on the equities involved among the number of impacted Title V facility owners and operators. This option spreads the cost obligation for supporting the Title V Operating Permit Program across 289 Title V facility owners and operators versus 206 Title V facility owners and operators for the second option and 129 Title V facility owners and operators for the third option. For additional comparison, the current fee schedule spreads the cost obligations of supporting the Title V Operating Permit Program across 102 Title V facility owners and operators. Thus, the option in this final-form rulemaking spreads the financial burden of supporting the Title V Operating Permit Program across almost three times as many Title V facility owners and operators as the current fee schedule.

The revenue generated by these final-form fees will be used to support the Department's Air Quality Program as authorized by the APCA. The fee schedule amendments 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 final-form 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 final-form fees to those of this Commonwealth's approved local air pollution control agencies (Philadelphia and Allegheny Counties) and to those of surrounding states.

Public Outreach

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) and the Small Business Compliance Advisory Committee (SBCAC) in the development of this final-form rulemaking. On December 12, 2019, AQTAC concurred with the Department's recommendation to move this final-form rulemaking forward to the Board for consideration. On January 22, 2020, SBCAC concurred with the Department's recommendation to move this final-form 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 final-form rulemaking on January 6, 2020. On January 21, 2020, the CAC concurred with the Department's recommendation to advance this final-form rulemaking to the Board for consideration.

E. Summary of Final-Form Rulemaking and Changes from Proposed to Final-Form Rulemaking

§ 121.1. Definitions

This section contains definitions relating to the air quality regulations. This final-form 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."

No change is made to this definition from proposed to final-form rulemaking.

§ 127.424. Public notice

This section contains procedures the Department follows to prepare a notice of action to be taken on an application for an operating permit. An incorrect cross reference is amended in 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 final-form cross references are to § 127.44(b)(1)—(5) and to § 127.44(b).

No change is made to this section from proposed to final-form rulemaking.

§ 127.465. Significant operating permit modification procedures

This section establishes 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) establishes 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) establishes that the significant operating permit modifications must meet the requirements of Chapter 127, including §§ 127.424 and 127.425 (relating to public notice; and contents of notice).

Subsection (c) establishes 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) establishes 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.

No changes are made to subsections (a)—(d) from proposed to final-form rulemaking.

Subsection (e) establishes 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*. Subsection (e) is amended at final-form rulemaking in response to comments received to specify that the Department will take final action on the proposed change within 180 days of receipt of the complete application for the significant operating permit modification of the applicable operating permit.

§ 127.702. Plan approval fees

Section 127.702 (relating to plan approval fees) establishes, among other things, the following fee provisions:

Subsection (a) establishes 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 for the calendar years beginning with 2031.

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 for the calendar years beginning with 2031.

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 _____ (*Editor's Note:* The blank refers to the effective date of this rulemaking, when published as a final-form 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 for the calendar years beginning with 2031. An owner or operator that has more than three applicable standards will pay the fee for a maximum of three standards, but the Department's permitting review will 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 for the calendar years beginning with 2031.

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 for the calendar years beginning with 2031.

No changes are made to subsections (a)—(f) from proposed to final-form rulemaking.

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) was amended at proposed rulemaking 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 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 for the calendar years beginning with 2031. At final-form rulemaking, calendar years 2020—2025 were updated to calendar years 2021—2025, due to the change in the effective date for this final-form rulemaking.

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) was amended at proposed rulemaking 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 for the calendar years beginning with 2031. At final-form rulemaking, calendar years 2020—2025 were updated to calendar years 2021—2025, due to the change in the effective date for this final-form rulemaking.

Subsection (i) was deleted at proposed rulemaking 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) was amended at proposed rulemaking 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. At final-form rulemaking, subsection (i) was revised to delete the words “due to a change of ownership” to not limit the transfer of the plan approval to a change of ownership.

Subsection (i)(1) was added at proposed rulemaking to 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 for the calendar years beginning with 2031. Subsection (i)(1) was not revised from proposed to final-form rulemaking.

Subsection (i)(2) was added at proposed rulemaking to establish that 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 \$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 for the calendar years beginning with 2031.

At final-form rulemaking, subsection (i)(2) was revised to delete the words “due to a change of ownership” to not limit the transfer of the plan approval to a change of ownership.

Subsection (i) is amended at final-form rulemaking to add paragraph (3) to specify that the fee for an extension of a plan approval will not apply if, through no fault of the applicant, an extension is required.

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) establishes that for an analysis of the ambient impacts of the source, the owner or operator shall 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 for the calendar years beginning with 2031. At final-form rulemaking, calendar years 2020—2025 were updated to calendar years 2021—2025, due to the change in the effective date for this final-form rulemaking.

Subsection (j)(2) establishes that for a reassessment of a control technology determination, the owner or operator shall pay the applicable fee under subsection (b).

Subsection (k) is added in this final-form rulemaking to specify that the owner or operator of a source applying for a risk assessment shall, as part of the plan approval application, pay the fee in paragraph (1) or paragraph (2), as applicable.

Subsection (k)(1) establishes 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 for the calendar years beginning with 2031. At final-form rulemaking, calendar years 2020—2025 were updated to calendar years 2021—2025, due to the change in the effective date for this final-form rulemaking.

Subsection (k)(2) establishes 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 for the calendar years beginning with 2031. At final-form rulemaking, calendar years 2020—2025 were updated to calendar years 2021—2025, due to the change in the effective date for this final-form rulemaking.

Subsection (k) was proposed as § 127.708. The reason for this change in the final-form rulemaking is discussed in Section D, Background and Purpose, under the subheading Amended, New and Deleted Fees.

§ 127.703. Operating permit fees under Subchapter F

Section 127.703 (relating to operating permit fees under Subchapter F) establishes, among other things, the following 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) was amended at proposed rulemaking to delete the statement that these fees apply to the extension, modification, revision, renewal and reissuance of each operating permit or part thereof. The discussion in Section E of the preamble to the proposed rulemaking incorrectly included the words "or to a transfer of an operating permit due to a change of ownership" as part of the proposed deletion.

Subsection (b) specifies the fees for processing an application for an operating permit. Subsection (b) was amended at proposed rulemaking to delete the statement regarding the fee for processing an application for an operating permit and add the requirement 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 or to a transfer of an operating permit due to a change of ownership. At final-form rulemaking, subsection (b) was revised to delete the words "due to a change of ownership" to not limit the transfer of the plan approval to a change of ownership.

Under subsection (b)(1), the fee for a new operating permit is \$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 for the calendar years beginning with 2031.

Under subsection (b)(2), the fee for a renewal and reissuance of an operating permit or part thereof is \$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 for the calendar years beginning with 2031.

Under subsection (b)(3), the fee for a minor modification of an operating permit or part thereof is \$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 for the calendar years beginning with 2031.

Under subsection (b)(4), the fee for a significant modification of an operating permit or part thereof is \$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 for the calendar years beginning with 2031.

No changes were made to subsection (b)(1)—(4) from proposed to final-form rulemaking.

Under subsection (b)(5), the fee for an administrative amendment of an operating permit or part thereof or a transfer of an operating permit is \$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 for the calendar years beginning with 2031. At final-form rulemaking, subsection (b)(5) was revised to delete the words “due to a change of ownership” to not limit the transfer of the plan approval to a change of ownership.

Subsection (c) specifies the annual operating permit administration fee is \$375 for applications filed during the years beginning in 2005. Subsection (c) was amended at proposed rulemaking to specify that for applications filed through the effective date of the final-form rulemaking, each applicant subject to subsection (a) shall pay the annual operating permit administration fee of \$375. Subsection (c) is revised from proposed to final-form rulemaking to specify that each applicant subject to subsection (a) shall pay the annual operating permit administration fee of \$375 through December 31, 2020 instead of the effective date of the final-form rulemaking. The Board originally anticipated that the proposed rulemaking would be promulgated as a final-form regulation prior to calendar year 2020. The Board now anticipates that this final-form rulemaking will be promulgated prior to the end of calendar year 2020; hence the revision to the date certain of December 31, 2020.

Subsection (d) was amended at proposed rulemaking to delete the language 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 published in the *Pennsylvania Bulletin* as provided in §§ 127.612 and 127.632. Subsection (d) was amended at proposed rulemaking with an *Editor’s Note* to specify that beginning on the effective date of the 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. The *Editor’s Note* in subsection (d) is revised from proposed to final-form rulemaking to reflect that the publication date of the final-form rulemaking is the effective date. Subsection (d) was also revised from proposed to final-form rulemaking to note that an exception was added in the newly revised subsection (d)(1).

The final-form subsection (d)(1) provides that the annual operating permit maintenance fee for calendar year 2021 is due on or before 60 days after the effective date of the final-form rulemaking. The Board made this revision from proposed to final-form rulemaking because the Board now anticipates the final-form rulemaking to be promulgated relatively close to the original payment due date of December 31, 2020. This revision will alleviate the concern that applicants will not have sufficient notice to submit the annual operating permit maintenance fee by December 31, 2020. Under this final-form rulemaking, applicants will have 60 days’ notice to submit the annual operating permit maintenance fee for calendar year 2021.

The proposed subsection (d)(1) was moved to subsection (d)(2) on final-form rulemaking. The final-form subsection (d)(2) establishes that for a synthetic minor facility, the applicant shall pay a fee equal to \$4,000 for calendar years 2021—2025; \$5,000 for calendar years 2026—2030; and \$6,300 for the calendar years beginning with 2031. The final-form fees of \$4,000, \$5,000

and \$6,300 are revised upward from the proposed fees of \$2,500, \$3,100 and \$3,900 in response to comments from members of AQTAC that the proposed fees were too low for these sources. Synthetic minor facilities are facilities which would otherwise be Title V facilities, if not for the owners and operators accepting Federally enforceable permit conditions to limit the potential emissions below major facility thresholds. These facilities require significant and time-consuming Departmental permitting review and inspection activities to monitor compliance with the permit limits.

The proposed subsection (d)(2) was moved to subsection (d)(3) on final-form rulemaking. The final-form subsection (d)(3) establishes that for a facility that is not a synthetic minor, the applicant 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. A facility that is neither a major source nor a synthetic minor is a natural minor. No changes were made to this subsection from proposed to final-form rulemaking.

§ 127.704. Title V operating permit fees under Subchapter G

Section 127.704 establishes, among other things, the following 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. Subsection (a) was amended at proposed rulemaking to delete the statement that these fees apply to the extension, modification, revision, renewal and reissuance of each operating permit or part thereof. A slightly revised version of the deleted language in subsection (a) was moved to subsection (b) at proposed rulemaking. No changes were made to subsection (a) from proposed to final-form rulemaking.

Subsection (b) specifies the fee for processing an application for an operating permit. Subsection (b) was amended at proposed rulemaking to delete the statement regarding the fee for processing an application for an operating permit and add the requirement that each applicant subject to subsection (a) shall pay a fee equal to the fee specified in paragraphs (1)—(5), as applicable. The proposed amendment to subsection (b) further specified that 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. At final-form rulemaking, subsection (b) was revised to delete the words “due to a change of ownership” to not limit the transfer of the plan approval to a change of ownership. The discussion in Section E of the preamble to the proposed rulemaking did not include the words “or to a transfer of an operating permit due to a change of ownership” as part of the proposed amendment.

Under subsection (b)(1), the fee for a new operating permit is \$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 for the calendar years beginning with 2031. The fee of \$750 for applications filed beginning with 2005 was established at 24 Pa.B. 5938. No change was made to this subsection from proposed to final-form rulemaking.

Under subsection (b)(2), the fee for a renewal and reissuance of an operating permit or part thereof is \$750 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 for the calendar years beginning with 2031. Proposed paragraph (2)(i) incorrectly specified that the fee for a renewal and reissuance of an operating permit would be \$375 due to a drafting error in the proposed rulemaking. Paragraph (2)(i) is amended in this final-form rulemaking to specify that the fee since 2005 is \$750, as established at 24 Pa.B. 5938, and will be \$750 through the end of calendar year 2020. Prior to this final-form rulemaking, the fees specified in this section for processing an application for the extension, modification, revision, renewal and reissuance of each operating permit or part thereof were the same for all of these actions; that is, \$750 for applications filed beginning in 2005. This final-form rulemaking establishes different amounts of fees for each of these permitting actions commensurate with the Department’s costs for performing the required reviews.

Under subsection (b)(3), the fee for a minor modification of an operating permit or part thereof is \$750 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 for the calendar years beginning with 2031. Proposed paragraph (3)(i) incorrectly specified that the fee for a minor modification of an operating permit or part thereof would be \$375 due to a drafting error in the proposed rulemaking. Paragraph (3)(i) is amended in this final-form rulemaking to specify that the fee is \$750, for the reasons described in the previous paragraph regarding subsection (b)(2).

Under subsection (b)(4), the fee for a significant modification of an operating permit or part thereof is \$750 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 for the calendar years beginning with 2031. Proposed paragraph (4)(i) incorrectly specified that the fee for a significant modification of an operating permit or part thereof would be \$375 due to a drafting error in the proposed rulemaking. Paragraph (4)(i) is amended in this final-form rulemaking to specify that the fee is \$750, for the reasons described regarding subsection (b)(2).

Under subsection (b)(5), the fee for an administrative amendment of an operating permit or part thereof or a transfer of an operating permit is \$750 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 for the calendar years beginning with 2031. Proposed paragraph (5)(i) incorrectly specified that the fee for an administrative amendment of an operating permit or part thereof would be \$375 due to a drafting error in the proposed rulemaking. Paragraph (5)(i) is amended in this final-form rulemaking to specify that the fee is \$750 for the reasons described regarding subsection (b)(2). Subsection (b)(5) is also revised from proposed to final-form rulemaking to delete the words “due to a change of ownership” to not limit the transfer of an operating permit to a change of ownership. The discussion in Section E of the preamble to the proposed rulemaking did not include the words “or to a transfer of an operating permit due to a change of ownership” as part of the proposed amendment.

Prior to this final-form rulemaking, subsection (c) specified that 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 is \$750 for applications filed during the years beginning in 2005. Subsection (c) was amended at proposed rulemaking to delete the phrase “The annual operating permit administration fee 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:” and added 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 the annual operating permit administration fee of \$750 through the effective date of this final-form rulemaking. The effective date of this final-form rulemaking was replaced with the date December 31, 2020, at final-form rulemaking.

Subsection (d) was amended at proposed rulemaking to delete the language stating 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 (d) is also amended at final-form rulemaking to clarify the editor’s note. At proposed rulemaking, subsection (d) was amended to require each applicant subject to subsection (a) to pay the annual operating permit maintenance fee on or before December 31 of each year for the next calendar year. This fee is equal to \$8,000 for calendar years 2021—2025; \$10,000 for calendar years 2026—2030; and \$12,500 for the calendar years beginning with 2031. The final-form fees of \$8,000, \$10,000 and \$12,500 are revised downward from the proposed fees of \$10,000, \$12,500 and \$15,600 in response to comments from members of AQTAC that the proposed fees were too high for these facilities relative to the proposed maintenance fee for the facilities subject to § 127.703(a), that is, synthetic minor facilities. This reduction in the Title V annual operating permit maintenance fee offsets the increase in the annual operating permit maintenance fee for synthetic minor facilities. Thus, these revisions result in no net change in the revenue collected by the Department. Subsection (d) was also revised from proposed to final-form rulemaking to note that an exception was added in the newly revised subsection (d)(1).

The final-form subsection (d)(1) provides that the annual operating permit maintenance fee for calendar year 2021 is due on or before 60 days after the effective date of the final-form rulemaking. The Board made this revision from proposed to final-form rulemaking because the Board now anticipates the final-form rulemaking to be promulgated relatively close to the original payment due date of December 31, 2020. This revision will alleviate the concern that applicants will not have sufficient notice to submit the annual operating permit maintenance fee by December 31, 2020. Under this final-form rulemaking, applicants will have 60 days’ notice to submit the annual operating permit maintenance fee for calendar year 2021.

Subsection (e) establishes 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 for the calendar years beginning with 2031. This was a new subsection added in the proposed rulemaking. At final-form rulemaking, calendar years 2020—2025 were updated to calendar years 2021—2025, due to the change in the effective date for this final-form rulemaking.

Subsection (f) establishes that the owner or operator of a source proposing a PAL under Subchapter D that is not included in an application submitted under subsection (e) 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 for the calendar years beginning with 2031. This was a new subsection added in the proposed rulemaking. At final-form rulemaking, calendar years 2020—2025 were updated to calendar years 2021—2025, due to the change in the effective date for this final-form rulemaking. The proposed rulemaking Annex A incorrectly referenced subsection (d), as did the discussion in Section E of the preamble to the proposed rulemaking. The Annex A to this final-form rulemaking is amended to correct the reference from subsection (d) to subsection (e).

§ 127.705. Emission fees

This section is existing regulatory language that specifies the requirement 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) was amended at proposed rulemaking to move the requirements of paragraphs (1) and (2) for the Consumer Price Index for All-Urban Consumers to new subsection (e). No changes to this provision were made from proposed to final-form rulemaking.

§ 127.708. Asbestos abatement or regulated demolition or renovation project notification

The proposed language in § 127.708 has been moved at final-form to the newly established subsection (k) under § 127.702. The Board made this revision to clarify that the fee for a risk assessment is part of the fees for a plan approval application, in response to comments received. The proposed § 127.709 regarding the requirements for the owner or operator of an asbestos abatement or regulated demolition or renovation project has been renumbered at final-form rulemaking as § 127.708.

Final-form § 127.708(a) establishes 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 standard for 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 for the calendar years beginning with 2031. At final-form rulemaking, calendar years 2020—2025 were updated to calendar years 2021—2025, due to the change in the effective date for this final-form

rulemaking. This provision was labeled subsection (a) to accommodate a new subsection (b) that was added at the final-form stage. In this final-form rulemaking, subsection (b) was added to establish that the Department will waive the fee for a subsequent notification form submitted for the same asbestos abatement or regulated demolition or renovation project. This final-form amendment is made in response to comments received on the proposed rulemaking requesting that this fee apply only to the initial notification for the project.

§ 127.709. Fees for requests for determination

Proposed § 127.710 (relating to fees for requests for determination) is renumbered to final-form § 127.709 (relating to fees for requests for determination). Final-form § 127.709 establishes fees for RFDs for whether a plan approval, an operating permit, or both, are needed for the change to the facility. The RFD process allows an owner or operator to avoid the full cost associated with submitting a comprehensive plan approval application by receiving a written determination from the Department. Under this section, the owner or operator of a source subject to Chapter 127 that submits an RFD under § 127.14 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) establishes 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 for the calendar years beginning with 2031. At final-form rulemaking, calendar years 2020—2025 were updated to calendar years 2021—2025, due to the change in the effective date for this final-form rulemaking.

Paragraph (2) establishes 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 for the calendar years beginning with 2031. At final-form rulemaking, calendar years 2020—2025 were updated to calendar years 2021—2025, due to the change in the effective date for this final-form rulemaking.

§ 127.710. Fees for the use of general plan approvals and general operating permits under Subchapter H

Proposed § 127.712 (relating to fees for the use of general plan approvals and general operating permits under Subchapter H) is renumbered to final-form § 127.710 (relating to fees for the use of general plan approvals and general operating permits under Subchapter H). Under final-form § 127.710, 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. Apart from renumbering the section number, no changes were made to this section from proposed to final-form rulemaking.

§ 127.711. Fees for claims of confidential information

The Department determined that the fee for claims of confidentiality in proposed § 127.711 is unneeded at this time and removed it from this final-form rulemaking.

F. Summary of Comments and Responses on the Proposed Rulemaking

The Board adopted the proposed rulemaking at its meeting on December 18, 2018. On April 13, 2019, the proposed rulemaking was published for a 66-day comment period at 49 Pa.B. 1777 (April 13, 2019). Three public hearings were held on May 13, 15 and 16, 2019, in Pittsburgh, Norristown and Harrisburg, respectively. The comment period closed on June 17, 2019. The Board received comments from 1,427 commenters including the House of Representatives Environmental Resources and Energy Committee (Committee), the House of Representatives, and the Independent Regulatory Review Commission (IRRC). The majority of the commenters expressed their support of the amended and new fee schedules and stated the necessity for the Air Quality Program to have a sustainable source of funding. The comments received on the proposed rulemaking are summarized in this section and are addressed in a comment and response document which is available on the Department's website.

IRRC commented to ask the Board to work with all interested parties, particularly the Committee and members of the Legislature to address the issues raised in their comment letters with the goal of devising a funding structure that is authorized by statute, meets the intent of the General Assembly and ensures adequate revenue to fund the Air Quality Program. As discussed below, in response to other comments, this final-form rulemaking is authorized by the Board's statutory authority provided by the General Assembly, the APCA, and ensures adequate funding of the Air Quality Program. In particular, the Committee approved the current fee structure in 1994. Additionally, the Committee and members of the Legislature have extensive involvement in the development of the Department's rulemakings, including appointed members on the Department's advisory committees and 4 seats on this Board, in addition to the review outlined under the Regulatory Review Act (RRA). Lastly, the Board and the Department consistently seek opportunities to engage productively with interested parties, including the Legislature. The Department's Legislative Office works to address issues and ensure that the Legislature is informed of actions by the Department and the Board.

IRRC also mentioned that the criteria in the RRA requires consideration of the economic impact of the regulation and protection of the public health, safety and welfare and that public comments raise valid concerns related to both criteria. In response, the revenue that will be generated by the fees in this final-form rulemaking would provide essential funding for the Air Quality Program to continue fulfilling its statutory obligation of protecting the public health and welfare from harmful air pollution. The Department's Fee Report and the Regulatory Analysis Form for this final-form rulemaking, both available on the Department's website, as well as the responses below provide additional information to address the concerns raised in the comments.

Additionally, IRRC commented that the Department identifies subsection 6.3(a) of the APCA as the statutory authority to amend the air quality fee schedule. The legislators commented that the Department does not have the statutory authority to propose the expansive fee increases and that there are two other subsections in section 6.3 of the APCA that must be considered in the

construct of any fee schedule revisions: subsection (c), which establishes the emission fee for Title V sources, and subsection (j), which authorizes certain categories of fees not related to Title V of the Clean Air Act. The legislators claim that, based upon their review of these subsections, the General Assembly clearly intended to prescribe specific and limited categories of fees for Title V and Non-Title V sources and that any other fees that go beyond the explicit authorization in these subsections goes beyond statutory authority.

In response, the Board explains that Subsection 6.3(a) of the APCA provides the Board with broad authority to establish fees sufficient to cover the indirect and direct costs of administering the Air Quality Program, including the air pollution control plan approval process, operating permit program required by Title V of the CAA and other requirements of the CAA. The succeeding subsections, including subsections (c) and (j), authorize certain types of fees but do not limit the Board's authority under subsection 6.3(a) to establish other fees. Section 6.3(a) is clear and unambiguous in that and does not limit the Board's ability to raise fees so long they are used to support the air pollution control program authorized under the APCA. These fees are used to support a wide range of air pollution control activities like asbestos abatement activities, risk assessments, and Requests for Determinations, to name a few. Similarly, the broad language of this section shows an over-all legislative policy to give the Board and DEP the regulatory flexibility to promulgate the necessary fee schedules to fund air pollution control activities. Finally, a narrow reading of this section would render it ineffective.

The current regulations which were last revised in 1994 with staged plan approval and operating permit application increases over an ensuing 10 years have a similar fee structure to the final-form regulations. See 24 Pa.B. 5899 (November 26, 1994). As required under section 5(a) the RRA, 71 P.S. § 745.5(a), the Department submitted a copy of the 1994 rulemaking to the Chairpersons of the House Conservation Committee and the Senate Environmental Resources and Energy Committee for review and comment, and those regulations were deemed approved by both Committees on October 11, 1994. See 24 Pa.B. 5910. Consequently, it is difficult to see how the final-form rulemaking exceeds the APCA statutory authority.

Subsection 6.3(e) and 6.3(j) both reference interim fees. Subsection 6.3(e) specifies the interim fee amounts for Title V sources for processing operating permit applications and an annual operating permit administration fee. Subsection 6.3(j) specifies the interim fee amounts for non-Title V sources for processing plan approval applications, processing operating permit applications and an annual operating permit administration fee. Further subsection 6.3(j) must be read in conjunction with subsection 6.3(e). Subsection 6.3(e) does not specify the interim plan approval application fee for Title V sources. Instead, subsection 6.3(j) clarifies that Title V sources are only subject to the interim plan approval fees in subsection (j) because the Title V sources are already subject to the interim operating permit application and annual operating permit administration fees in subsection 6.3(e). It should also be noted that the interim fees in subsection 6.3(j) were only in place until the Board adopted regulations that established fees for non-Title V sources and the interim fees in subsection 6.3(e) were no longer applicable once the board established the alternative fees under subsection 6.3(c).

Additionally, under 40 CFR 70.9 (relating to fee determination and certification), the Department's Air Quality Program is required to establish fees that are sufficient to cover the permit program costs, including costs related to preparing regulations or guidance, reviewing

permit applications, general administrative costs of running the program, implementing and enforcing the terms of a permit, emissions and ambient monitoring, modeling, analyses, or demonstrations, preparing inventories and tracking emissions, and providing small business assistance.

IRRC commented that the legislators object to the annual maintenance fee because it is not explicitly authorized by statute. The legislators assert that the statute only authorizes an annual operating permit “administration” fee, therefore; it cannot be replaced with an annual operating permit “maintenance” fee.

In response, subsection 6.3(j)(3) of the APCA provides for an annual operating permit administration fee, an undefined term in the act. It does not, however, limit the Board to using that exact name for the fee. The annual operating permit maintenance fee in this final-form rulemaking is the annual operating permit administration fee. The Board merely adjusted the name of the fee to better describe its purpose since these fees are used to cover the Department’s costs for evaluating the facility to ensure that it is ‘maintaining’ compliance, including the costs of inspections, reviewing records and reviewing permits. This name change is also evident by the fact that the Department will stop assessing the currently titled annual operating permit administration fee after December 31, 2020.

A representative of the regulated community commented that the annual operating permit maintenance fee will spread out the cost obligations to all sources in an equitable manner.

The Board agrees. The annual operating permit maintenance fee is 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. This final-form rulemaking collects an annual operating permit maintenance fee of \$8,000 from the owners and operators of all affected Title V facilities. The Board chose this approach based on the equities involved among the number of impacted Title V facility owners and operators. This option spreads the cost obligation for supporting the Title V Operating Permit Program across 289 Title V facility owners and operators. For comparison, the current fee schedule spreads the cost obligations of supporting the Title V Operating Permit Program across 102 Title V facility owners and operators.

IRRC asked the Board to explain why it believes that the proposed fees for PAL, ambient air impact modeling of certain plan approval applications, risk assessments, asbestos project notifications, RFDs and for claims of confidential information are authorized by statute and consistent with the intent of the General Assembly.

The fees identified by IRRC are authorized under subsection 6.3(a) of the APCA. As stated above, subsection 6.3(a) provides the Board with broad authority to establish sufficient fees 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, 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 fees required by section 502(b) of the CAA. The complexity of the Department's air quality permitting program has increased since its implementation in 1994 as new and more stringent requirements have been promulgated by the EPA. These revised fees are designed to recover the Department's costs for certain activities related to processing of applications for plan approvals and operating permits, including risk assessments and ambient air impact modeling of certain plan approval applications, without burdening all owners and operators of permitted sources with costs for services that they do not use or need. Without these separate fees, plan approval application fees applicable to all owners and operators of permitted sources would have to be adjusted higher. Establishing this fee structure will provide support for the continuation of the Department's Air Quality Program and ensure continued protection of the environment and the public health and welfare of the citizens of this Commonwealth as required by the APCA and the CAA.

IRRC asked the Board to explain why it believes it has the statutory authority to require these new fees to be assessed cumulatively. The legislators commented that the APCA does not authorize the Department to split apart the plan approval application into disparate parts only to then add them together for a higher cumulative fee.

On November 26, 1994, after significant public input, including several hearings and public meetings, and an evaluation of the fee structure by an outside consultant, the Board's amendments to the Department's plan approval and operating permit program were established as required to be consistent with the 1992 APCA amendments. See 24 Pa.B. 5937, 5938. As a result of public comments opposing the proposed fee structure and recommendations that the Department establish fees based on the time necessary to process the plan approval application, the Department established the six categories of plan approval fees to better reflect the actual cost to the Commonwealth of evaluating plan approval applications. See 24 Pa.B. 5903. As required under section 5(a) the RRA (71 P.S. 745.5(a)), the Department submitted a copy of the proposed rulemaking to the Chairpersons of the House Conservation Committee and the Senate Environmental Resources and Energy Committee for review and comment, and the final-form regulation was deemed approved by both Committees on October 11, 1994. See 24 Pa.B. 5910.

In the 1994 regulatory amendments, the Board stated that "the fees for plan approvals are still based on the complexity of the plan approval application" and that "the new fee structure is a better reflection of the actual cost to the Commonwealth for evaluating plan approval applications." See 24 Pa.B. 5902. The Board's position and the plan approval fee structure remains unchanged in this final-form rulemaking. The Board still holds that applicants should only have to pay for the service rendered, particularly considering that every plan approval application is different and requires a level of review based on the number and complexity of the components. The six categories of plan approval fees required under § 127.702(b)—(g) were established in 1994. Thus, applicants have been paying separate fees for the processing of the components of plan approval applications since implementation of the fee schedule in 1994. Without the current the fee structure, the Department would have to assess a higher application fee for all applicants.

The legislators commented that the current fee structure for the Department as authorized by the APCA for the Title V program is based on an emission fee model. The Legislature through

the APCA, and Congress through the CAA, clearly intended for the emission fee to be the main source of revenue for the Title V program.

The legislators are correct that the current fee structure for the Department as authorized by the APCA for the Title V program is based on an emission fee model. In fact, most of the fees referenced in section 6.3 of the APCA are considered emission fees. Under subsection 6.3(d) of the APCA, “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.” Subsection 6.3(f) further states that the fees referenced in subsections (b), (c) and (j) are emissions fees.

However, the legislators seem to be referencing the *permanent annual air emission fee* required under subsection 6.3(c). The APCA includes the annual air emission fee as required for regulated pollutants under section 502(b) of the CAA, but does not stipulate that the annual air emission fee is to provide a certain percentage of the revenue for the Title V program, only that the annual air emission fee is a component of the fee schedule for the Title V program. Further, the Board does not agree that Congress through the CAA clearly intended for the annual air emission fee to be the main source of revenue for the Title V program. In the EPA’s July 21, 1992, final rule addressing the Part 70 operating permit program, the EPA stated that “...[t]he EPA interprets title V to offer permitting authorities flexibility in setting variable fee amounts for different pollutants or different source categories, as long as the sum of all fees collected is sufficient to meet the reasonable direct and indirect costs required to develop and administer the provisions of title V of the Act, including section 507 as it applies to part 70 sources.” See 57 FR 32258 (July 21, 1992). Additionally, the EPA stated that “...[t]he State is not required to assess fees on any particular basis and can use application fees, service-based fees, emissions fees based on either actual or allowable emissions, other types of fees, or any combination thereof.” See 57 FR 32292.

The legislators expressed that while they truly appreciate the achievements in pollution reduction and the efforts made to provide for cleaner air, they believe that this goal can be achieved while not harming our economy. The RRA (71 P.S. § 745.5b) requires IRRC to consider the economic or fiscal impacts of a regulation, specifically the adverse effects on prices of goods and services, productivity or competition.

The Department reviewed the real gross domestic product (RGDP) data for this Commonwealth’s private manufacturing sector available on the website of the Federal Reserve Bank of St. Louis, Missouri, for the years 1997—2018. The Board’s last increase to the permitting fee schedule was implemented in 2005. The RGDP output for this Commonwealth’s private manufacturing sector averaged over the years 2005—2017 is greater than \$81 billion. The projected increase in permitting fee revenue of approximately \$13 million is 0.01% of the average annual total private manufacturing RGDP of the past 12 years. The Department contends that \$13 million spread out across this Commonwealth’s entire air quality regulated community will not have a significant adverse effect. Rather, by increasing the fee revenue and providing the Department the means to increase staffing, the Department will be able to review,

approve and issue permits more quickly, thereby providing the regulated community with the opportunity to expand their businesses and hire more people. This will increase the industrial output and improve this Commonwealth's economy.

The legislators commented that it is entirely reasonable that a decline in revenue for the Air Quality Program would coincide with the significant decline in pollution and polluting facilities to be regulated. That is, in fact, the goal. As this goal is increasingly realized, Title V facilities which are regulated under this program should not have to subsidize efforts to reduce air pollution from other sources not under this program.

In response, the Board agrees that facilities regulated under the Title V program should not have to subsidize efforts to reduce air pollution from sources or facilities that are not regulated under the Title V program. Hence, this final-form rulemaking includes a fee-for-service schedule designed to spread the costs of the Air Quality Program across more of the users rather than concentrating the burden on Title V facilities. Moreover, even though emissions are declining, the overall services that the Department provides and the cost of those services continues to increase.

Two commenters and several members of AQTAC mentioned that the proposed fee package did not address the fact that carbon dioxide (CO₂) became a "regulated pollutant" on December 22, 2015, and therefore should be assessed in some way regarding the Title V emission fee dollar per ton calculation.

As mentioned above, in the EPA's July 21, 1992, final rule addressing the Part 70 operating permit program, the EPA stated that "...[t]he EPA interprets title V to offer permitting authorities flexibility in setting *variable fee amounts for different pollutants* or different source categories, as long as the sum of all fees collected is sufficient to meet the reasonable direct and indirect costs required to develop and administer the provisions of title V of the Act, including section 507 as it applies to part 70 sources." [emphasis added] See 57 FR 32258 (July 21, 1992). Therefore, the Department is exercising enforcement discretion to not assess a permanent annual air emission fee for CO₂ emissions or, in other words, assessing a fee of \$0 per ton in this final-form rulemaking.

However, the Department is exploring appropriate ways to address CO₂ emissions. On October 3, 2019, Governor Wolf signed Executive Order 2019-07, directing the Department to develop a proposed rulemaking to abate, control or limit CO₂ emissions from fossil fuel-fired electric generating units as authorized by the APCA. The proposed rulemaking will establish a CO₂ budget consistent with the participating states in the Regional Greenhouse Gas Initiative (RGGI), as well as a fee per ton of CO₂ emitted from a fossil fuel-fired electric generating unit.

G. Benefits, Costs and Compliance

Benefits

The revenue from the fees in this final-form rulemaking will be directed to the Clean Air Fund, comprised of the Title V and Non-Title V Accounts. Together, the funds in these accounts currently 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 money or Federal grants directed to the Air Quality Program will increase in the foreseeable future to offset the declining revenue from the permitting fees and emission fees. In the early years of the Title V program when there were more facilities and emissions of regulated pollutants were significantly greater than today, the Clean Air Fund balance was large. After many years of drawing down this balance to cover Air Quality Program costs and expenditures that exceeded the combined annual revenue and money from the General Fund and Federal grants, the Clean Air Fund is expected to reach a zero balance sometime in FY 2021-2022. The final-form plan approval application and operating permit fee schedules are designed to bring the Clean Air Fund permitting fee revenue in line with expenditures so that the Air Quality Program is self-sustaining as required under the CAA.

Since deficit spending is not allowed, the Air Quality Program expenditures will need to be decreased by approximately \$13 million per year if these final-form amendments to the fee schedules are not promulgated. To address ongoing shortfalls in Clean Air Fund revenue, the Air Quality Program has seen significant reductions in staff since 2000 (111 positions or 30%). If Clean Air Fund revenue is not restored to sustainable levels, additional reductions in air quality staff at all levels in both the Bureau of Air Quality and the Department's 6 regional offices will be required. Conservatively, a decrease of 80 staff members, an approximately 30% reduction from current staffing levels, 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 the required regulatory and nonregulatory SIP revisions in a timely manner. Failure to maintain an approved SIP could result in the EPA establishing a FIP for the Commonwealth; under a FIP all fees, penalties and other revenue would be paid to the EPA. This would likely be unacceptable to the regulated industry, local governments and the public.

Without the revenue from the fees in this final-form rulemaking, in addition to further reductions in Air Quality Program staff, decreases in spending would be needed on the ambient air monitoring network. Shrinking the ambient air monitoring network would, however, virtually eliminate air toxics monitoring and leave large portions of rural areas with no air monitoring. Overall, the citizens of this Commonwealth would suffer from the loss of continued air quality planning, monitoring, permitting and inspection activities that are fundamental to the economy and protecting public health and welfare and the environment. With this final-form rulemaking, the Air Quality Program can 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 information technology 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 or operator's decision to expand or locate an industrial operation in this Commonwealth. 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, help retain the current industry and provide certainty for businesses.

Compliance costs

The financial impact on the owners and operators of Title V facilities regulated by the Department, collectively, will be additional plan approval and operating permitting costs of approximately \$900,000 per year as well as approximately \$4 million in annual operating permit maintenance fee costs. Title V small businesses, in total, will pay an estimated additional \$820,000 annually.

The financial impact on the owners and operators of Non-Title V facilities regulated by the Department, collectively, will be additional plan approval and operating permitting costs of approximately \$1.5 million per year as well as approximately \$5.5 million in annual operating permit maintenance fee costs. Non-Title V small businesses, in total, will pay an estimated additional \$3.1 million annually.

Approximately \$1.5 million in asbestos notification fees will be collected from 2,000 licensed remediation contractors, most of whom are small businesses.

Compliance assistance plan

The Department plans to educate and assist the public and regulated community in understanding and complying with the requirements. This will be accomplished through the Department's ongoing compliance assistance program.

Paperwork requirements

There are no additional paperwork requirements associated with this final-form rulemaking. The existing applications and forms will be updated with the new fees.

H. Pollution Prevention

The Pollution Prevention Act (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 final-form rulemaking allows the Department to maintain staffing levels in the Air Quality Program and the ambient air monitoring network, which will 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 welfare and the environment.

I. Sunset Review

The Board is not establishing a sunset date for this final-form rulemaking because it is needed for the Department to carry out its statutory authority. If published 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.

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on DATE, 2020, the Department submitted a copy of the notice of proposed rulemaking, published at 49 Pa.B. 1777, to IRRC and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on DATE, 2020, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on DATE, 2020, and approved this final-form rulemaking.

K. Findings of the Board

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) At least a 60-day public comment period was provided as required by law and all comments were considered.

(3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 49 Pa.B. 1777.

(4) These regulations are reasonably necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

L. Order of the Board

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapters 121 and 127, are amended to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall submit this final-form regulation to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson of the Board shall submit this final-form regulation to IRRC and the House and Senate Committees as required by the Regulatory Review Act (71 P.S. §§ 745.1—745.14).

(d) The Chairperson of the Board shall certify this final-form regulation and deposit them with the Legislative Reference Bureau as required by law.

(e) This final-form regulation will be submitted to the EPA as a revision to the Commonwealth's SIP.

(f) This final-form regulation shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

PATRICK McDONNELL,
Chairperson



pennsylvania

DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Bureau of Air Quality

Air Quality Fee Schedule Amendments

25 Pa. Code Chapters 121 and 127

49 Pa.B. 1777 (April 13, 2019)

Environmental Quality Board Regulation #7-536
(Independent Regulatory Review Commission #3231)

Comment and Response Document

Air Quality Fee Schedule Amendments

On April 13, 2019, the Environmental Quality Board (Board) published a *Pennsylvania Bulletin* notice of public hearing and comment period on a proposed rulemaking to amend 25 Pa. Code Chapters 121 (relating to general provisions) and 127, Subchapters F and I (relating to operating permit requirements; and plan approval and operating permit fees). The Board proposed to amend existing requirements in Subchapter F and existing air quality plan approval and operating permit fee schedules in Subchapter I. The Board also proposed 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 in this Commonwealth and downwind. Increased funding for the Air Quality Program will also provide the certainty businesses need to expand or locate in this Commonwealth by continuing to allow for timely and complete review of plan approval and operating permit applications.

Three public hearings were held on the proposed rulemaking as follow:

- | | |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| May 13, 2019 | Department of Environmental Protection
Southwest Regional Office
Waterfront Conference Rooms A and 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 and B
909 Elmerton Avenue
Harrisburg, PA 17110 |

This document summarizes the testimony received at the public hearings and the written comments received during the public comment period. In addition, the comments received from the House of Representatives, the House of Representatives Environmental Resources and Energy Committee and the Independent Regulatory Review Commission (IRRC) are summarized and responses provided. Each comment is provided with the identifying commenter number for each commenter that made that comment.

Copies of Comments

Copies of all comments received by the Board are posted on IRRC's website at <http://www.irrc.state.pa.us>. Search by Regulation # 7-536 or IRRC # 3231.

Acronyms used in this Comment/Response Document

APCA – Pennsylvania Air Pollution Control Act
AQTAC – Air Quality Technical Advisory Committee
CAA – Federal Clean Air Act (42 U.S.C.A. §§ 7401—7671q)
CAC – Citizens Advisory Council
CPI-U-RS – Consumer Price Index for all Urban Consumers research series
EPA – United States Environmental Protection Agency
EQB – Environmental Quality Board
FRED® – Federal Reserve Economic Data
GP – General Permit
IRRC – Independent Regulatory Review Commission
MACT – Maximum Achievable Control Technology
MWh – Megawatt hours
NAAQS – National Ambient Air Quality Standard
NACAA – National Association of Clean Air Agencies
NESHAP – National Emission Standards for Hazardous Air Pollutants
NSPS – New Source Performance Standards
NSR – New Source Review
PAL – Plantwide applicability limit
PSD – Prevention of significant deterioration
SBCAC – Small Business Compliance Advisory Committee
SIP – State Implementation Plan

LIST OF COMMENTERS ON THE PROPOSED RULEMAKING

ID #	Last Name	First Name	Affiliation	City	State
1	Norris	Thomas		Greensburg	PA
2	Krafjack	Emily		Mehoopany	PA
3	Hochheiser	Harry		Pittsburgh	PA
4	Filippini	Rachel	Group Against Smog and Pollution (GASP)	Pittsburgh	PA
5	Magidson	Pam		Ardmore	PA
6	Marrara	Carl A.	Pennsylvania Manufacturers' Association	Harrisburg	PA
7	Berry	John		Pittsburgh	PA
8	Regan	Annie		Pittsburgh	PA
9	Scanton	Meghan		Pittsburgh	PA
10	Gray	Thalia		Pittsburgh	PA
11	Schmidt	Peg		Pittsburgh	PA
12	Castrina MD	Frank P.		Carlisle	PA
13	Kyriazi	Nicholas		Pittsburgh	PA
14	Chandler	Elizabeth		Swissvale	PA
15	Kovalchick	Shanna		Pittsburgh	PA
16	McCarter	Daniel Parnell		Ann Arbor	MI
17	Taranto	Angelo			PA
18	Nadle	Jonathan			PA
19	Fifer	Gaye			PA
20	Homan, Ph.D.	Michelle		Erie	PA
21	Langmead	Greg			PA
22	Mercurio	Joseph		New Kensington	PA
23	Mastrangelo	Dilla		Pittsburgh	PA
24	Johnson	Janis		Pittsburgh	PA
25	Au	Thomas	Clean Air Board of Central Pennsylvania	Carlisle	PA

26	Pipal	Suella			PA
27	Havrilla	Robert		Pittsburgh	PA
28	Jarvis	Naomi		Pittsburgh	PA
29	Mercurio	Arlene		New Kensington	PA
30	Harvey	James		Glenshaw	PA
31	Sunday	Kevin	Pennsylvania Chamber of Business and Industry	Harrisburg	PA
32	Henderson	Patrick	Marcellus Shale Coalition	Pittsburgh	PA
33	Moody	Kevin	PIOGA	Harrisburg	PA
34	Brisini	Vincent	Olympus Power, LLC	Morristown	NJ
35	Michalik	Sarah	U. S. Steel	Pittsburgh	PA
36	Decker	Richard		Bethlehem	PA
37	Peterson	Alan		Willow Street	PA
38	DuPaul	George		Macungie	PA
39	Lupo,OSB	Pat		Erie	PA
40	Richter	Ron		Bethlehem	PA
41	Scott	wm		Mansfield	PA
42	Kirchner	Michael		Harrisburg	PA
43	Charles	Donald		Huntingdon Valley	PA
44	Reiter	Margaret		Saylorsburg	PA
45	Gibbons	Jaret	ARIPPA	Camp Hill	PA
46	Minott, Esq.	Joseph	Clean Air Council	Philadelphia	PA
47	McPhedran	Charles	Earthjustice	Philadelphia	PA
48	Mehalik, Ph.D.	Matthew	Breathe Project	Pittsburgh	PA
49	Masur	David	PennEnvironment	Philadelphia	PA
50	Priego	Karen	PSATS		PA
51	Brown	Stephen			PA

52	Benninghoff	Kerry	PA House of Representatives
53	Bernstine	Aaron	PA House of Representatives
54	Borowicz	Stephanie	PA House of Representatives
55	Cook	Bud	PA House of Representatives
56	Cox	Jim	PA House of Representatives
57	Cutler	Bryan	PA House of Representatives
58	Delozier	Sheryl	PA House of Representatives
59	Diamond	Russ	PA House of Representatives
60	Dunbar	Goerge	PA House of Representatives
61	Dush	Cris	PA House of Representatives
62	Ecker	Torren	PA House of Representatives
63	Everett	Garth	PA House of Representatives
64	Fee	Mindy	PA House of Representatives
65	Fritz	Jonathan	PA House of Representatives
66	Gaydos	Valerie	PA House of Representatives
67	Gillen	Mark	PA House of Representatives
68	Gleim	Barbara	PA House of Representatives
69	Greiner	Keith J.	PA House of Representatives

70	Grove	Seth	PA House of Representatives
71	Hershey	Jonathan	PA House of Representatives
72	Irvin	Rich	PA House of Representatives
73	James	R. Lee	PA House of Representatives
74	Jones	Mike	PA House of Representatives
75	Keefer	Dawn	PA House of Representatives
76	Klunk	Kate	PA House of Representatives
77	Lewis	Andrew	PA House of Representatives
78	Maloney	David	PA House of Representatives
79	Mentzer	Steven	PA House of Representatives
80	Miller	Brett	PA House of Representatives
81	Moul	Dan	PA House of Representatives
82	Nelson	Eric	PA House of Representatives
83	Oberlander	Donna	PA House of Representatives
84	Owlett	Clint	PA House of Representatives
85	Pickett	Tina	PA House of Representatives
86	Pyle	Jeff	PA House of Representatives
87	Rader	Jack	PA House of Representatives

88	Rapp	Kathy	PA House of Representatives
89	Roae	Brad	PA House of Representatives
90	Rothman	Greg	PA House of Representatives
91	Saylor	Stan	PA House of Representatives
92	Ryan	Frank	PA House of Representatives
93	Schemel	Paul	PA House of Representatives
94	Schlegel Culver	Lynda	PA House of Representatives
95	Toepel	Marcy	PA House of Representatives
96	Toohil	Tarah	PA House of Representatives
97	Wheeland	Jeff	PA House of Representatives
98	Zimmerman	Dave	PA House of Representatives
99	Metcalf	Daryl D.	PA House Environmental Resources & Energy Committee
100	Causer	Martin	PA House Environmental Resources & Energy Committee
101	Dush	Cris	PA House Environmental Resources & Energy Committee
102	Fritz	Jonathan	PA House Environmental Resources & Energy Committee

103	James	R. Lee	PA House Environmental Resources & Energy Committee
104	Mackenzie	Ryan	PA House Environmental Resources & Energy Committee
105	Walker Metzgar	Carl	PA House Environmental Resources & Energy Committee
106	O'Neal	Tim	PA House Environmental Resources & Energy Committee
107	Ortitay	Jason	PA House Environmental Resources & Energy Committee
108	Rapp	Kathy	PA House Environmental Resources & Energy Committee
109	Sankey	Thomas	PA House Environmental Resources & Energy Committee
110	Schemel	Paul	PA House Environmental Resources & Energy Committee
111	Warner	Ryan	PA House Environmental Resources & Energy Committee
112	Zimmerman	Dave	PA House Environmental Resources & Energy Committee
113	Snyder	Pamela	PA House Environmental

			Resources & Energy Committee		
114-1426	Barber	Zach	PennEnvironment, including form letter signatories	Pittsburgh	PA
1427	Sumner	David	IRRC		

COMMENTS AND RESPONSES

Statutory Authority

1. Comment: The commenters believe that the Department does not have the statutory authority to propose the expansive fee increases. The Department states that section 6.3(a) of the Air Pollution Control Act (APCA) provides the authority to amend the air quality fee schedules. The commenters believe that section 6.3(a) authorizes certain fees, but does not authorize any kind of fees.

The commenters note that subsection (a) specifically refers to the whole “*section*” in its grant of authority but does not grant any particular fees in this subsection. Only later in section 6.3 does the statute delineate the particular fees that it authorizes. Had the Legislature stopped at subsection (a) then, theoretically, a broad swath of fees would be authorized. However, the statute does not stop with subsection (a). The Legislature went on to explicitly set specific parameters on the fees it was authorizing in subsequent subsections. Those specific fees that are authorized are listed in subsections (c) and (j). Subsection (c) authorizes the emission fee for Title V sources, and subsection (j) authorizes “*the following categories of fees not related to Title V of the Clean Air Act.*” These Non-Title V fees are for:

1. The processing of any application for plan approval.
2. The processing of any application for an operating permit.
3. Annual operating permit administration.

Subsection (j) also states: “*In regard to fees established under this subsection, individual sources required to be regulated by Title V of the Clean Air Act shall only be subject to plan approval fees authorized in this subsection.*” 35 P.S. § 4006.3 (j). In other words, Title V sources can only be assessed an emission fee and plan approval fees. Non-Title V sources can only be assessed fees for: plan approvals, operating permits, and annual operating permit administration. Any other fees that go beyond the explicit authorization in these subsections goes beyond statutory authority. (52—98, 1427)

Response: This final-form 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 Clean Air Act (CAA), which in this case relate to fees under Title V of the CAA (42 U.S.C.A. § 7661-7661f).

Implementing the provisions of the federal CAA is only one of the many reasons why the General Assembly enacted the APCA. The APCA is also intended to protect the air resources of this Commonwealth for the protection of public health and welfare and the environment, including plant and animal life and recreational resources, as well as development, attraction and expansion of industry, commerce and agriculture. The Department was also provided with specific duties under section 4 of the APCA (35 P.S. § 4004) related to the regulation and

enforcement of air contamination sources within this Commonwealth. To fulfill this statutory obligation, the Department needs sufficient funding.

Subsection 6.3(a) of the APCA provides the Board with broad authority to establish fees sufficient to cover the indirect and direct costs of administering the Air Quality Program, including the air pollution control plan approval process, operating permit program required by Title V of the CAA and other requirements of the CAA. The fees, in this rulemaking, are used to support the air pollution control program authorized under the APCA. The succeeding subsections, including subsections (c) and (j), authorize certain types of fees but do not limit the Board's authority under subsection 6.3(a) to establish other fees. Under section 1922 of the Statutory Construction Act (1 Pa.C.S.A. § 1922), "in ascertaining legislative intent, one may presume that "the General Assembly intends the entire statute to be effective and certain." In other words, there would be no reason for the General Assembly to add section 6.3(a) if they did not intend to hold it effective.

The current regulations which were last revised in 1994 with staged plan approval and operating permit application increases over an ensuing 10 years have a similar fee structure to the final-form regulations. *See* 24 Pa.B. 5899 (November 26, 1994). As required under section 5(a) the RRA, 71 P.S. § 745.5(a), the Department submitted a copy of the 1994 rulemaking to the Chairpersons of the House Conservation Committee and the Senate Environmental Resources and Energy Committee for review and comment, and those regulations were deemed approved by both Committees on October 11, 1994. *See* 24 Pa.B. at 5910. Consequently, it is difficult to see how the final-form rulemaking exceeds the APCA statutory authority.

Subsection 6.3(e) and 6.3(j) both reference interim fees. Subsection 6.3(e) specifies the interim fee amounts for Title V sources for processing operating permit applications and an annual operating permit administration fee. Subsection 6.3(j) specifies the interim fee amounts for non-Title V sources for processing plan approval applications, processing operating permit applications, and an annual operating permit administration fee. Further, subsection 6.3(j) must be read in conjunction with subsection 6.3(e). Subsection 6.3(e) does not specify the interim plan approval application fee for Title V sources. Instead, subsection 6.3(j) clarifies that Title V sources are only subject to the interim plan approval fees in subsection (j) because the Title V sources are already subject to the interim operating permit application and annual operating permit administration fees in subsection 6.3(e). It should also be noted that the interim fees in subsection 6.3(j) were only in place until the Board adopted regulations that established fees for non-Title V sources and the interim fees in subsection 6.3(e) were no longer applicable once the Board established the alternative fees under subsection 6.3(c).

Additionally, under 40 CFR 70.9 (relating to fee determination and certification), the Department's Air Quality Program is required to establish fees that are sufficient to cover the permit program costs, including costs related to preparing regulations or guidance, reviewing permit applications, general administrative costs of running the program, implementing and enforcing the terms of a permit, emissions and ambient monitoring, modeling, analyses, or demonstrations, preparing inventories and tracking emissions, and providing small business assistance.

While the plain language of Section 6.3(a) is unambiguous and grants the Board broad authority to establish fees, the legislative history in this case is also instructive. A review of the 1992 House and Senate Journals for the consideration of Senate Bill 1650 of the Session of 1992 show no comments limiting the structure of the fees schedule to specific fees. See Senate Legislative Journals for June 16, 1992, pages 2273, 2281—2287; June 17, 1992, pages 2291—2295; and June 30, 1992, pages 2450 and 2451; and House Legislative Journal for June 29, 1992, pages 1580—1587. Weblinks:

Senate Journal June 16, 1992:

<https://www.legis.state.pa.us/WU01/LI/SJ/1992/0/Sj19920616.pdf#page=14>

Senate Journal June 17, 1992:

<https://www.legis.state.pa.us/WU01/LI/SJ/1992/0/Sj19920617.pdf#page=2>

Senate Journal June 30, 1992:

<https://www.legis.state.pa.us/WU01/LI/SJ/1992/0/Sj19920630.pdf#page=40>

House Journal June 29, 1992:

<https://www.legis.state.pa.us/WU01/LI/HJ/1992/0/19920629.pdf#page=24>

2. Comment: The commenters assert that it is clear that a plain reading of the statute prohibits most of the Department's fee proposals. In its proposal, the Department seems to concentrate only on the authority granted to cover the costs of the program and thereby ignores the fact that the Legislature only authorized specific fees. The fees that are outside specific legislative authorization are as follow; first, the statute does not allow the Department to increase the operating permit fee for Title V sources. *In fact, this fee is only allowed for Non-Title V sources in subsection (j), which raises questions about the legality of the Department's current annual operating permit administration fee for Title V fees in 25 Pa Code § 127.704. (52—98)*

Response: The amendments to the fee schedules are authorized under section 6.3 of the APCA. Subsection 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, 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 the APCA and not covered by fees required by section 502(b) of the CAA. Implementing the provisions of the federal CAA is only one of the many reasons why the General Assembly enacted the APCA. The APCA is also intended to protect the air resources of this Commonwealth for the protection of public health and welfare and the environment, including plant and animal life and recreational resources, as well as development, attraction and expansion of industry, commerce and agriculture. The Department was also provided with specific duties under section 4 of the APCA (35 P.S. § 4004) related to the regulation and enforcement of air contamination sources within this Commonwealth. To fulfill this statutory obligation, the Department needs sufficient funding.

The Department's authority is not limited to the fees listed in subsections 6.3(c) and (j). Subsection 6.3(j) says that the Board may by regulation establish the following categories of fees not related to Title V of the CAA. Subsection 6.3(j) does not say that the Board shall establish these fees or may establish only these fees. Under 40 CFR 70.9, state programs shall establish

fees that are sufficient to cover the permit program costs, including costs related to preparing regulations or guidance, reviewing permit applications, general administrative costs of running the program, implementing and enforcing the terms of a permit, emissions and ambient monitoring, modeling, analyses, or demonstrations, preparing inventories and tracking emissions, and providing small business assistance. The Pennsylvania Title V operating permit program was implemented on November 26, 1994. See 24 Pa.B. 5899 (November 26, 1994). The operating permit program was approved as part of the Commonwealth's State Implementation Plan (SIP) and received full approval as a Part 70 operating permit program effective August 29, 1996. See 61 FR 39597 (July 30, 1996). Please see the response to Comment 1 for further information on statutory authority.

3. Comment: The commenters assert that the statute only authorizes an annual operating permit “administration” fee, therefore it cannot be replaced with an annual operating permit “maintenance” fee. When asked if the Department had the statutory authority to charge a maintenance fee, as noted in the EQB Meeting Minutes for December 18, 2018, deputy Hartenstein responded affirmatively, but with no justification, citation, or explanation. He then said the maintenance fee was the same, conceptually, as the operating administrative fee and that the names are adjusted as they apply to different facilities to avoid confusion. While we applaud any effort to avoid confusion, it does not change the fact that the statute is void of any such authorization for a “maintenance” fee and any confusion over wording can just as successfully be avoided by merely referring to it simply as it is in the statute: an administration fee. (52—98, 1427)

Response: Subsection 6.3(j)(3) of the APCA provides for an annual operating permit administration fee, an undefined term in the act. It does not, however, limit the Board to using that exact name for the fee. The annual operating permit maintenance fee in this final-form rulemaking is the annual operating permit administration fee. The Board merely adjusted the name of the fee to better describe its purpose since these fees are used to cover the Department's costs for evaluating the facility to ensure that it is ‘maintaining’ compliance, including the costs of inspections, reviewing records, and reviewing permits. It is reasonable and appropriate for the Board to adjust the name of a fee to better describe its purpose. This name change is also evident by the fact that the Department will stop assessing the currently titled annual operating permit administration fee after December 31, 2020. The Board did not receive comments formally or informally from owners and operators or the general public stating that the name change would cause confusion.

4. Comment: The commenters further assert that the APCA does not authorize the Department to split apart the plan approval application into disparate parts only to then add them together for a higher cumulative fee. Plantwide applicability limits, ambient air impact modeling of certain plan approval applications, and risk assessments are not plan approval fees, they are newly invented fees. Furthermore, although the Department claims the risk assessment fee is a plan approval fee, it does not even include it in the plan approval fee subsection (25 Pa Code § 127.702) but instead gives risk assessments its own section (proposed § 127.708). This is not a new plan approval fee; this is simply an altogether new fee. The Department cannot invent new fees and call them plan approval fees and claim they are authorized by the statute. (52—113, 1427)

Response: The Department did not split apart the plan approval application fees into disparate parts and add them back together for a higher cumulative fee as part of this final-form rulemaking. On November 26, 1994, after significant public input, including several hearings and public meetings, and an evaluation of the fee structure by an outside consultant, the Board's amendments to the Department's plan approval and operating permit program were established as required to be consistent with the 1992 APCA amendments. See 24 Pa.B. 5937, 5938. As a result of public comments opposing the proposed fee structure and recommendations that the Department establish fees based on the time necessary to process the plan approval application, the Department established the six categories of plan approval fees to better reflect the actual cost to the Commonwealth of evaluating plan approval applications. See 24 Pa.B. 5903. As required under section 5(a) the Regulatory Review Act (RRA) (71 P.S. 745.5(a)), the Department submitted a copy of the proposed rulemaking to the Chairpersons of the House Conservation Committee and the Senate Environmental Resources and Energy Committee for review and comment, and the final-form regulation was deemed approved by both Committees on October 11, 1994. See 24 Pa.B. 5910.

In the 1994 regulatory amendments, the Department stated that "the fees for plan approvals are still based on the complexity of the plan approval application" and that "the new fee structure is a better reflection of the actual cost to the Commonwealth for evaluating plan approval applications." See 24 Pa.B. 5902. The Department's position and the plan approval fee structure remains unchanged in this final-form rulemaking. The Department still holds that applicants should only have to pay for the service rendered, particularly considering that every plan approval application is different and requires a level of review based on the number and complexity of the components. The six categories of plan approval fees required under § 127.702(b)—(g) were established in 1994. Thus, applicants have been paying separate fees for the processing of the components of plan approval applications since implementation of the fee schedule in 1994.

That is, an applicant for a plan approval for construction, modification, or reactivation of a source or installation of an air cleaning device on an air contamination source requiring approval under Chapter 127, Subchapter B (relating to plan approval requirements) that is not subject to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), or Maximum Achievable Control Technology (MACT) Standards, New Source Review (NSR), or Prevention of Significant Deterioration (PSD), only pays the applicable fee required under § 127.702(b) (relating to plan approval fees).

An applicant for a plan approval requiring approval under Chapter 127, Subchapter B and Subchapter E (relating to new source review) pays the applicable fee under § 127.702(c) in addition to the applicable fee under § 127.702(b).

An applicant for a plan approval requiring approval under Chapter 127, Subchapter B that is subject to one or more standards adopted under Chapter 122 (relating to National standards of performance for new stationary sources), one or more standards adopted under Chapter 124 (relating to National emission standards for hazardous air pollutants), one or more standards under § 127.35(b) (relating to maximum achievable control technology standards for hazardous air pollutants), or to standards under a combination of Chapters 122 and 124 and § 127.35(b), pays the applicable fee under § 127.702(b) and the applicable fees under § 127.702(d). The

amendments to § 127.702(d) in this final-form rulemaking establish that the applicant will pay the fees for up to and including three applicable standards, but the Department's review will include all applicable standards if there are more than three applicable standards. This amendatory language to § 127.702(d) merely clarifies what has been the Department's practice since implementation of the fee schedule in 1994.

Additionally, an applicant for a plan approval requiring approval under Subchapter B that is subject to a MACT standard under the requirements of § 127.35(c), (d), or (h) pays the applicable fee under § 127.702(e) in addition to the applicable fee under § 127.702(b).

The applicant for a plan approval requiring approval under Chapter 127, Subchapter B and Subchapter D (relating to prevention of significant deterioration of air quality) pays the applicable fee under § 127.702(f) in addition to the applicable fee under § 127.702(b). The fee under § 127.702(f) includes the Department's review and permitting activities for new construction at a major facility or a modification at a major facility that is located in an attainment area subject to PSD requirements.

The fee in § 127.702(f) for approval of a plan approval in an attainment area subject to PSD requirements also includes the Department's review and permitting activities for a plantwide applicability limit (PAL), if submitted by the facility owner or operator as part of the plan approval application requiring approval under Subchapter D. A PAL is an emissions limit expressed in tons per year for a pollutant at a major facility that is enforceable as a practical matter and established facility-wide in accordance with § 127.218 (relating to PALs). The PAL is incorporated into the major facility permit and is based on the facility's baseline actual emissions of all emissions units at the facility that emit or have the potential to emit the PAL pollutant. A PAL permit allows the owner or operator of the major facility to avoid the major NSR permitting review process and the major NSR permitting review fees when making subsequent changes to the facility or individual emissions units. Changes under the PAL are not exempt from state permitting requirements and a PAL requires recordkeeping, monitoring, and reporting. In return for this flexibility, emissions must be monitored at all sources of emissions included in the PAL. The benefit to the owner or operator of the facility is that a process or source change may be made without applying for a revised Federally-enforceable NSR operating permit or going through an emissions netting review if the additional emissions of the PAL pollutant do not exceed the PAL limit. In summary, a PAL will allow quick changes at the facility without the need to submit a new plan approval application and save the owner or operator of the facility money by not having to pay the major NSR permitting review fees. The applicant for a plan approval requiring approval under Subchapter D pays the applicable fee under § 127.702(f) in addition to the applicable fee under § 127.702(b) whether or not a PAL is requested.

Likewise, the applicant for a plan approval requiring approval under Chapter 127, Subchapter B and Subchapter E (relating to new source review) for new construction or modification of a facility that is located in a nonattainment area or in an attainment area that has an impact on a nonattainment area may apply for a PAL permit under § 127.218(b), may apply to cease a PAL permit under § 127.218(j), or may apply to increase a PAL under § 127.218(l), if submitted by the applicant as part of the plan approval requiring approval under Subchapter E. The applicant pays the applicable fee under § 127.702(g) in addition to the applicable fee under § 127.702(b).

An applicant may submit a plan approval application requesting a PAL only, which does not require the Department's extensive PSD or NSR review and permitting activities for new construction or modification at the major facility under Subchapter D or Subchapter E. These applicants are, however, currently subject to the fee in § 127.702(f), § 127.702(g), or both, even though the application does not require the complete PSD or NSR permitting review. Industry representatives have expressed concern about paying these comprehensive fees for a plan approval application that is only for a PAL. The Department is addressing this industry concern by amending § 127.702 with revised subsection (h) to establish the fee that is paid for a PAL application that is not submitted under subsection (f) or subsection (g). This fee is added to the applicable fee in § 127.702(b) and saves the applicant money because they are no longer required to pay the fee in subsection (f) or subsection (g), or both, for PSD or NSR permitting review services that are not needed.

The Department disagrees that the fees for an ambient impact analysis or a reassessment of a control technology determination that is required when the owner or operator of a source proposes a revision to a plan approval application are new fees rather than plan approval application fees. This analysis or reassessment results from the owner or operator of the source proposing a revision or a modification to a plan approval application for which the Department has completed its technical review. Generally, ambient air impact modeling is required when the source is subject to PSD requirements under Subchapter D. A revision to the plan approval application that requires a change in the modeling analysis may be construed as a modification to the previously submitted plan approval application and the Department may charge the fee in § 127.702(f) for a full review of the revised PSD plan approval application. As discussed above for the PAL fees, however, the revised plan approval application may not require a full review of the PSD requirements, but only a new analysis of ambient impacts or a reassessment of the control technology determination. The Department established a separate fee for these instances so that the applicant will not be charged the fee in § 127.702(f) for a full review of PSD requirements, thereby saving the applicant money.

The Department agrees that the risk assessment fees should be included in the plan approval application fees section rather than be a stand-alone section and has addressed the commenters' concern by moving proposed § 127.708 (relating to risk assessment) to § 127.702 as subsection (k) in this final-form rulemaking. A risk assessment analysis report is prepared by the Department in response to a proposal in a plan approval application that includes the presence of hazardous air pollutants, which include carcinogenic and teratogenic compounds. The risk assessment analysis is conducted by the Department to assess the potential adverse public health and welfare effects under both current and planned future conditions caused by the presence of hazardous air pollutants after the source is controlled. Only a few are conducted each year depending on the applications received for certain sources including cement kilns, incinerators, and landfills. Risk assessment analyses are complex and require extensive staff time to research and to develop the report of potential adverse public health and welfare 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. The Department proposed the risk assessment fee to reduce the financial burden incurred by all owners and operators of permitted sources. Without this separate fee for risk assessment analyses, plan approval application fees applicable to all owners and operators of permitted sources would have to be adjusted higher. Because risk assessment analyses are not required for all plan approval applications, the

Department believes establishing the risk assessment fee is appropriate to allocate these costs to the users of the service.

The complexity of the Department's air quality permitting program has increased since its implementation in 1994 as new and more stringent requirements have been promulgated by the EPA. These revised fees are designed to recover the Department's costs for certain activities related to processing of applications for plan approvals and operating permits, including risk assessments and ambient air impact modeling of certain plan approval applications, without burdening all owners and operators of permitted sources with costs for services that they do not use or need. Establishing this fee structure will provide support for the continuation of the Department's Air Quality Program and ensure continued protection of the environment and the public health and welfare of the citizens of this Commonwealth.

5. Comment: The commenters assert that the Department adds other proposed brand new fees, namely: asbestos abatement or demolition or renovation project notifications (asbestos notifications); and requests for determination or for claims of confidential information which are, likewise, statutorily unauthorized. (52—113, 1427)

Response: Subsection 6.3(a) provides the Board with broad authority to establish sufficient fees 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, 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 fees required by section 502(b) of the CAA. Implementing the provisions of the federal CAA is only one of the many reasons why the General Assembly enacted the APCA. The APCA is also intended to protect the air resources of this Commonwealth for the protection of public health and welfare and the environment, including plant and animal life and recreational resources, as well as development, attraction and expansion of industry, commerce and agriculture. The Department was also provided with specific duties under section 4 of the APCA related to the regulation and enforcement of air contamination sources within this Commonwealth. (35 P.S. § 4004). To fulfill this statutory obligation, the Department needs sufficient funding. The fees in this case are authorized under subsection 6.3(a) of the APCA and used to recover the Department's costs for certain activities, including the review of asbestos abatement or demolition or renovation project notifications and requests for determination. Under 40 CFR 70.9, state programs shall establish fees that are sufficient to cover the permit program costs, including costs related to preparing regulations or guidance, reviewing permit applications, general administrative costs of running the program, implementing and enforcing the terms of a permit, emissions and ambient monitoring, modeling, analyses, or demonstrations, preparing inventories and tracking emissions, and providing small business assistance.

The Department receives upwards of 5,000 initial asbestos notifications and a total of about 7,000 asbestos notifications each year, which require staff review and site inspections. The Department currently inspects about 200 asbestos projects per year due to staffing constraints. The final-form fee applies only to the initial notification by 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) 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. The asbestos notification fee will help defray the costs to the Department of processing the asbestos notifications and inspecting the projects.

For comparison purposes, the Philadelphia County Department of Health, Air Management Services (AMS) receives about 1,800 asbestos notifications per year and the Allegheny County Health Department (ACHD) receives about 1,200 per year. Philadelphia AMS receives revenue of approximately \$300,000 annually from asbestos notification fees and ACHD received revenue of approximately \$520,000 in calendar year 2019 from asbestos notification fees.

The request for determination (RFD) process allows an owner or operator to obtain a written case-by-case exemption from the requirement to apply for a plan approval or operating permit, if the Department determines the requestor meets the exemption criteria in § 127.14 (relating to exemptions). The RFDs are reviewed by Department staff in much the same way as other applications and this final-form rulemaking establishes a fee to recover the costs to the Department.

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, and requests for determination 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.

Please see the response to Comment 8 for a discussion about the proposed fee for claims of confidentiality, which has been removed from this final-form rulemaking.

6. Comment: The commenters assert that there is no authorization to establish Title V general operating permit fees (which are unspecified) for stationary or portable sources under Chapter 127, Subchapter H (relating to general plan approvals and operating permits). (52—98)

Response: Subsection 6.3(a) provides the Board with broad authority to establish fees sufficient to cover the indirect and direct costs of administering the Air Quality Program. The Department has not proposed to change any fee associated with issued general plan approvals and general operating permits. The application fees for the authorization to use each general plan approval or general operating permit are proposed along with the general plan approval or general permit and published in the *Pennsylvania Bulletin* for public review and comment for 45 days prior to establishing or modifying the general plan approval or general operating permit and its application fees.

While § 127.712 (relating to fees for the use of general plan approvals and general operating permits under Subchapter H) is new, the substance of the provision was promulgated in 1994, including for Title V sources. See 24 Pa.B. 5899 (November 26, 1994). The U.S. Environmental Protection Agency (EPA) promotes the use of general operating permits where possible. See 57 FR 32259 (July 21, 1992). A general plan approval or a general operating permit is a single

permitting document issued by the Department which can cover a category or class of many similar sources. Public participation and the opportunity for EPA and affected State review must be provided by the Department before issuing the general plan approval or general operating permit for use by the regulated entities.

The owner or operator's application for authorization to use a specific issued general plan approval or general operating permit is evaluated under the terms of the general plan approval or general operating permit. If the application meets the requirements of the general plan approval or general operating permit, the Department issues an authorization to use the general plan approval or general operating permit to the applicant. The plan approval or operating permit approval process for an eligible source can thus be greatly simplified, which substantially reduces the administrative burden and costs on both the owner and operator of the source and the permitting authority.

The established process for general plan approvals and general operating permits requires the Department develop a proposed general plan approval or general operating permit along with the proposed application fees and provide notice in the *Pennsylvania Bulletin* and the opportunity to comment. See §§ 127.611 (relating to general plan approvals and general operating permits); 127.612(b)(4) (relating to public notice and review period); 127.631 (relating to general plan approvals and operating permits for portable sources); 127.632(b)(4) (relating to public notice and review period); 127.702(i) (relating to plan approval fees); 127.703(d) (relating to operating permit fees under subchapter F); and 127.704(d) (relating to Title V operating permits fees under subchapter G). The Department may also revise the application fee for an existing general plan approval or general operating permit and provide notice in the *Pennsylvania Bulletin* and an opportunity to comment on the revised application fee as provided in §§ 127.612 and 127.632. The Department has developed and issued general plan approvals and general operating permits for 19 source categories since 1996.

Please note that proposed § 127.712 is renumbered at final to § 127.710 (relating to fees for the use of general plan approvals and general operating permits under Subchapter H).

7. Comment: The plain reading of the APCA does not authorize most of the Department's proposed new fees or fee increases. (52—98)

Response: Subsection 6.3(a) provides the Board with broad authority to establish fees sufficient to cover the indirect and direct costs of administering the Air Quality Program. The succeeding subsections in section 6.3 do not further limit that authority. Additionally, subsection 6.3(d) of the APCA provides that, "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." Please see the responses to Comments 1 through 6 for more information.

8. Comment: The commenters believe that the proposed fee for claims of confidentiality is statutorily unauthorized and abusive in the exercise of state authority. (52—98)

Response: While the Department has broad authority under the APCA to establish fees, the Department determined that the proposed fee for claims of confidentiality is unneeded at this time and removed it from this final-form rulemaking.

9. Comment: The commenters assert that when the Legislature intends to delegate expansive authority for funding means to an agency, it expressly does so. And when the Legislature intends to delegate a narrow authority for funding means to an agency, it expresses the specific and limited categories of its authorization. The latter scenario is precisely the case with the fee authorization section of the APCA. Because the statute provides authorization only for a specific Title V fee, and limited categories of Non-Title V fees, we must therefore conclude that the Legislature only intended to delegate a narrow authority for funding means to the Department. The fees proposed by the Department are vastly expansive in kind and ought not to be approved on the grounds of exceeding legislative intent. (52—98)

Response: The Legislature expressly provided the Board with broad authority to establish fees sufficient to cover the indirect and direct costs of administering the Air Quality Program in subsection 6.3(a) of the APCA. The succeeding subsections, including subsections (c) and (j), authorize certain types of fees but do not limit the Board's authority under subsection 6.3(a) to establish other fees. The fees, in this rulemaking, are used to support the air pollution control program authorized under the APCA. Under section 1922 of the Statutory Construction Act (1 Pa.C.S.A. § 1922), "in ascertaining legislative intent, one may presume that 'the General Assembly intends the entire statute to be effective and certain.'" In other words, there would be no reason for the General Assembly to add section 6.3(a) if they did not intend to hold it effective. Under 40 CFR 70.9, state programs shall establish fees that are sufficient to cover the permit program costs, including costs related to preparing regulations or guidance, reviewing permit applications, general administrative costs of running the program, implementing and enforcing the terms of a permit, emissions and ambient monitoring, modeling, analyses, or demonstrations, preparing inventories and tracking emissions, and providing small business assistance.

While the plain language of Section 6.3(a) is unambiguous and grants the Board broad authority to establish fees, the legislative history in this case is also instructive. A review of the 1992 House and Senate Journals for the consideration of Senate Bill 1650 of the Session of 1992 show no comments limiting the structure of the fees schedule to specific fees. See Senate Legislative Journals for June 16, 1992, pages 2273, 2281—2287; June 17, 1992, pages 2291—2295; and June 30, 1992, pages 2450 and 2451; and House Legislative Journal for June 29, 1992, pages 1580—1587. Weblinks:

Senate Journal June 16, 1992:

<https://www.legis.state.pa.us/WU01/LI/SJ/1992/0/Sj19920616.pdf#page=14>

Senate Journal June 17, 1992:

<https://www.legis.state.pa.us/WU01/LI/SJ/1992/0/Sj19920617.pdf#page=2>

Senate Journal June 30, 1992:

<https://www.legis.state.pa.us/WU01/LI/SJ/1992/0/Sj19920630.pdf#page=40>

House Journal June 29, 1992:

<https://www.legis.state.pa.us/WU01/LI/HJ/1992/0/19920629.pdf#page=24>

10. Comment: The commenters believe that the revenue for the Department's Air Quality Program must be raised through changing the statute, not through regulations. If the Department perceives an inadequacy in the statutorily designed fee structure, then the Department should discuss their desired changes to the statutory fee structure with the Legislature. (52—98)

Response: The Legislature expressly provided the Board with broad authority to establish fees sufficient to cover the indirect and direct costs of administering the Air Quality Program in subsection 6.3(a) of the APCA. The fees, in this rulemaking, are used to support the air pollution control program authorized under the APCA. The succeeding subsections in section 6.3 do not further limit that authority. Under 40 CFR § 70.9, state programs shall establish fees that are sufficient to cover the permit program costs, including costs related to preparing regulations or guidance, reviewing permit applications, general administrative costs of running the program, implementing and enforcing the terms of a permit, emissions and ambient monitoring, modeling, analyses, or demonstrations, preparing inventories and tracking emissions, and providing small business assistance.

11. Comment: The commenters state that the Department is familiar with statutory restrictions as evidenced by the fact that the Department states in box 26 of the proposed rulemaking Regulatory Analysis Form (RAF) that it could not consider increasing the cap of 4,000 tons of regulated pollutants to increase emission fee revenue because it is a statutory cap. However, the Department could simply ask the Legislature to amend this cap. (52—98)

Response: The 4,000 tons of regulated pollutants cap in the APCA is based on the language in section 502(b) of the CAA (42 U.S.C.A. § 7661a) which states that "the permitting authority is not required to include any amount of regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant." The Department determined not to request an increase in the cap, because relying primarily on revenue from the emission fee is no longer a sustainable option for funding the Air Quality Program. As emissions of regulated pollutants continue to decrease overall, raising the cap on the tons per year of regulated pollutant would continue to concentrate the burden of supporting the costs of the Department's Air Quality Program permitting activities for all Title V sources onto the owners and operators of fewer and fewer Title V sources. Amending the fees-for-services schedule spreads the costs of supporting the program more equitably across all users of the Department's Air Quality Program services. Surrounding states are also finding it necessary to adjust their fee schedules away from a reliance on emission fee revenue.

12. Comment: The commenters understand that the APCA requires the Department to cover the indirect and direct costs of administering the program by fees, but if the Department believes that the current fees, as well as the current fee structure, are inadequate, then the legitimate venue for remedy is through legislation, not regulation. In other words, if the Department would like to shift away from reliance on the current fee structure to the various fees that it is requesting, then the Department must ask the Legislature to consider amending the statute to authorize other types of fees. Until then the Department must abide by the current statutory fee structure in effect. (52—98)

Response: The Legislature has already expressly provided the Board with broad authority to establish fees sufficient to cover the indirect and direct costs of administering the Air Quality

Program in section 6.3(a) of the APCA. The fees, in this rulemaking, are used to support the air pollution control program authorized under the APCA. The Department's Air Quality Program analyzed the time and costs required to review and issue plan approvals and permits and put together the fee schedule that was published as a proposed rulemaking in the Pennsylvania Bulletin on April 13, 2019. Please see the response to Comment 10.

13. Comment: These commenters state that the authority and indeed the requirement for the Amendments are presented in the Department's Regulatory Analysis Form ("Form") submission to IRRC. The Department writes on page 2 of the Form,

"Section 6.3(a) of the APCA [Air Pollution Control Act] 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 [Clean Air Act], 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."

The key phrase is "fees sufficient to cover the indirect and direct costs." The Clean Air Act, through the Pennsylvania State Implementation Plan, requires that funding be sufficient to cover adequate personnel and funds to carry out the Plan. 42 U.S.C.A. § 7410(a)(2)(E)(i). (46, 47, 48, 49)

Response: The Department appreciates the concern about collecting sufficient fees to cover adequate personnel. The Department believes that the final-form fees will be sufficient to cover the indirect and direct costs of the program.

14. Comment: These commenters state that there is no question that the Department has the authority under the APCA to raise fees to cover its costs. Absent additional funding from another source, the CAA compels it to do so. (36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49)

Response: The Department agrees that it has the authority under the APCA for this final-form rulemaking. The General Assembly enacted the APCA to protect the air resources of this Commonwealth for the protection of public health and welfare and the environment, including plant and animal life and recreational resources, as well as development, attraction and expansion of industry, commerce and agriculture. The Department was also provided with specific duties under section 4 of the APCA (35 P.S. § 4004) related to the regulation and enforcement of air contamination sources within this Commonwealth. To fulfill this statutory obligation, the Department needs sufficient funding. Please see the responses to Comments 1—12.

15. Comment: The commenter requests that the Board work with all interested parties, particularly members of the Legislature to address the issues raised in their comment letters with the goal of devising a funding structure that is authorized by statute, meets the intent of the General Assembly and ensures adequate revenue to fund the Air Quality Program. (1427)

Response: This final-form rulemaking is authorized by the Board's statutory authority provided by the General Assembly, the APCA, and ensures adequate funding of the Air Quality Program. In particular, the House of Representatives Environmental Resources and Energy Committee approved the current fee structure in 1994. Additionally, the members of the Legislature have extensive involvement in the development of the Department's rulemakings, including appointed members on the Department's advisory committees and four seats on this Board, in addition to the review outlined under the RRA. Lastly, the Board and the Department consistently seek opportunities to engage productively with interested parties, including the Legislature. The Department's Legislative Office works to address issues and ensure that the Legislature is informed of actions by the Department and the Board.

Emission fee model

16. Comment: The commenters assert that the current fee structure for the Department as authorized by the APCA for the Title V program is based on an emission fee model. The Legislature through the APCA, and Congress through the CAA, clearly intended for the emission fee to be the main source of revenue for the Title V program. (52—98)

Response: The commenters are correct that the current fee structure for the Department as authorized by the APCA for the Title V program is based, in part, on an emission fee model. In fact, a number of the fees referenced in section 6.3 of the APCA are considered emission fees. Under subsection 6.3(d) of the APCA, "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." Subsection 6.3(f) further states that the fees referenced in subsections (b), (c), and (j) are emissions fees.

However, the legislators seem to be referencing the *permanent annual air emission fee* required under subsection 6.3(c). The APCA includes the annual air emission fee as required for regulated pollutants under section 502(b) of the CAA but does not stipulate that the annual air emission fee is to provide a certain percentage of the revenue for the Title V program, only that the annual air emission fee is a component of the fee schedule for the Title V program. Further, the Department does not agree that Congress through the CAA clearly intended for the annual air emission fee to be the main, or only, source of revenue for the Title V program.

In the EPA's July 21, 1992, final rule addressing the Part 70 operating permit program, the EPA stated that "... an important benefit is that the permit program contained in these regulations will ensure that States have resources necessary to develop and administer the program effectively. In particular, the permit fees provisions of title V will require sources to pay the cost of developing and implementing the permit program. *To the extent the fees are based on actual emission levels, the fees will create an incentive for sources to reduce emissions* [emphasis added]." See 57 FR 32251 (July 21, 1992). The EPA further stated that "...[t]he EPA interprets title V to offer *permitting authorities flexibility in setting variable fee amounts for different pollutants or different source categories* [emphasis added], as long as the sum of all fees collected is sufficient

to meet the reasonable direct and indirect costs required to develop and administer the provisions of title V of the Act, including section 507 as it applies to part 70 sources." See 57 FR 32258. Additionally, the EPA stated that "...[t]he final part 70 regulations clarify that States have a great deal of discretion in using the fee schedule to allocate permit program costs among part 70 sources. Even if the State relies on the \$25/tpy [*tons per year*] presumptive minimum, the State fee schedule does not need to assess fees at \$25/tpy. *The State is not required to assess fees on any particular basis and can use application fees, service-based fees, emissions fees based on either actual or allowable emissions, other types of fees, or any combination thereof* [emphasis added]." See 57 FR 32292.

These statements clearly demonstrate that the EPA, and Congress as the legislating body, did not require that the annual air emission fee be the primary source of revenue for the Title V program or even a source of revenue if a state demonstrated sufficient revenue through other types of fees. This final rule has not been revised materially since its issuance in 1992, indicating that Congress and the EPA maintain this interpretation of the CAA requirements.

Prior to implementing the plan approval application and operating permit fee schedules in 1994, the Department engaged the services of a consultant, Apogee Research, Inc., to assist in evaluating the fee structure that would be necessary to support the Department's air pollution control program as required by section 502(b)(3) of the CAA. See the August 1993 Final Report, entitled "Resource Needs Analysis and Financial Plan," prepared for the Commonwealth of Pennsylvania Air Quality Program by Apogee Research, Inc., Bethesda, MD, (1993 Apogee Report), at

<http://files.dep.state.pa.us/Air/AirQuality/AQPortalFiles/Current%20Events/1993%20Apogee%20Fees%20Final%20Report%20posted.pdf> and the August 1993 Report Appendices at <http://files.dep.state.pa.us/Air/AirQuality/AQPortalFiles/Current%20Events/1993%20Apogee%20Fees%20Report%20Appendices%20posted.pdf>.

The Executive Summary to the 1993 Apogee Report (page vii (PDF page 8)) stated that the financial plan presented in this study builds on the principles of creating and maintaining funding diversity, applying the user-pay principle to the greatest extent possible, building equity considerations into choices among funding sources, and applying a cost basis to the assessment of all user fees where possible. The key to successful implementation of this financial plan is early recognition of potential funding shortfalls in any one funding category and replacement or augmentation of that funding source with new funding mechanisms. In order to achieve this, it is important for the state to build and maintain a diverse funding base across the full air program and within as many individual program components as feasible.

The 1993 Apogee Report summarized the EPA's Part 70 operating permit program final rule fee options succinctly as:

While the permit rule is fairly explicit as to the program activities that must be funded through Title V fees, federal requirements provide considerable flexibility to states in the design of their fee structures. For example, provided that adequate aggregate revenue is raised, states may:

- Charge a single fee or a combination of fees to Part 70 sources;
- Determine fees on a basis other than emissions (e.g., service-based fees);

- Base fees on either actual or allowable emissions;
- Exclude emissions above a certain level from the fee requirement;
- Differentiate fees based on source categories or type of pollutant;
- Exempt certain classes of sources from fee requirements; or
- Charge fees covering any period of time (e.g., annual, permit term).

See 1993 Apogee Report, page 44 (PDF page 54).

The 1993 Apogee Report projected a need to develop a fees-for-service schedule as the program matured and became more complex. On December 14, 2013, the Board promulgated a final-form rulemaking that increased the Title V emission fee only but noted that a revised fee schedule would be needed within 3 years, due, in part, to decreasing emissions of regulated pollutants subject to the Title V emissions fee. (See 43 Pa.B. 7268).

Further, as stated in the response to Comment 17, by generating approximately 70% to 72% of the Title V revenue from the annual air emission fees in the proposed fee structure, the annual air emission fee revenue is still a primary source of revenue for the program.

Given the current and future projected downward trajectory of emissions, the Department cannot rely on an emissions-based fee as its primary source of Title V revenue going forward. In accordance with 40 CFR 70.10(b) and (c) (relating to federal oversight and sanctions), the EPA may withdraw approval of a Part 70 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.

17. Comment: The commenters state that previously, when the Department needed more revenue for this program, the Department would amend the emission fee, as it did in 2013 by increasing the emission fee 48% (in addition to also receiving additional revenue through automatic increases tied to the Consumer Price Index). (52—98)

Response: The final-form rulemaking published at 43 Pa.B. 7268 increased only the Title V annual air emission fee. At that time, the Department projected that the increased Title V annual air emission fee would not be sufficient to maintain the Title V fund and noted that a revised fee schedule would be needed within 3 years, due, in part, to decreasing emissions of regulated pollutants subject to the Title V annual air emission fee. Please see the response to Comment 15 for more information.

18. Comment: The commenters state that the Department, in its current proposal, has chosen not to follow its former practice, which comported with the law. Instead, in box 26 of the proposed rulemaking RAF the Department discusses the three options that it considered but then rejected the two options that increased this emission fee. This is interesting in light of the fact that the

current fee structure provides for 97% of the program's revenue, but under the proposed new fee structure it would drop down to just 70% (according to Table 7 in RAF box 26). Thus, the Department's proposal shifts away from the Legislature's intention that the emission fee be the main revenue source for the Title V program. Since the Regulatory Review Act requires that IRRC "determine ... whether the regulation conforms to the intention of the General Assembly in the enactment of the statute upon which the regulation is based." (71 P.S. § 745.5b), it is our contention that a clear review of these facts in light of section 6.3(c) of the APCA shows that the Department's proposal exceeds the intent of the Legislature, and thus, IRRC must disapprove the proposal. (52—98)

Response: The Department disagrees that the proposal exceeds the intent of the Legislature. Reviewing Table 7 in box 26 of the RAF to the proposed rulemaking, the Department interprets the commenters' assertion that the current emission fee schedule provides 97% of program revenue to be based on comparing the current emission fee revenue of \$15,230,000 to total Title V facility revenue in FY 2020-2021 of \$15,665,125 ($(\$15,230,000 / \$15,665,125) \times 100 = 97\%$). The Department interprets the commenters' assertion that the emission fee revenue under the proposed fee schedule of Option 1 would provide only 70% of the program revenue to be based on comparing the emission fee revenue of \$15,230,000 to the projected total Title V facility revenue in FY 2020-2021 under Option 1 of \$21,601,800 ($(\$15,230,000 / \$21,601,800) \times 100 = 70\%$). Likewise, using the updated revenue numbers for Option 1 from Table 7 in box 26 of the RAF to the final-form rulemaking, the percentage rises to 72% ($(\$14,082,723 / \$19,454,523) \times 100 = 72\%$). Regardless, generating 70% to 72% of the Title V operating permit program revenue from Title V emission fees satisfies the commenters' assertion that the Legislature's intent was that Title V emission fees be the *main* revenue source for the Title V operating permit program.

Section 6.3(c) states 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. Section 6.3(c) does not specify what percentage of the total Title V revenue must be generated by the Title V emission fee, only that the emission fee is a component of the fee schedule. Under 40 CFR 70.9, state programs shall establish fees that are sufficient to cover the permit program costs, including costs related to preparing regulations or guidance, reviewing permit applications, general administrative costs of running the program, implementing and enforcing the terms of a permit, emissions and ambient monitoring, modeling, analyses, or demonstrations, preparing inventories and tracking emissions, and providing small business assistance.

Annual operating permit maintenance fee

19. Comment: One of the most significant new fees created, that DEP notes will generate a large portion of these additional funds, is the creation of an annual maintenance fee for Title V facilities. This proposed fee starts at \$10,000 and increases to \$15,600 by 2031. DEP notes that this fee is necessary because revenues from the Title V emission fee, which is collected based on the amount of emissions of regulated pollutants, have decreased by 41% since 2000 and are continuing to decrease. (99—113)

Response: The annual operating permit maintenance fee is not a newly created fee. Please see the responses to Comments 3, 17, 19, 22, and 23 for a discussion of the annual operating permit maintenance fee.

20. Comment: The commenter states that the EQB proposes to implement an annual maintenance fee. This \$10,000 annual maintenance fee would be applicable to the owners and operators of affected Non-Title V and Title V facilities. It replaces the annual operating permit administration fee currently set at \$750. In light of the comments received from lawmakers and the regulated community, the commenter believes the proposal being offered by the EQB may be a policy decision of such a substantial nature that it requires legislative review. (1427)

Response: Subsection 6.3(j)(3) of the APCA provides for an annual operating permit administration fee, an undefined term in the act. It does not, however, limit the Board to using that exact name for the fee. The annual operating permit maintenance fee in this final-form rulemaking is the annual operating permit administration fee. The Board merely adjusted the name of the fee to better describe its purpose since these fees are used to cover the Department's costs for evaluating the facility to ensure that it is 'maintaining' compliance, including the costs of inspections, reviewing records, and reviewing permits. It is reasonable and appropriate for the Board to adjust the name of a fee to better describe its purpose. This name change is also evident by the fact that the Department will stop assessing the currently titled annual operating permit administration fee after December 31, 2020.

The Department would like to clarify that the proposed \$10,000 annual operating permit maintenance fee would have applied to the owners and operators of Title V facilities. Fees of \$2,000 and \$2,500 were proposed to apply to the owners and operators of Non-Title V facilities. In response to concerns raised at the June 14, 2018, AQTAC meeting that the annual maintenance fee for a Synthetic Minor facility should be higher, as well as concerns that the Title V facilities should not subsidize the costs of Non-Title V facilities, the Department lowered the Title V annual operating permit maintenance fee from \$10,000 to \$8,000 for calendar years 2021—2025 while raising the Synthetic Minor annual maintenance fee from \$2,500 to \$4,000 for calendar years 2021—2025. These revisions balance the anticipated revenue for the Title V and Non-Title V Accounts more closely with projected expenditures. This change is approximately revenue neutral to the Department and can be seen in Tables 24, 25, and 26 on page 36 of the Fee Report.

Please also see the responses to Comments 17, 22, and 23.

21. Comment: The commenter asks the Board to explain why it believes that replacing the annual operating permit administrative fee with an annual operating permit maintenance fee is authorized by the APCA. (1427)

Response: Subsection 6.3(j)(3) of the APCA provides for an annual operating permit administration fee, an undefined term in the act. It does not, however, limit the Board to using that exact name for the fee. The annual operating permit maintenance fee in this final-form rulemaking is the annual operating permit administration fee. The Board merely adjusted the name of the fee to better describe its purpose since these fees are used to cover the Department's costs for evaluating the facility to ensure that it is 'maintaining' compliance, including the costs

of inspections, reviewing records, and reviewing permits. It is reasonable and appropriate for the Board to adjust the name of a fee to better describe its purpose.

22. Comment: The commenter asks the Board to explain how this fee is different from the administration fee and what types of activities it covers. (1427)

Response: The annual operating permit maintenance fee is not a newly created fee. Subsection 6.3(j)(3) of the APCA provides for an annual operating permit administration fee, an undefined term in the act. The annual operating permit maintenance fee in this final-form rulemaking is the annual operating permit administration fee. The Board merely adjusted the name of the fee to better describe its purpose since these fees are used to cover the Department's costs for evaluating the facility to ensure that it is 'maintaining' compliance, including the costs of inspections, reviewing records, and reviewing permits. It is reasonable and appropriate for the Board to adjust the name of a fee to better describe its purpose.

23. Comment: Regarding the proposed annual maintenance fee, the commenters state the increase in the annual fee may almost double the annual cost for those facilities whose potential emissions are just above the Title V major source thresholds, while being a 10% or less increase for the largest facilities. Further, if a company operates multiple small Title V facilities, such as interstate transmission systems, the increase in maintenance fee may escalate to approximately \$100,000 per year in total for those facilities." The commenters suggest that: "A graduated annual maintenance fee system based on total emissions, a clear path for smaller facilities to become synthetic minor sources or a not to exceed annual limitation per company are possible options which should be considered." (32, 33)

Response: The final-form annual operating permit 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 annual air 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 allocation moneys. This annual operating permit maintenance fee is in addition to the requirement of § 127.705, which requires the owner or operator of Title V facilities to pay an emissions fee per ton of each regulated pollutant emitted in the previous year with a cap set at 4,000 tons per regulated pollutant.

A facility with potential emissions just above the Title V major source thresholds still requires permitting review and issuance, inspections, and related Department activities. The annual air emission fee revenue from the facility may not cover the costs of the required Departmental services. The revised annual operating permit maintenance fee is designed to help recoup some of these costs that otherwise must be absorbed in the fees paid by other facility owners and operators.

To qualify for synthetic minor status, the owner or operator of a facility that has the potential to emit (PTE) regulated pollutants above the major source thresholds, but has actual emissions of regulated pollutants well below the major source thresholds, must be issued a permit with an enforceable limit on the facility's PTE. In this instance, the owner or operator of the facility may complete an application for a synthetic minor operating permit that includes proposed conditions

to limit the facility's PTE to below the major source thresholds. The Department will review the application and determine if a synthetic minor operating permit can be issued to the applicant.

The annual operating permit maintenance fee is per operating permit. An owner or operator that has multiple facilities may be able to combine the multiple facilities into a single operating permit if the facilities are located on one or more contiguous or adjacent properties that are owned or operated by the same person under common control.

24. Comment: The Department remarks that its proposal to institute an "annual maintenance fee" as opposed to an increase in the emissions fee is the best option because it spreads out the program costs more evenly across Title V facilities. See Fiscal Analysis at pages 33-34. The proposal has the added benefit, which the Department does not discuss, of making the program more sustainable long-term if emissions continue to decrease. There is a drawback in this approach in that it presents less of a deterrent for higher increased emissions. However, the Department's choice to go with an annual maintenance fee is a reasonable way to balance the benefits and drawbacks. (46, 47, 48, 49)

Response: The Department thanks the commenters for their support. The annual operating permit maintenance fee will not have an adverse impact on the reductions of emissions. States have an ongoing obligation under section 110 of the CAA to ensure that changes to any measure incorporated into a SIP do not interfere with attainment or maintenance of any NAAQS or with any other requirement of the CAA. The EPA cannot approve changes to SIP provisions unless the Agency can conclude that the changes would not result in backsliding, as required by section 110(l) of the CAA regarding plan revisions. See 84 FR 36304, 36323 (July 26, 2019).

Consequently, a state cannot allow the owner or operator of a source to increase its emissions of a regulated pollutant without a demonstration to the EPA that doing so will not impact the state's or area's attainment and reasonable further progress of that pollutant. Voluntary pollution reduction has leveled off, however, as Title V facility owners and operators reach the extent of their ability to reduce emissions with currently available cost-effective control technologies, as well as the extent that emissions need to be reduced throughout this Commonwealth to achieve and maintain the applicable NAAQS. Without promulgation of a lowered NAAQS by the EPA or without monitored design values in this Commonwealth that exceed the current NAAQS, there is no driver to require additional emissions reductions from the regulated industries. The work involved in reviewing and renewing permits, conducting inspections, servicing the monitors, evaluating emissions data, planning, developing and implementing regulations, policy, and guidance, and other program work to assure ongoing maintenance of the applicable NAAQS, however, does not decrease.

25. Comment: The commenter agrees with the Department in using Option 1. This proposal of an annual maintenance fee will spread out the cost obligations to all sources in an equitable manner. (35)

Response: The Department thanks the commenter for their support. Please see the response to Comment 17 for a discussion of the options that the Department considered in developing the final-form fee schedule.

Disincentive for Title V facilities to voluntarily reduce emissions

26. Comment: The commenters expressed concern that the proposed fee structure creates a disincentive for the Title V facilities. When the fees are correlated with emission volumes it encourages facilities to make voluntary technological and operational improvements to reduce its emissions because the less the sources pollute, the less they pay. The Department's newly proposed fee structure will reduce the proportionality of a reduced fee based on achieving reduced emission volumes and will slow down the progress of voluntary pollution reduction. (52—98)

Response: The Department supports the voluntary reduction of emissions which help attain and maintain the health-based National Ambient Air Quality Standards (NAAQS). However, voluntary pollution reduction has leveled off as Title V facility owners and operators reach the extent of their ability to reduce emissions with currently available cost-effective control technologies, as well as the extent that emissions need to be reduced throughout this Commonwealth to achieve and maintain the applicable NAAQS. Without promulgation of a lowered NAAQS by the EPA or without monitored design values in this Commonwealth that exceed the current NAAQS, there is no driver to require additional emissions reductions from the regulated industries. In these instances, the owner or operator of a regulated facility may find it less costly to continue to pay the Title V annual emissions fees rather than install additional controls or make process changes to further reduce emissions. The Department's work involved in reviewing and renewing permits, conducting inspections, servicing the monitors, evaluating emissions data, planning, developing and implementing regulations, policy, and guidance, and other program work to assure ongoing maintenance of the applicable NAAQS, however, does not decrease. The Department can no longer rely on Title V annual emissions fee revenue to cover most of the Title V program annual expenditures, therefore other fees must be implemented. Moreover, as stated in the response to Comment 17, by generating approximately 70% to 72% of the Title V program annual revenue from annual air emission fees in the final-form fee schedule, the Department is still relying on the annual air emission fee as a significant source of revenue for the program. This will continue to incentivize voluntary emission reductions.

Further, when the Title V program was implemented in 1994, a number of facility owners and operators elected synthetic minor status, meaning they accepted Federally enforceable caps on the facility's potential to emit to less than the Title V thresholds, rather than be subject to the Title V program requirements and annual air emission fees. These synthetic minor facility owners and operators must maintain operating permits and meet recordkeeping and reporting requirements, including reporting emissions to the Department's air emissions inventory, as well as be inspected on a regular basis for compliance evaluation. These facility plan approval and permit applications require Department review for issuance of new or renewed permits. Table 11 on page 21 of the Fee Report for the final-form rulemaking provides an estimate of 50 hours for the review of a Non-Title V operating permit, which represents approximately \$2,900 in personnel costs. Table 12, also on page 21 of the Fee Report, provides 28 hours each for the review and issuance of an amendment or a minor modification to a Non-Title V operating permit. The 28 hours represents approximately \$1,630 in personnel costs for each of these activities. These costs cannot be recovered from Title V program fee revenue therefore the Department has to consider reasonable approaches to funding these activities. The final-form fee

schedule amendments, including the annual operating permit maintenance fee, spread the burden of supporting the Air Quality Program among more users, including the owners and operators of Non-Title V facilities who do not pay annual air emission fees. Without the final-form fee amendments, these costs to the Department would need to be absorbed in revenue paid by other permitted sources.

27. Comment: The commenters assert that the Department's new fee structure is going in the exact opposite direction of the recent EPA policy changes which incentivize voluntary pollution reduction. In 2018 the EPA withdrew the "once in always in" policy for the classification of major sources of hazardous air pollutants. In 1995 the EPA implemented a policy that determined that any facility that emitted enough pollution to be considered a "major source" could not be unclassified as such, no matter how much it reduced the amount it polluted. The EPA understood that the 1995 policy removed a major incentive to voluntarily reduce the amount of pollution the facility emitted. Now that the EPA has withdrawn this policy, facilities will again have an incentive to make upgrades and run cleaner to get below the "major source" designation. Just as federal policy is changing its direction towards financially incentivizing Title V facilities in their voluntary reduction in pollution, so also should state policy, which heretofore, having proven to be highly effective, continue to incentivize voluntary pollution reduction via its primary reliance on the emission fee per ton structure. (52—98)

Response: The intent of the EPA's withdrawal of the 1995 once in always in (OIAI) policy is to remove the timing limitation on the classification of a source as a major source of HAP. That is, the EPA's July 26, 2019, notice of proposed rule published at 84 FR 36304 proposes to amend 40 CFR 63.1 (relating to applicability) to provide that the owner or operator of a source of HAP that moves from major source status to area source status will become subject to the requirements for area sources rather than remain subject to the requirements imposed on major sources. See 84 FR 36304, 36306 (July 26, 2019). The owners and operators of major sources of HAPs are subject to rigorous recordkeeping and monitoring requirements and under the 1995 OIAI policy, could not be relieved of these rigorous administrative requirements even if the source fell below the major source thresholds. While the withdrawal of the 1995 OIAI policy may incentivize some owners and operators to voluntarily reduce emissions to move from major source status to area source status in order to reduce the administrative burden and associated costs, if an owner or operator of a major source (Title V) of HAP voluntarily reduces emissions to achieve area source (Non-Title V) status, the annual air emission fees collected on those emissions cease, leading to decreased revenue for the Air Quality Program. The Department's workload does not decrease, however, as the area source must still be permitted, inspected, and monitored for compliance; ambient air monitoring must be maintained; and inventory emissions must be tracked. These costs generated by an area source of emissions cannot be recovered from Title V program revenue, therefore the Department considered reasonable approaches to funding these activities. Without the final-form fee amendments, these costs to the Department would need to be absorbed in revenue paid by other permitted sources and the General Fund allocation.

Further, an owner or operator of an area source of HAP is also able to go from area source status to major source status if desired, and at that time must comply with or resume complying with the applicable major source HAP requirements. This could potentially have the effect of allowing HAP emissions to increase and thereby increase Title V annual air emission fee revenue, but this shift in classification would require significant Department activities to implement. An owner or

operator submitting a plan approval application to go from area source status to major source status for HAP would require the Department to review and revise the permit to incorporate the applicable conditions. Inspection and monitoring of the facility to evaluate compliance with the permit conditions would also continue or perhaps increase in frequency. These costs would be incurred by the Department. The final-form fee amendments allocate these costs to the users of these services rather than increasing the permitting fees for all permitted facility owners and operators or the Title V annual air emission fee for Title V facility owners and operators.

Additionally, the EPA's July 26, 2019, notice of proposed rule published at 84 FR 36304 stipulated that the proposed rulemaking does not affect states' continuing obligations under section 110 of the CAA (relating to state implementation plans for national primary and secondary ambient air quality standards) or under requirements for SIP development, including the obligation to maintain major source NESHAP requirements that may have been approved in a SIP under section 110 of the CAA. In addition, states have an ongoing obligation under section 110 of the CAA to ensure that changes to any measure incorporated into a SIP do not interfere with attainment or maintenance of any NAAQS or with any other requirement of the CAA. The EPA cannot approve changes to SIP provisions unless the Agency can conclude that the changes would not result in backsliding, as required by section 110(l) of the CAA regarding plan revisions. See 84 FR 36304, 36323.

Further, as discussed in the responses to Comments 17 and 25, the final-form Air Quality Program fee schedule amendments still rely on Title V annual air emission fees for approximately 70% to 72% of Title V program annual revenue, which will continue to incentivize the owners and operators of affected major facilities and sources to voluntarily reduce emissions of regulated pollutants. The gains in voluntary reduction of emissions of regulated pollutants have slowed as the owners and operators of Title V facilities and sources reach the extent of their ability to reduce pollutant emissions with currently available cost-effective control technologies, as well as the extent that emissions need to be reduced throughout this Commonwealth to achieve and maintain the applicable NAAQS or to comply with applicable MACT standards. The Department's workload does not decrease, though, even if emissions of regulated pollutants continue to decline or level off. The owners and operators of sources of emissions must have an operating permit to operate, therefore, the Department must continue to review and issue new or renewal permits, review plan approval applications, and conduct inspections at permitted major, nonmajor, and area source facilities on a regular basis to evaluate facility compliance with permit conditions.

28. Comment: Regarding the proposed annual maintenance fee, the commenters state that the higher maintenance fee seems counterintuitive to the 1990 Clean Air Act Amendment goal of providing an incentive for reducing emissions by charging the per ton fees.

Response: The final-form annual operating permit 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 annual air 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 allocation moneys. This annual operating permit maintenance fee is in addition to the requirement of § 127.705, which requires the owner

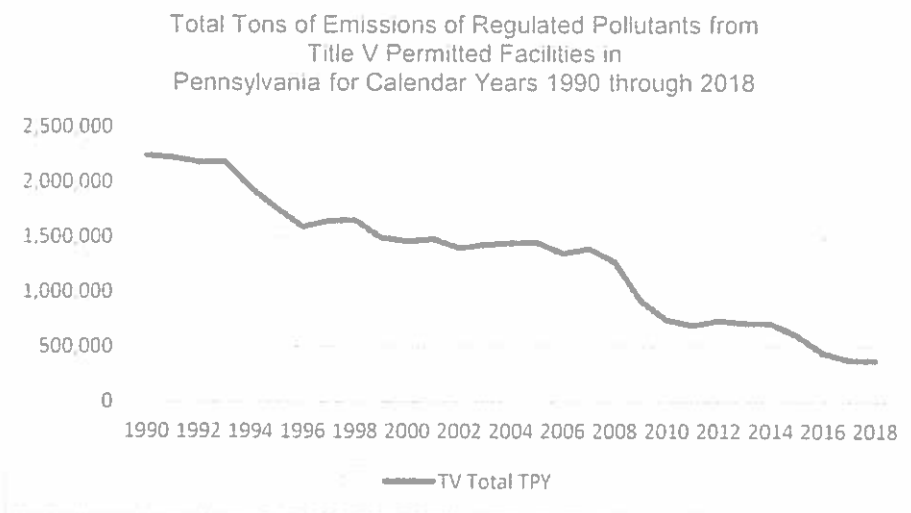
or operator of Title V facilities to pay an annual air emissions fee per ton of each regulated pollutant emitted in the previous year with a cap set at 4,000 tons per regulated pollutant.

Please see the response to Comment 25 for a discussion about incentivizing emission reductions through assessment of the Title V annual air emission fee.

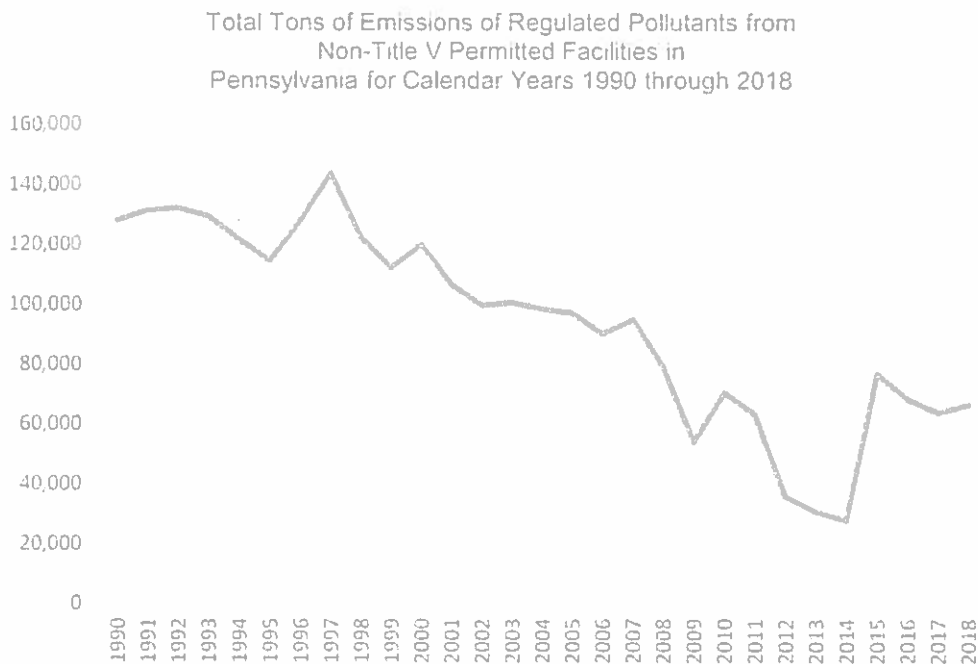
Decreasing emissions of pollutants and number of Title V facilities

29. Comment: The commenters state that the reason the Department offers for the need to increase fees, as stated in the Bulletin Notice, is because “the Department, like many state and local agencies, has experienced shortfalls in fee revenue due to emissions reductions at major facilities.” The Title V account, as outlined in box 10 of the proposed rulemaking RAF, does portray a positive ending balance through the end of the Department’s projections in 2023, but admittedly, does show a decline in revenue and an increase in expenditures. This same section of the RAF also further details the cause of the decline in revenue which is 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 reflects the national trend that has seen the aggregate emissions of the six criteria pollutants identified in the Clean Air Act decline by 73% from 1970 to 2017. (52—98)

Response: The charts below show the tons of emissions reductions of regulated pollutants in this Commonwealth from 1990 to 2018 for Title V and Non-Title V permitted facilities that reported to the Department’s Point Source Inventory air emissions database. For Title V annual emission fee purposes, “regulated pollutant,” as defined in section 502 of the CAA and § 127.705(d) (relating to emission fees), means a volatile organic compound, each pollutant regulated under sections 111 and 112 of the CAA (42 U.S.C.A. §§ 7411 and 7412) and each pollutant for which a NAAQS has been promulgated, except that carbon monoxide shall be excluded from this reference. The data for these charts was retrieved from the Point Source Inventory on December 26, 2019.



Total reported emissions of regulated pollutants from Title V permitted facilities have decreased approximately 83% from a high of 2,237,605 tons in 1990 to 376,462 tons in 2018 $(((2,237,605 - 376,462)/2,237,605) \times 100 = 83.1\%)$. Decreases in chargeable emissions of regulated pollutants at Title V permitted facilities have resulted in decreased Title V annual air emission fee revenue. As annual air emission fee revenue decreases, the Department's costs for performing plan approval, permitting, inspection, and related activities for the Title V program must be covered by Title V plan approval and permitting fees.



Total reported emissions of regulated pollutants from Non-Title V permitted facilities have decreased approximately 54% from a high of 143,529 tons in 1997 to 66,415 tons in 2018 $(((143,529 - 66,415)/143,529) \times 100 = 53.7\%)$. The total reported emissions of regulated pollutants from these sources dipped to a low of 27,826 tons in calendar year 2014 as businesses recovered from the Great Recession of 2009. The owners and operators of Non-Title V permitted facilities do not pay emission fees. The Department's costs of performing plan approval, permitting, inspection, and related activities for these facilities must be covered through Non-Title V plan approval and permitting fees as well as money from fines and penalties, the General Fund allocation, grants, and the Clean Air Fund balance.

30. Comment: This decrease in emissions of pollutants is a clear sign that our business community has taken successful steps to improve the air quality in our state. When significantly less pollutants are being released into the air, it stands to reason that DEP's air quality program would not need the same amount of funding. (99—113)

Response: Please see the response to Comment 30 for a discussion of the number of Title V facilities and the need for level funding in the Clean Air Fund.

31. Comment: The commenters state that not only is the amount of pollution declining but the number of sources also appears to be declining. When the Department raised the emission fee 48% in 2013, it noted that there were approximately 560 Title V facilities in this Commonwealth. In the current proposal the Department notes that there are only 500, a decrease of 60 facilities to regulate. In the 2013 submission to the IRRC the Department noted a reduction in coal-fired power plants because of the low price of natural gas and included a list of facility shutdowns. Yet, despite a reduction in pollution and despite a reduction in pollution sources to regulate, the Department stated that it would not reduce the Department's workload. It is difficult to understand how the Department acknowledges an 11% reduction in the amount of Title V facilities to regulate, and yet is asking for a \$15.5 million dollar increase in expenditures. A detailed analysis from the Department on how advancements in technology in reducing emissions combined with a reduction in the number of regulated facilities has not correspondingly reduced costs must be provided. (52—98)

Response: The Department would like to clarify that it is not requesting a \$15,500,000 increase in expenditures. The final-form amendments to the plan approval application and operating permit fees are designed to bring the Air Quality Program's permitting fee revenue in line with current expenditures so that the Air Quality Program will be self-sustaining as required under the CAA. The fee schedule amendments are necessary for the collection of fees sufficient to cover the costs of administering the Air Quality Program, including the plan approval and operating permit programs, so that reviews and approvals are conducted in a timely manner. Even though emissions have decreased, the Department still needs to conduct best available technology (BAT), reasonably available control technology, NSPS, MACT, NSR, and PSD analyses for each source including monitoring, testing, and reporting requirements.

Historically, the Title V program consisted of more facilities, and therefore had more associated emissions of regulated pollutants, so the Clean Air Fund balance was large. After many years of drawing down this balance to cover Air Quality Program costs and expenditures that exceeded annual revenue, the Clean Air Fund balance is now approaching zero. The increase in revenue, from the new and amended fees, of approximately \$12.2 million simply halts this decline in the Clean Air Fund balance and brings annual program revenue in line with annual program expenditures. These expenditures include restoring 17 Air Quality Program staff positions and bringing the program's filled staff complement back up to 2016 levels.

The 2013 rulemaking only amended the Title V annual air emission fee and thus referenced all of the Title V facilities required to pay that fee. The Title V annual air emission fee applies to the owners and operators of Title V facilities in all counties in this Commonwealth, including Allegheny and Philadelphia Counties. The 2013 rulemaking, therefore, included the facilities in Allegheny and Philadelphia Counties, bringing the total to 560 Title V facilities. See 43 Pa.B. 677, 679 (February 2, 2013) and 43 Pa.B. 7268, 7273 (December 14, 2013). Conversely, this final-form rulemaking amends the Department's permitting fee schedule, which only affects the owners and operators of Title V and Non-Title V facilities under the Department's jurisdiction and therefore excludes the facilities in Allegheny and Philadelphia Counties.

The number of facilities in the Department's permit tracking database fluctuates depending on a facility's plan approval application and permit review status and operating status as well as new facilities being added to the database and facilities dropping out of the database due to closure.

The types of facilities located in this Commonwealth has also fluctuated over the years. Shutdowns of coal-fired power plants have been offset by the construction of new natural gas-fired power plants, as well as conversions at coal-fired power plants to natural gas. Shutdowns of manufacturing and other regulated facilities have been offset by construction of new and complex facilities such as the Perdue soybean extraction plant in York County and the Shell Cracker in Butler County. These facilities may emit fewer regulated pollutants than coal-fired power plants, but these facilities still require extensive permitting review and inspection activities, as well as emissions and ambient air monitoring, modeling, and related activities. Revenue from the Title V annual air emission fees may not cover all of the costs incurred by the Department to perform these activities.

The Department also spends time reviewing plan approval applications for facilities which never get built or take years to begin operating. Revenue from Title V emission fees and permit renewal fees will not be generated until the facilities are fully constructed and operating. Title V facilities that have not been built or started operating also are not included in the facility tracking database and are thus not counted in the number of Title V facilities, despite the Department performing the plan approval and permitting reviews and incurring the costs of these activities. The Air Quality Program's costs to review these plan approval applications that are over and above the plan approval application fees must then be covered by Title V fee revenue generated by operating facilities.

The Department must also review plan approval and operating permit applications, as well as conduct inspections and perform related activities, for synthetic minor facilities and for certain other sources that are issued Title V permits, such as landfills, which are not subject to Title V annual air emission fees and thus do not generate Title V annual air emission fee revenue. These program costs are not declining, and the revenue from the Non-Title V plan approval application and permitting fees is not keeping pace with the costs.

While emissions have decreased due to the installation of improved air pollution control technology such as low NOx burners, selective catalytic reduction, selective non-catalytic reduction, and sulfur dioxide scrubbers, the Department's workload has increased due to the installation of these improved control technologies. These technologies require continuous emissions monitoring systems (CEMS), which require more Air Quality Program staff to review and process the CEMS data. Source testing requirements and facility inspections are also more complex, which has increased the workload for Air Quality Program staff, due to the need to inspect more complex control technologies and review CEMS recordkeeping and reporting.

The Title V plan approval application and operating permit fees must not only cover the expenditures for Title V permitting activities but also the ancillary activities for data review, source test review, inspections, 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 Philadelphia AMS. Non-Title V fee revenue covers information technology costs, utilities and office space leases, and ambient air monitoring equipment as well as vehicles, training, travel, data processing equipment, certain regional office expenses, a portion of the matching funds required for the CAA section 105 grant, contracts with universities assisting with air quality monitoring and

forecasting, and grants to local air quality partnerships. These costs and obligations do not decrease even if emissions of regulated pollutants decrease.

The Department provided a detailed analysis of how changes in technology and work effort are accounted for in this final-form rulemaking in the final-form rulemaking Fee Report. The Department reviewed the current and expected workload to assess the need for increased fees and additional fees. As a result, the final-form fee schedules were developed to ensure that fee revenue is sufficient to administer program costs.

32. Comment: The commenters believe that it is entirely reasonable that a decline in revenue for the air quality program would coincide with the significant decline in pollution and polluting facilities to be regulated. That is, in fact, the goal. As this goal is increasingly realized, Title V facilities which are regulated under this program should not have to subsidize efforts to reduce air pollution from other sources not under this program. (52—98)

Response: The Department agrees that a decline in Title V annual air emission fee revenue coinciding with the installation of improved control technologies and a decrease in emissions of regulated pollutants is to be expected. The 1993 Apogee Report to the Department forecast this decline and projected that the Department would need to find alternative ways to fund the Air Quality Program, particularly the Title V program, which is required by the CAA to be self-sustaining. Please see the response to Comment 15 for more detail about the 1993 Apogee Report.

The Department agrees that facilities regulated under the Title V program should not have to subsidize efforts to reduce air pollution from sources or facilities that are not regulated under the Title V program. Hence this final-form rulemaking includes a fee-for-service schedule designed to spread the costs of the program across more of the users rather than concentrating the burden on the Title V facilities and the declining Title V emissions. Please see the response to Comment 17 for a discussion of the three options that the Department considered in developing the final-form amendments to address the shortfall in the Clean Air Fund balance and generate sufficient revenue to bring Air Quality Program revenue in line with expenditures.

Economic and fiscal impacts

33. Comment: The commenters express that while they truly appreciate the achievements in pollution reduction and the efforts made to provide for cleaner air, they believe that this goal can be achieved while not harming our economy. The Regulatory Review Act requires the commission [IRRC] to consider the economic or fiscal impacts of a regulation, specifically the adverse effects on prices of goods and services, productivity or competition. 71 P.S. § 745.5b. (52—98)

Response: The Department understands the commenters' concern; however, the Department does not believe the final-form fee increases will have an adverse impact on the Pennsylvania economy.

34. Comment: As it is IRRC's role to analyze the economic and fiscal impacts of a regulation, this proposal will have an impact on every business which must pay these fees and make

business decisions within the Commonwealth. Additionally, these regulations will impact Pennsylvania's taxpayers and consumers as these fees will likely be passed down through the economic chain. Instead of fulfilling government's role of supporting local Pennsylvanian businesses and communities, this regulation would hurt many of those who can least afford it. Though the regulation would apply universally, smaller businesses with limited resources would be disproportionately impacted by these excessive increases should the proposed regulation take effect. (99—113)

This commenter opposes the proposed fee increase because it will hurt small businesses since they must compete with the regional and national companies. The Department should try to reduce costs internally before increasing the fees. (51)

Response: The Department maintains a Small Business Ombudsman and Small Business Assistance Program to assist smaller businesses with compliance questions. The Department partners with the Environmental Management Assistance Program (EMAP) of the Pennsylvania Small Business Development Center (SBDC) to fulfill the requirement in section 507 of the CAA and section 7.7 of the APCA to provide free and confidential technical and compliance environmental assistance to small business. In addition to providing one-on-one consulting assistance and on-site assessments, EMAP also operates a toll-free phone line (877-ask-emap or 877-275-3627) to field questions from Pennsylvania small businesses, as well as businesses wishing to start up in, or relocate to, Pennsylvania. EMAP operates and maintains a resource-rich environmental assistance website (www.askemap.org) and distributes an electronic newsletter to educate and inform small businesses about a variety of environmental compliance issues.

Since the last scheduled increases in 2005, the Department has sought to maintain parity between revenue and expenditures in the Air Quality Program through several means. In addition to streamlining the air permitting program through the Permit Decision Guarantee policy, creating the online 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 Program staff by 72 positions from 349 to 277, or by 21%.

The final-form fee amendments 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. Please see the response to Comment 21 for a discussion of the Department's detailed analysis of work effort in the final-form rulemaking Fee Report. The fees are also essential to satisfy other requirements of the CAA, APCA, and regulations promulgated thereunder to support the Department's statutory mission to protect the public health and welfare and the environment. Attaining and maintaining the air quality standards is in the public interest, because maintaining the standards help improve public health and the environment.

35. Comment: The commenters express concerns that the \$15.5 million increased annual cost will have a significant adverse effect, not just on the regulated community and their competitiveness, but also on Pennsylvania citizens who will have to bear these costs. (52—98)

Response: The Department believes that \$12.2 million spread out across the entire Pennsylvania air quality regulated community will not have a significant adverse effect. Rather, by increasing

the fee revenue and providing the Department the means to increase staffing, the Department will be able to review, approve, and issue permits more quickly, thereby giving the industries the opportunity to expand their businesses and hire more people.

36. Comment: The commenters express concern about the amount of revenue the Department intends to raise off Title V sources. In table 3 of RAF box 10 the Department estimates the 2020-2021 Title V fee revenue for the proposed new fees to be \$21,601,800, which is \$5,936,675 more than what the current fee structure would raise. Looking back to Table 1, we see that the Department estimates total 2020-2021 expenditures of \$18,601,000. This means the Department's proposed fees would raise \$2,534,675 over total expenditures which violates 35 P.S. § 4006.3(c) that states that "*in no case shall the amount of the permanent fee be more than that which is necessary to comply with section 502(b) of the Clean Air Act.*" The statute clearly states that the fee must not be more than it costs to administer the Title V program, yet the Department is proposing fees that would be \$2.5 million more than costs (not even accounting for expected cost savings due to less pollution and less facilities to regulate). (52—98)

Response: After many years of drawing down the Clean Air Fund balance to cover Air Quality Program costs and expenditures that exceeded annual permitting fee and Title V emissions fee revenue, the Clean Air Fund balance is now approaching zero. The projected approximately \$12.2 million increase in revenue simply halts this decline in the Clean Air Fund balance and brings annual program revenue in line with annual program expenditures.

In response to concerns raised at the June 14, 2018, AQTAC meeting that the annual maintenance fee for a Synthetic Minor facility should be higher, as well as concerns that the Title V facilities should not subsidize the costs of Non-Title V facilities, the Department lowered the Title V annual operating permit maintenance fee from \$10,000 to \$8,000 for calendar years 2021—2025 while raising the Synthetic Minor annual maintenance fee from \$2,500 to \$4,000 for calendar years 2021—2025. These revisions balance the anticipated revenue for the Title V and Non-Title V Accounts more closely with projected expenditures. This change is approximately revenue neutral to the Department and can be seen in Tables 24, 25, and 26 on page 36 of the Fee Report.

37. Comment: This proposed regulation is unacceptable, and if implemented would have a severe financial impact on our residents and the businesses within our districts. The commenters therefore ask IRRC to disapprove this regulation in its proposed form since the provisions of the regulation are patently unreasonable. (99—113)

Response: The Department disagrees that the proposed amendments are patently unreasonable. Historically, the Title V program consisted of more facilities, and therefore had more associated emissions of regulated pollutants, so the Clean Air Fund balance was large. After many years of drawing down this balance to cover Air Quality Program costs and expenditures that exceeded annual revenue, the Clean Air Fund balance is now approaching zero. The final-form increases in existing fees are designed to provide sufficient revenue to halt the decline in the Clean Air Fund balance and bring annual program revenue in line with annual program expenditures. These final-form fee amendments will provide the needed revenue to the Department to maintain its Air Quality Program as required by the CAA and APCA and avoid the imposition of EPA sanctions. As discussed in the response to Comment 15, the EPA may withdraw approval of a Part 70 Title

V Permit Program, in whole or in part, in accordance with 40 CFR 70.10(b) and (c) 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 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 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. These sanctions would have a serious impact on the Pennsylvania economy.

Moreover, these revenues will sustain the Department in its mission of protecting the public health and welfare and the environment from unhealthy levels of regulated air pollutants. In comparison to the annual costs of \$12.7 million to the regulated industry, the EPA has estimated that the monetized public 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 2020.¹ 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 public 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 2025.² 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 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 public 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.

38. Comment: The commenter states that the criteria in the RRA requires consideration of the economic impact of the regulation and protection of the public health, safety and welfare and raise valid concerns related to both criteria. (1427)

Response: The revenue that will be generated by the fees in this final-form rulemaking would provide essential funding for the Air Quality Program to continue fulfilling its statutory obligation of protecting the public health and welfare from harmful air pollution. The Department's Fee Report and the Regulatory Analysis Form for this final-form rulemaking, both available on the Department's website, provide additional information to address those concerns.

Comprehensive Review of Department Fees

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

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

39. Comment: The commenters believe that this fee package will cause a ripple effect throughout the economy, so it is imperative that this particular proposal be viewed in the broader context of the Department's other recently approved fee packages, currently proposed fee packages, and the Economy-wide Greenhouse Gas Cap and Trade Petition submitted to the EQB. A comprehensive look at the impact of the air quality fee increases must be considered in the context of all the fee increases in the aggregate. (52—98)

Response: The revenue from the final-form fee amendments is designed to support current staffing levels and restoration of 17 Title V positions which have remained unfilled since 2016, as well as establish sufficient revenue to cover ongoing expenditures from the Clean Air Fund balance, which is rapidly going to zero. A solvent Clean Air Fund will sustain the Department's plan approval and operating permit application program as well as the associated activities. Various regulations require the Department to review plan approval and permit applications within a certain timeframe.

Investing in the Department's Air Quality Program either through increased General Fund allocations or increased permitting fees or some alternative fee arrangement supports the Department accomplishing its mission of protecting the public health and welfare and the environment through permitting of sources of regulated air pollutants. Providing the resources for timely plan approval and permit application review and issuance of plan approvals and permits, for inspections and compliance assistance, for enforcement, and for ambient air monitoring will be a benefit to the regulated industries.

40. Comment: The commenters state that the consequences and ramifications of these fees ripple out across many dimensions of the Commonwealth and are presented here as evidence of a pattern of Departmental growth that the Legislature meant to limit when it passed the Regulatory Review Act to "*curtail excessive regulation and to require the executive branch to justify its exercise of the authority to regulate before imposing hidden costs upon the economy of Pennsylvania.*" 71 P.S. § 745.2. We contend that the Department has been, and is, by the instant submission, imposing hidden and burdensome costs on the Pennsylvania economy without authority and without adequate justification. (52—98)

Response: The Pennsylvania regulatory development process provides extensive opportunity for legislative and public review and comment at both the proposed and final-form rulemaking stages, including review by the House and Senate Committees, advisory committees, and IRRC. The regulatory development process also involves public hearings and a public comment period. The final-form Air Quality Program fees are not hidden and are necessary to maintain the basic functions of the Air Quality Program. The Department has been upfront throughout the process for establishing these fee amendments, including providing options for the fee schedules and several opportunities for review. Rulemakings developed by the Air Quality Program in particular are required to have a minimum of 60 days of public comment and are reviewed by 3 advisory committees.

Competitiveness with other states

41. Comment: The commenters state that they have no reason to doubt the extensive accounting the Department has done to come up with the minimal fee schedule in the final-form rulemaking.

Viewed in comparison to similar types of fees that neighboring jurisdictions charge, the proposed fee schedule appears somewhat higher than average. The commenters state that is because the legislatures of most neighboring states have allocated more funding for their air quality programs. (46, 47, 48, 49)

Response: While it is difficult for the Department to learn the exact funding sources for the air programs in neighboring states, it is possible that a higher percentage of these states' air program budgets is funded through the state's general fund or other funding streams such as transportation revenue or waste tipping fees.

42. Comment: The commenters state that the Bureau of Air Quality gets significantly less than \$10 million in general funding. Delaware has the lowest fees among neighboring states, but Delaware has a similar nominal budget allocation for its smaller air quality program compared to much larger Pennsylvania. The second lowest fees are in Ohio, a state comparably sized to Pennsylvania. Ohio's air pollution control budget allocation is \$44 million. Given the far smaller budget allocations that the Pennsylvania Department receives from its legislature, the proposed permitting fees are stunningly low. (46, 47, 48, 49)

Response: The Department acknowledges the comment. Investing in the Department either through increased General Fund allocations or increased permitting fees or some alternative fee arrangement, not only supports the Department accomplishing its mission of protecting public health and welfare and the environment but positions the Department as an engine to permit economic growth and expansion. Providing the resources for timely permit application review and issuance of permits, for inspections and compliance assistance, for enforcement, and for ambient air monitoring will allow the regulated industries to maintain and increase their output, allowing for more income and growth, while protecting public health.

The revenue from the final-form fee amendments is designed to support current staffing levels and restoration of 17 Title V positions which have remained unfilled since 2016, as well as establish sufficient revenue to cover ongoing expenditures from the Clean Air Fund balance, which is rapidly going to zero. A solvent Clean Air Fund will sustain the Department's plan approval and operating permit application program as well as the associated activities. Various regulations require the Department to review plan approval and permit applications within a certain timeframe.

43. Comment: The commenters state that box 12 of the RAF asks "*[h]ow does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?*" Pennsylvania faces many challenges in its ability to stay competitive with other states. Evidence of this is shown in our population statistics. According to the Independent Fiscal Office, Pennsylvania has been losing, and will continue to lose, the economically crucial 18-34 demographic. Between 2012 and 2017 the net out-migration for this age group category was nearly 32,000. An earlier IFO [Independent Fiscal Office] report indicated that nearly 13,000 college graduates left Pennsylvania in just one year. The Senate Majority Policy Committee recently held a hearing expressing concerns about the problem of student flight (aka, "Brain Drain") from Pennsylvania and the challenges this trend will have on our economic competitiveness. (52—98)

Response: The Department understands the commenters' concerns; however, demographic shifts vary over time. A review of the IFO reports cited by the commenters indicated that the reports do not provide detail on the reasons for the in-migration and out-migration of the 18-34 age demographic, such as how many of the college graduates leaving Pennsylvania were not Pennsylvania residents but had simply come to Pennsylvania to attend a college and then return to their home location. Further, the reports do not provide detail on the fields of study pursued by these graduates and where they moved, which would offer clarity on if the out-migration was to locations that have certain growth industries, for example. Additionally, numerous studies have shown that the 18-34 age demographic strongly values their health, environment, and outdoor recreation.

44. Comment: Since the proposed fee schedule extends to 2031, the commenters suggest that the Department remain observant to ensure these proposed fees remain competitive with those of neighboring gas producing states through the period. (32, 33, 1427)

Response: The Department appreciates the comment. The Department has reviewed the fees established by surrounding states as well as data compiled by the National Association of Clean Air Agencies (NACAA) and the Mid-Atlantic Regional Air Management Association. NACAA conducted surveys of states' Title V program fees and other information in 2014 and 2018. The latest surveys are accessible at: http://www.4cleanair.org/sites/default/files/Documents/SummaryofData_2014NACAASurvey_Dec2015.pdf and http://www.4cleanair.org/sites/default/files/Documents/FINAL_NACAA_Title-V_Survey_Compilation_062518.pdf. The Department will continue to remain observant to ensure fees remain competitive with the neighboring gas producing states.

45. Comment: The commenters express concern that Pennsylvania consistently ranks in the bottom third of various state comparisons for economic and business climate attractiveness:

- ALEC-Laffer State Economic Outlook Rankings, 2018: 38th
- U.S. News and World Report Best States: 38th
- U.S. News and World Report State Economy Rankings: 44th
- WalletHub's Best & Worst States to Start a Business: 46th
- WalletHub's 2019 Tax Rates by State: 49th
- Tax Foundation's 2019 State Business Tax Climate Index: 34th

In addition to the above, factor that Pennsylvania has the second highest Corporate Net Income Tax rate in the nation, and it becomes evident that there are enormous challenges to its ability to attract businesses. The Legislature was clearly concerned about limiting the deterring nature of over-regulation when it stated its intent for the Regulatory Review Act that “[u]nnecessary regulations create entry barriers in many industries and discourage potential entrepreneurs from introducing beneficial products and processes.” 71 P.S. § 745.2. Furthermore, the APCA requires the consideration of “the importance of not placing existing or prospective sources in this Commonwealth at a competitive disadvantage.” 35 P.S. §4006.3(d). The proposal to increase costs by an additional \$15.5 million will significantly disadvantage the competitiveness of Pennsylvania's business community. (52—98)

Response: The Department acknowledges the comments on economic and business climate attractiveness and Corporate Net Income Tax Rate. The Department does not believe that the anticipated final-form fee revenue increase of \$12.2 million spread out across the entire air quality regulated community will have a significant adverse effect. However, failing to adequately fund the Air Quality Program will ultimately result in degraded air quality, as well as impacts to Pennsylvania's public health and welfare, the environment, and outdoor recreation. The Department believes that by increasing the Air Quality Program fee revenue and providing the Department the means to increase staffing and improve information technology resources, the Department will be able to review, approve, and issue permits more quickly, thereby benefiting the regulated industries.

The Fee Amendments are Unnecessary

46. Comment: While the state's Air Pollution Control Act, Act 787 of 1959, does authorize DEP to set some fees by regulation, DEP's proposal to introduce a number of new fees and astronomically increase existing fees is unacceptable. DEP is explicit about its intent to collect approximately 15.5 million additional dollars annually from these fee increases to support its mission regarding air quality. (99—113)

Response: Through this final-form rulemaking, the Department is only seeking to bring Air Quality Program revenue in line with Air Quality Program expenditures. Historically, the Title V program consisted of more facilities, and therefore had more associated emissions of regulated pollutants, so the Clean Air Fund balance was large. After many years of drawing down this balance to cover Air Quality Program costs and expenditures that exceeded annual revenue, the Clean Air Fund balance is now approaching zero. The final-form increases in existing fees are expected to provide sufficient revenue to halt the decline in the Clean Air Fund balance and bring annual program revenue in line with annual program expenditures.

47. Comment: The commenter strongly opposes the proposed Air Quality Fee Schedule Amendments. The anticipated increase of \$15.5 million per year from the proposed fee amendment is unprecedented and the cost will be paid by the commonwealth's taxpayers and businesses, hampering growth, and ultimately threatening the effectiveness of the programs. Furthermore, this will increase the cost of doing business in Pennsylvania for the companies through the direct payment of the increased fees and additional taxation for the municipalities in which they operate. (6)

Response: The final-form fee amendments are needed to recover the Department's costs related to performing the activities for the air pollution control plan approval program and operating permit program 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. Importantly, the attainment and maintenance of the NAAQS will protect the public health and welfare of the approximately 12.8 million residents of this Commonwealth and reduce the negative impacts of air pollution on the environment.

Additionally, the Title V permitting program is required to be self-sustaining under the CAA. The revenue from the final-form amendments to existing plan approval application and operating

permit fees and establishment of new plan approval fees is designed to support: current staffing levels and restoration of 17 staff 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. These improvements to the air quality program would benefit the approximately 2,100 permitted facility owners and operators through continued review and action on plan approval and operating permit applications, improvements to the ambient air monitoring network to assess and demonstrate that the Commonwealth is attaining and maintaining the NAAQS. The restoration of 2016 staffing levels would provide additional resources to support the air quality and operating permit programs.

Impact to the business community

48. Comment: Government creates statutes and regulations regarding environmental quality to achieve positive results, not to sustain itself. These fee increases will not lead to more compliance by the business community, it will merely harm innovation and investment by the business community in our great Commonwealth in an effort to sustain increasingly unnecessary bureaucracy. (99—113)

Response: The Department disagrees that these fee increases will harm innovation and investment by the business community. The fee increases will support the Department in its statutorily required mission to implement the activities required by the CAA as well as permitting and regulation of stationary sources with emissions below Title V thresholds as required by the APCA. The achievements in improved air quality and the ongoing compliance by the business community are sustained through the implementation of operating permits. The Department's duties are necessary to continue to maintain existing improvements and achieve greater improvements in air quality if needed to meet ambient air quality standards. A healthy environment attracts people to live in this Commonwealth and businesses to locate in this Commonwealth as a result of a thriving population. The costs to implement the air quality operating permit program for both Title V and Non-Title V sources have increased over the years since implementation of the Air Quality Program Fee Schedule in 1994. The Department's General Fund allocation to the Air Quality Program has decreased over the years and the Clean Air Fund balance is rapidly approaching zero, therefore, the Department must increase its air quality permitting fees to maintain its Air Quality Program.

49. Comment: The commenter states: "The public good that comes from regulations is compliance. The DEP ought to act as a partner in achieving compliance rather than pricing businesses and municipalities out of progress, improvement, and innovation." (6)

Response: The amended 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 ambient air quality standards for air pollutants and monitor compliance of the regulated community with their permitting conditions. The fees are also essential to satisfying other requirements of the CAA, APCA, and regulations

promulgated thereunder. Attaining and maintaining ambient air quality standards is in the public interest, because maintaining the standards help improve public health and welfare and the environment. Please also see the responses to Comments 32 and 34 for a discussion of the economic impact on Pennsylvania businesses of these final-form fee amendments.

Air Quality Program functionality

50. Comment: The commenter supports the DEP having sufficient revenues in the Title V and Non-Title V program accounts to run its program, provided that these revenues are combined with efforts to improve the functionality of the program. The commenter states: "These efforts could include committing to requesting an audit from the Auditor General to evaluate whether relevant or appropriate staff and resources are being billed to the Title V program; providing a detailed workload analysis and management plan to train staff and invest in IT resources; contracting with licensed professionals to conduct the technical review of air quality permitting; or amending regulations to provide for the authorization to engage in site preparation construction activities (but not operations) concurrent with the review of operating permits." (31)

Response: The EPA conducts evaluations of state Title V permitting programs. The most recent report for Pennsylvania is available at: <https://www.epa.gov/caa-permitting/title-v-evaluation-report-pennsylvania-0>.

The "Clean Air Fund Fiscal Analysis and Fee Report" for this final-form rulemaking provides a detailed workload analysis. The Department has taken steps to improve the quality, efficiency, and responsiveness of the Air Quality Program, including 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. The Department is also working on making submittal of permit applications through online portals more user-friendly. Currently, requests for determinations, asbestos notifications, annual inventory forms, and a few general permits are processed electronically.

The Department follows the EPA's guidance and memorandums for authorization to engage in site preparation construction activities for major facilities concurrent with the plan approval or permit application review process.

51. Comment: The commenters suggest that the Department and the Board carefully review all activities funded by the proposed fee schedule to determine if they are necessary to fulfill the Department's core roles and responsibilities. (32, 33)

Response: The Department has conducted extensive reviews of its Air Quality Program workload and activities for the plan approval and permit application processes. The Department captures employee time data via the Cross-Application Time Sheet reporting system, which identifies staff activities that are covered by the Air Quality Program fees. Costs associated with other Air Quality Program operational needs are posted into the Commonwealth's SAP Accounting System. This information is included in the Department's Basic Financial Statements

that are prepared in conformity with generally accepted accounting principles as prescribed by the Governmental Accounting Standards Board. The Commonwealth's Basic Financial Statements are jointly audited by the Department of the Auditor General and an independent public accounting firm. The activities funded by the Air Quality Program fee schedule are necessary to fulfill the responsibilities and obligations of the Air Quality Program as required by the CAA and the APCA.

52. Comment: The commenters recommend that the Department commit to specified timeframes for issuance of permits since the additional revenue proposed by this fee amendment should provide the needed manpower and resources for the Department to develop a defined schedule for permit reviews and issuance. (32, 33)

Response: The revenue from the final-form fee amendments is designed to support current staffing levels and restoration of 17 Title V positions which have remained unfilled since 2016, as well as establish sufficient revenue to cover ongoing expenditures from the Clean Air Fund balance, which is rapidly going to zero. A solvent Clean Air Fund will sustain the Department's plan approval and operating permit application program as well as the associated activities. Various regulations require the Department to review plan approval and permit applications within a certain timeframe. Furthermore, the Department has a permit decision guarantee policy which mandates that the program complete the review of a plan approval application within a certain timeframe.

53. Comment: The commenters would like to emphasize the need for a predictable permit review and issuance timeframe. The commenters state: "Under the Air Pollution Control Act, air quality general permits and permit renewals are required to either be issued or denied within 30 calendar days. Too often, applicants are experiencing significant delays — in some cases of over 100 days — with respect to the issuance of a general permit. Prior to the finalization of the revised GP-5 and new GP-5A permit, both industry and the public were assured by Department leadership that these permits would not be initiated until there was confidence in meeting the mandated statutory review timeframe. It is imperative that this commitment be renewed, and tangible steps taken — beyond simply raising permit fees — to ensure this legal obligation is fulfilled." (32, 33)

Response: The Department continues to pursue practices to streamline the review of General Plan Approval and General Operating Permit applications. In the case of GP-5 and GP-5A, improvements to the ePermitting system are ongoing. In addition, the Department is developing checklists to streamline the review of applications to use a general permit. The Department is also undertaking an initiative to streamline all permit reviews, including those for the use of a general permit.

54. Comment: The commenters state that: "It is our understanding that the cost of obtaining coverage under a general permit will increase from a range of \$1,375-\$2,075 to \$4,500-\$5,000 for the application and initial operating permit fee. The fee range may be appropriate for use with a facility-wide type general permit such as the General Permit 5 (GP-5) or General Permit 5A (GP-5A). However, we are concerned that the fees may be significant and could discourage some projects involving other general permits which are equipment-specific in nature, such as small storage tanks or Petroleum Dry Cleaning." (32, 33)

Response: The Department did not propose a dollar amount for any General Plan Approval (GPA) or General Permit (GP). Instead, this final-form rulemaking established a section under Subchapter I to address fees for the application to use a GPA or GP issued by the Department under Subchapter H for stationary or portable sources. These application fees will be established when the GPA or GP is issued or revised by the Department. These application fees will be published in the *Pennsylvania Bulletin* for public comment as provided in §§ 127.612 and 127.632 (relating to public notice and review period).

55. Comment: The commenters recommend that fees for plan approval extensions only be required until an application for an operating permit is submitted. Currently a request for extension for temporary operation under a plan approval must be requested and a fee of \$300 paid every 180 days until an operating permit is received. This process may require applicants to request extensions for several years until an operating permit is received.

The fee for requesting an extension is proposed to increase to the equivalent of \$1,500 per year; the same cost as an application fee for a modification of a minor source plan approval, even though the level of review and approval is much less. The proposed increase in application and operating fees should provide the Department the resources needed to issue Operating Permits in a timely manner and eliminate the need for the extensions and reduce unnecessary paperwork and effort for both industry and the Department. (32, 33)

Response: Section 127.12b(d) requires that an approved plan approval must authorize temporary operation of the source pending issuance of an operating permit, not until submission of an operating permit application. Each plan approval temporary authorization may not exceed 180 days. The Department anticipates that the proposed fee increases will allow operating permits to be issued in a timely manner.

The Department provides a reasonable timeframe for companies to complete construction of projects. The temporary operating permit period starts when the source commences operation. Section 127.12b(d) authorizes temporary operation of the source for 180 days. Each plan approval extension may not exceed 180 days. However, to address the commenters' concerns, the Department amended § 127.702(i) in this final-form rulemaking to add § 127.702(i)(3), which reads as follows:

“The fee for an extension of a plan approval will not apply if, through no fault of the applicant, an extension is required.”

56. Comment: The commenters believe the increase in annual maintenance fee should cover most of the cost of typical administrative fees and filing. Administrative or RFD fees should not be required for listed exemptions. The cost for a review of an RFD is reasonable only when approval is required for potential exempted sources. (32, 33)

Response: The annual operating permit maintenance fee is designed to be used to cover the Department's costs for evaluating the facility to ensure that it is 'maintaining' compliance, including the costs of inspections, reviewing records, and reviewing permits. The RFD process allows an owner or operator to obtain written case-by-case exemptions from applying for a plan

approval or operating permit, thereby bypassing the plan approval or operating permit application process, or both, as well as relieving the applicant of the plan approval or operating permit application fees. The RFDs are reviewed by Department staff in much the same way as other applications. Currently, RFDs are not required for listed exemptions. Additionally, if no permit is required for facilities that have all sources covered under listed exemptions or RFDs, then no maintenance fee is charged.

General Fund funding

57. Comment: The Department is systematically asking to set fees at levels that are less than the estimated costs from past years, despite costs going up over time due to inflation among other things. See Fiscal Analysis at pages 27-28, Table 20. The Department then relies on the stability of its General Fund funding and federal grants to make up the difference. This assumption is unwarranted. The Department even includes a sideways acknowledgment of this in its Notice of Proposed Rulemaking at page 15: "It is unlikely that General Fund monies or Federal Grants directed toward air quality will increase in the foreseeable future." (36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49)

Response: The Department acknowledges this comment and notes that the final-form fee schedule is designed to bring Air Quality Program revenue approximately in line with Air Quality Program expenses.

58. Comment: Pennsylvania has a structural deficit, and official projections show economic growth slowing in the upcoming years. Besides the slowing of growth, the Commonwealth's budget has been shrinking in proportion to the size of the state economy. Historically, the Department has seen draconian cuts worse than the average state agency. According to analysis from the Pennsylvania Budget and Policy Center, "General Fund support for DEP has decreased 39% since 2007-08 (Figure 22); adjusted for inflation the cut is about 50%. This year, the Department of Environmental Protection would see a further 13% decrease in nominal dollar funding under Governor Wolf's proposal, from \$158.5 million to \$137.8 million." Governor Wolf is proposing to raid special funds to cover some of that deficit. Even if that happens, it is not a sustainable solution. (46, 47, 48, 49)

Response: The Department acknowledges this comment and notes that the final-form fee schedule is designed to bring Air Quality Program revenue approximately in line with Air Quality Program expenses. The amendments to the fee schedule increase the fees periodically out to 2031 to anticipate decreases in General Fund allocations and Federal grant funds and increases in program costs. Please see the responses to Comments 4, 5, 30, 31, and 36 for additional discussion.

59. Comment: The Department writes, "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." See Fiscal Analysis at page 27. This is already foreseeable. Rather than have the Department need to repeat this process shortly, the EQB should request the Department to raise the amounts of its proposed fees to adjust for the anticipated decrease in General Fund

Appropriation for the upcoming budget year, and further projected decreases due to lowered Commonwealth revenues in the years to come. (46, 47, 48, 49)

Response: The Department notes that the final-form fee schedule is designed to bring Air Quality Program revenue approximately in line with Air Quality Program expenses. The amendments to the fee schedule increase the fees periodically out to 2031 to anticipate decreases in General Fund allocations and Federal grant funds and increases in program costs.

60. Comment: The commenter believes that the DEP has initiated these fee increases to stabilize the funding for overall departmental operations because of volatile funding by the General Assembly. The overall funding of any state department or agency is a matter for the General Assembly and the Governor as the fiscal year budget is negotiated. (6)

Response: The Air Quality Program plan approval and permit fee schedule final-form rulemaking supports only activities pertaining to air quality rather than overall departmental operations. This rulemaking is authorized under section 5(a)(1) of the APCA, 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, 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.

This final-form rulemaking is also 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, 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 the APCA and not covered by fees required by section 502(b) of the CAA. Implementing the provisions of the federal CAA is only one of the many reasons why the General Assembly enacted the APCA. The APCA is also intended to protect the air resources of this Commonwealth for the protection of public health and welfare and the environment, including plant and animal life and recreational resources, as well as development, attraction and expansion of industry, commerce and agriculture. The Department was also provided with specific duties under section 4 of the APCA (35 P.S. § 4004) related to the regulation and enforcement of air contamination sources within this Commonwealth. To fulfill this statutory obligation, the Department needs sufficient funding. The fees, in this rulemaking, are used to support the air pollution control program authorized under the APCA.

61. Comment: The commenter believes that the General Assembly should be increasing the allocation of funding to the Department rather than the Department turning to the regulated community for more and more funds. (50)

Response: The Department acknowledges this comment.

Funding and Staffing

62. Comment: The commenters state that they do not believe the Department's proposal provides adequate, sustainable Title V program funding for implementing the air pollution control plan approval and operating permit process required under the CAA and the APCA to meet the NAAQS as well as other requirements of the CAA and the APCA and the regulations promulgated to accomplish those efforts. (34, 45)

Response: After extensive review by the Department of Air Quality Program activities, the time required to perform the activities, and the costs of associated activities, the final-form fees were set at a level that will support the Air Quality Program at its current level of expenditures plus fill 17 Title V positions which have remained unfilled since 2016.

63. Comment: Assuming the Department's accounting as expressed in the Form and in its attached Clean Air Fund Fiscal Analysis and Fee Report ("Fiscal Analysis") is roughly accurate, its Title V Account will dwindle rapidly toward nothing within the next 5 years, and the Non-Title V Account will be in the red within the next year. (46, 47, 48, 49)

Response: The Department acknowledges this comment but notes that in response to comments received at the June 14, 2018, AQTAC meeting it has adjusted the amount of the Title V and Synthetic Minor final-form annual operating permit maintenance fees so both accounts are in the black for the foreseeable future. Please see the response to Comment 35.

64. Comment: The EPA has corroborated the Department's accounting. A 2014 report of the EPA Office of Inspector General criticized the Commonwealth for not raising sufficient Title V revenues to cover its costs. In 4 out of the 5 years from 2008–2012, annual Title V expenses exceeded annual Title V revenues. While Title V costs declined 3% from 2008 to 2012, Title V revenues declined 21% over that period. This is the greatest disparity among all the analyzed states. According to a 2013 Pennsylvania rulemaking, "a deficit of \$7.235 million is projected for the Title V Major Emission Facilities Account by the end of Fiscal Year 2015–2016. Funds sufficient to support the program need to be collected before the fund is in deficit." (46, 47, 48, 49)

Response: The Department agrees with this comment and notes that the final-form fee schedule amendments are designed to bring revenue approximately in line with expenses.

65. Comment: On page 16 of the Proposed Rulemaking, the Department explains that "[w]ith 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." This is not an ambitious program of work, but rather a minimal level of upkeep the Department is proposing. (46, 47, 48, 49)

Response: The Department believes that the final-form fee amendments, the number of unfilled Title V positions it allows the program to fill, and the efficiencies gained by information technology improvements will allow the Department to successfully fulfill its air quality mission.

66. Comment: These commenters strongly support the proposal to increase fees to cover costs but believe that the amount of the increases is not enough. As noted above, the Department set these rates to “maintain [the Air Quality Program’s] current level of effort.” Yet the Department’s projection that the specified increases would meet future needs for maintaining the current level of effort is based on shaky assumptions. (36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49)

Response: The Department thanks the commenters for their comment. Please see the responses to Comments 4, 5, 30, 32, and 36 for additional discussion.

67. Comment: Even setting aside the need to raise the fees to levels high enough to compensate for foreseeable drops in General Funding, the commenters urge the EQB to set higher rates to ensure the Department can comply with the law and adequately serve the public and regulated community. The proposed fee schedule would only “maintain [the Air Quality Program’s] current level of effort.” Simply maintaining the current level of effort is not enough to meet the requirements of the Clean Air Act, because the Department has been starved and understaffed over the last two decades. (36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49)

Response: The Department thanks the commenters for their support. The Department notes that the final-form fee schedule is designed to bring Air Quality Program revenue approximately in line with Air Quality Program expenses. The amendments to the fee schedule increase the fees periodically out to 2031 to anticipate decreases in General Fund allocations and Federal grant funds and increases in program costs.

68. Comment: As of a year ago, 47 out of the 285 positions in the Air Quality staffing (16.5%) were vacant. See Fiscal Analysis at page 14. These positions need to be filled, but the Amendments as they stand would not accomplish that. Rather, the Amendments would only allow the Department to “gradually fill 17 currently vacant Title V positions,” leaving more than a tenth of the vacant positions still unfilled. See Proposed Rulemaking at page 16. This is plainly inadequate. (46, 47, 48, 49)

Response: The Department thanks the commenters for their support and shares the urgency in filling positions within the Bureau of Air Quality.

69. Comment: The commenter states that it is needed to remedy the understaffing caused by losses of air quality positions. On pages 3 and 4 of the Form, the Department documents the decline in its funding, staffing, and services over the last fourteen years.

Looking back further, losses are even starker: “The Air Quality Program has seen significant reductions in staff since 2000 (99 positions or 26%).” See Notice of Proposed Rulemaking at page 15. The Air Quality Program’s losses are not belt-tightening, they are understaffing. (46, 47, 48, 49)

Response: The Department acknowledges this comment.

70. Comment: The EPA conducted an audit of the Department's air monitoring network and found major nonconformance of the program—which was unacceptable and must be remedied—due to understaffing. Merely reaching compliance with federal law required hiring, the EPA concluded: “Vacant positions need to be filled in order to continue operating air monitoring program pursuant to 40 CFR 58 Appendix A.”

The Department at the time acknowledged that “Staffing levels have been a major issue. Critical work is being completed, however the program has had to operate in reactive mode instead of proactive. Hiring has begun again in mid-2015 with a full complement expected by mid-2016.” That complement did not materialize. In a comment-response document the Department drafted in October 2017, it responded to comments requesting the Department to enhance its monitoring network by remarking, “In addition, please be aware that the Department continues to be constrained by insufficient staffing levels.” (46, 47, 48, 49)

Response: The Department has begun restoring air monitoring staff levels. One air monitoring staff person was hired in 2019. Three more air monitoring positions have been approved to fill in early 2020. However, even with the additional staff, the Department expects that it will be several years before the new staff are fully trained and backlogged maintenance issues are resolved.

71. Comment: These commenters further state that plenty of other evidence underscores the Department's lack of compliance due to understaffing. For example, the data show that the Department has not managed to timely process Title V Operating Permit applications. The Group Against Smog and Pollution recently analyzed the Department's records from its regional offices to determine the backlog of Title V application. It discovered that 26 major source Title V Operating Permits were backlogged or unissued (i.e. the facility is operating without the required permit), across all but one regional office. (46, 47, 48, 49)

Response: The Department appreciates the concern about the backlog. The final-form fee schedule amendments are reflective of the current complement and obligations to implement the requirements of the CAA and APCA. The Department has been reducing the backlog by streamlining review and approval measures and additional measures will be added as a result of the amended fee schedule.

72. Comment: The Department is unable to shift significant resources to the Air Quality Program from other programs because the Commonwealth has starved them too. A couple years ago, PA Environment Digest gathered documentation of deficiencies in many of the Department's programs, including four water programs and a mining program. In 2014, the Auditor General conducted a Special Performance Audit on “DEP's performance in monitoring potential impacts to water quality from shale gas development, 2009 -2012.” The audit concluded that “as evidenced by this audit, DEP needs assistance. It is underfunded, understaffed, and does not have the infrastructure in place to meet the continuing demands placed upon the agency by expanded shale gas development.” (46, 47, 48, 49)

Response: The Department acknowledges this comment. The final-form fee schedule amendments are reflective of the current complement and obligations to implement the requirements of the CAA and APCA.

73. Comment: The evidence is stark that the Department has not been able to fulfill its obligations due to underfunding and understaffing. Legal compliance is important, and for that reason alone, EQB should revise the proposed Department Air Program fee schedule upward to cover actual costs. (46, 47, 48, 49)

Response: The Department appreciates the comment. The final-form fee schedule amendments are reflective of the current complement and obligations to implement the requirements of the CAA and APCA.

74. Comment: However, we should not lose track of the crucial role the Department's air quality program plays in preventing premature deaths, chronic disease, crop damage, and overall harm to Pennsylvania residents and local ecologies. Our lives depend on the purity and stability of our air and climate. The Department is the agency at the front lines charged with preserving them. (46, 47, 48, 49)

Response: The Department agrees and thanks the commenters for their support.

75. Comment: Better funding would remedy the main complaint industry has about the Department as well—its slowness in processing permit applications. Without enough staff, the Department can neither process nor enforce permits adequately. (46, 47, 48, 49)

Response: The Department thanks the commenters for their support. Investing in the Department's Air Quality Program either through increased General Fund allocations or increased permitting fees or some alternative fee arrangement, not only supports the Department accomplishing its mission of protecting the public health and welfare and the environment through permitting of sources of regulated air pollutants, but also positions the Department as an engine to drive economic growth and expansion. Providing the resources for timely plan approval and permit application review and issuance of plan approvals and permits, for inspections and compliance assistance, for enforcement, and for ambient air monitoring will allow the regulated industries to maintain and increase their output, allowing for more income and growth.

76. Comment: The Department writes to IRRC, "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." Form at page 4. Not quite so. The proposed fee structure would help the Department avoid major declines in its ability to protect the health and welfare of Pennsylvanians, but it is not enough to ensure protection, nor enough to achieve legal compliance. For that, the EQB must raise the fees substantially from the proposed rates in the Amendments. (46, 47, 48, 49)

Response: The Department thanks the commenters for their support. The Department notes that the final-form fee schedule is designed to bring Air Quality Program revenue approximately in line with Air Quality Program expenses. The amendments to the fee schedule increase the fees periodically out to 2031 to anticipate decreases in General Fund allocations and Federal grant funds and increases in program costs.

Support for increased fees to sustain the air quality program

77. Comment: These commenters support the Department's proposed Title V permit fee schedule changes, stating that the revenue generated by the existing fee schedule is no longer adequate to fund the operations of the Air Quality Program. The Program's expenditures now exceed its revenues. (3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 27, 30)

Response: The Department agrees with the commenters and thanks them for their support of the proposed rulemaking amendments.

78. Comment: These commenters further state that this revenue gap has resulted in reductions in Air Quality Program staffing, which negatively impacts both the time it takes the Program to issue plan approvals and operating permits and the Program's ability to effectively conduct inspections, respond to complaints, and pursue enforcement actions when necessary. (3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 27, 30)

Response: The Department agrees with the commenters.

79. Comment: The commenters state that an inadequately-funded air quality program could threaten to negatively impact Pennsylvania's economy, by slowing or altogether preventing businesses from investing in new facilities and modernizing their existing facilities in the Commonwealth. (3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30)

Response: The Department acknowledges the comment.

80. Comment: These commenters state that the potential negative impacts to the environment and public health that could result from an inadequately-funded air quality program are obvious. Air quality may deteriorate. Issuance of permits will be delayed. Determinations will not be issued. (3, 4, 22, 25, 27, 28, 29, 30)

Response: The Department agrees with the commenters.

81. Comment: These commenters strongly support the spirit of the Amendments. There is an urgent need for increased fees to make ends meet at the Department. However, the Amendments do not go far enough to ensure the solvency and quality of the air quality program. The Amendments only maintain the existing level of funding when using overly optimistic projections of the number of other sources of funding. Moreover, the existing level of funding is not enough to adequately protect air quality in Pennsylvania. Therefore, these commenters urge the EQB to revise the proposed fee schedule upward to fully staff the air quality program and bring Pennsylvania into compliance with the CAA. (36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49)

Response: The final-form fees have been set at a level that will sustain the costs of the Air Quality Program at its current level plus fill 17 Title V positions which have remained unfilled

since 2016. The final-form fee amendments will also allow expansion of the Department's online plan approval and permit application portals and information technology capabilities.

82. Comment: These commenters strongly urge the Environmental Quality Board to adopt the proposed Air Quality Fee Schedule Amendments after making upward adjustments of the rates to compensate for (1) the forecast drop in General Funding for the Department and (2) the need to restore the Air Quality Program and bring it back into legal compliance. (36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49)

Response: The Department thanks the commenters for their support of the final-form rulemaking amendments. The final-form fee schedule amendments are designed to provide for the collection of fees sufficient to cover the costs of administering the Air Quality Program, including the plan approval application and operating permit programs, so that reviews and approvals are conducted in a timely manner. The final-form fees have been set at a level that will support the Air Quality Program at its current level plus fill 17 Title V positions which have remained unfilled since 2016. The amendments to the fee schedule increase the fees periodically out to 2031 to anticipate decreases in General Fund allocations and Federal grant funds and increases in program costs.

83. Comment: These commenters state that the proposed amendments would, for the first time, impose fees on regulated sources of air pollution for certain of the determinations and assessments that the Department regularly performs for the regulated community, including requests for determination, risk assessments, and confidential business information determinations. The commenters believe that it is appropriate for members of the regulated community to pay for these determinations and assessments because they benefit from them and because performing the determinations and assessments consumes a significant portion of the Air Quality Program's staff time. (4, 25)

Response: The Department acknowledges this comment. Please see the response to Comment 8 for a discussion about the proposed fee for claims of confidentiality, which has been removed from this final-form rulemaking.

84. Comment: The commenters state that the proposed amendments to the Department's Air Quality Fee Schedule will help get the Department's Air Quality Program back on sound financial footing and keep it there for the foreseeable future. The proposed amendments will also do a better job of matching the amount of work that the Air Quality Program performs for members of the regulated community with the fees it charges them to perform that work. The proposed amendments to the Air Quality Fee Schedule are thus a necessary and overdue step that will help the Department protect Pennsylvania's environment and improve its ability to serve the regulated community in Pennsylvania. (4, 25)

Response: The Department agrees with the commenters and thanks them for their support of the fee amendments.

85. Comment: These commenters state that the potential negative impact of an inadequately funded air program will negatively impact Pennsylvania's economy, by slowing or preventing businesses from investing in new facilities and modernizing their existing facilities. The

proposed amendments to the Air Quality Fee Schedule are necessary and should have been done earlier to allow the Department to protect Pennsylvania's environment and improve the Department's ability to serve regulated community in Pennsylvania. (4, 25)

Response: The Department acknowledges this comment.

86. Comment: This commenter states that it costs a substantial amount of money to administer an effective air quality program which protects the public health and welfare. Every aspect of the Department's Air Quality Program – from informing the public of air quality "action days" to issuing a determination of reasonably available control technology – involves staff time, engineering expertise, and professional judgment. The Department's Air Quality Program has been constrained by budgetary resources for many years. It is time to make corrections to the fee schedule. (25)

Response: The Department thanks the commenter for their support.

87. Comment: These commenters state that the proposed amendments to the Air Quality Fee Schedule would not change the per ton fee on emissions from Title V sources, which was set in 2013 and is indexed to inflation. On the other hand, the proposed amendments would increase the application fees for Plan Approvals and Operating Permits and the annual administration fees charged to Operating Permit holders. Those fees were set according to a schedule that was developed in the early 1990s and were last increased in 2005. (4, 25)

Response: The Department acknowledges this comment.

88. Comment: These commenters state that they support the Department's proposed Title V permit fee schedule changes, which include increasing the fees for new source review, operating permits, and for administrating operating permits. (22, 28, 29)

Response: The Department thanks the commenters for their support.

89. Comment: These commenters state that it is more than appropriate that the companies that benefit from their regulated right to pollute the air provide the funds to fairly and fully support the monitoring and follow-through of those regulations through adequate permit application fees. (22, 29)

Response: The Department acknowledges this comment.

90. Comment: This commenter states that they definitely do not want to see rollbacks to clean air programs or pollution monitoring. In fact, this is a time when the Department should be hiring additional scientists and engineers and working toward improving the air quality in PA. (5)

Response: The Department agrees with the commenter and thanks them for their support of the fee amendments. The final-form fee schedule amendments are necessary for the collection of fees sufficient to cover the costs of administering the Air Quality Program, including filling 17 Title V positions that have remained unfilled since 2016, so that the

Department can continue to carry out its statutory mandate to protect the public health and welfare and the environment.

91. Comment: This commenter states that fees for major source pollution emission permits should be hiked to a level where they more than cover the Department's administrative costs and an annual escalator should be built in so that companies can't count on delayed reviews to whittle them away. The commenter further states that there is no need to be deferential. The Department represents the public, the companies represent private interests. (26)

Response: The Department acknowledges this comment. The final-form fee schedule amendments are designed to provide for the collection of fees sufficient to cover the costs of administering the Air Quality Program, including the plan approval and operating permit programs, so that reviews and approvals are conducted in a timely manner. The final-form fees have been set at a level that will support the Air Quality Program at its current level plus fill 17 Title V positions which have remained unfilled since 2016. The amendments to the fee schedule increase the fees periodically out to 2031 to anticipate decreases in General Fund allocations and Federal grant funds and increases in program costs.

92. Comment: These commenters state that they support raising fees on the largest air polluters in order to fund the Department's clean air programs. (5, 114—1426)

Response: The Department acknowledges this comment. The Department notes, however, that the fee-for-service schedule is designed to spread the costs of the program across more of the users rather than concentrating the burden on the largest air polluters, generally Title V facilities, and the declining Title V facility emissions of regulated pollutants. Please see the response to Comment 15 for a discussion of the three options that the Department considered in developing this final-form rulemaking to address the shortfall in the Clean Air Fund balance and generate sufficient revenue to bring Air Quality Program revenue in line with Air Quality Program expenditures.

93. Comment: The commenters support the proposed fees and strongly urge the Environmental Quality Board to adopt the proposed Air Quality Fee Schedule Amendment. The commenters believe that the proposed fees need to be further increased to support the work and mission of the Pennsylvania Department of Environmental Protection's Air Program. (2, 36—44)

Response: The Department appreciates the commenters' support.

94. Comment: The commenters support the proposed Air Quality Fee Schedule. The Air Quality Program's expenses now exceed its revenue because the existing fee schedule is not adequate to fund the program. The Air Quality Program must have adequate funds to fulfill its mission to ensure public health and the economic viability of the state. The lack of adequate funds has resulted in a reduction in Air Quality Program staffing, which negatively affects the turnaround time for issuance of plan approvals and operating permits. The revenue gap impacts the Department's ability to effectively conduct inspections, respond to complaints, and pursue enforcement actions. Reducing enforcement will negatively impact the environment and public health. (7—24, 27—30)

Response: The Department thanks the commenters for their support.

95. Comment: In short, increases in the current fee schedule are warranted and very much needed. Fee increases are not just needed, they are urgent and have been urgent for years. (46, 47, 48, 49)

Response: The Department agrees with the commenters and thanks them for their support of the fee amendments.

96. Comment: Commenters have not identified any significant problems in the other details of the Amendments besides the fee schedule needing an upward adjustment. (46, 47, 48, 49)

Response: The Department thanks the commenters for their support. The Department notes that the proposed fee schedule is designed to bring Air Quality Program revenue approximately in line with Air Quality Program expenses. The amendments to the fee schedule increase the fees periodically out to 2031 to anticipate decreases in General Fund allocations and Federal grant funds and increases in program costs.

Adverse health effects

97. Comment: This commenter states that many Pennsylvanians live in areas that received a grade of “F” from the American Lung Association for soot and smog pollution. This commenter further states that they work for a health system and know that too many of our children suffer from asthma and that they are seeing a scary rise in lung cancer among non-smokers. (5)

Response: The Department understands the commenter’s concern. According to the PA Department of Health *2015 Asthma Prevalence in Pennsylvania Fact Sheet*, 9.6% or 955,374 adults and 10.2% or 269,423 children currently suffer from asthma. This is significantly higher than the national average of 8.3% for both children and adults. A 2018 report from the Asthma and Allergy Foundation of America lists Philadelphia as the 4th 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 21st and Allentown ranked 27th.

Air quality is improving across this Commonwealth due to the implementation of regulatory requirements to address emissions of particulate matter and other criteria pollutants, as well as regulated pollutants including HAPs, many of which are carcinogenic and teratogenic compounds. The Department’s ongoing review and renewal of operating permits implements technological advancements in air pollution control in air quality permits as the opportunities arise. The final-form fee schedule amendments are necessary for the collection of fees sufficient to cover the costs of administering the Air Quality Program, including the plan approval and operating permit programs, so that the Department can continue to carry out its statutorily required mission to protect the public health and welfare and the environment.

98. Comment: The commenters state that western Pennsylvania’s air quality is ranked as some of the worst air quality in the country and the proposed increases in air permit fees is fair, appropriate, and necessary. The commenters further say: “The DEP needs these funds to conduct

the oversight necessary to ensure our right to clean air, as guaranteed by the Environmental Rights Amendment.” (3, 22)

Response: The Department agrees that the fee schedule amendments are necessary for the collection of fees sufficient to cover the costs of administering the Air Quality Program, including the plan approval and operating permit programs, so that the Department can continue to carry out its statutorily required mission to protect the public health and welfare and the environment.

99. Comment: This commenter also states that the Pittsburgh area has recently experienced some of the difficulties that might be associated with insufficient oversight, as fires at the Clairton works last fall spread pollutants across the area. Although there is no guarantee that more stringent oversight would have prevented this incident, it is certainly possible that the additional capacity provided by higher fees might prevent similar incidents in the future. (3)

Response: The Department acknowledges this comment.

100. Comment: This commenter expresses concern that in the Department’s Southwest Region, applications for renewals of operating permits for 15 of the region’s 61 Title V sites — the largest facilities that pollute the most — have been pending for longer than the 18 months permitted by the Federal Clean Air Act and the Department’s own regulations, presumably because the Department lacks the staff needed to process those applications in a timely manner. (4)

Response: The Department appreciates the concern regarding the backlog. The final-form fee schedule amendments are reflective of the current complement and obligations to implement the requirements of the CAA and APCA. The Department has been reducing the backlog by streamlining review and approval measures and additional measures will be added upon implementation of the amended fee schedule.

101. Comment: This commenter states that the Air Quality Program is important for public health and also recreation. Nobody wants to run or ride a bike through dirty air, or to risk developing or exacerbating respiratory problems. This has a negative effect on the income brought by trail users to local communities. (28)

Response: The Department acknowledges this comment.

Amount of Fee increases

102. Comment: The Department estimates that the fee schedule established in this regulation is expected to produce an additional \$12.7 million (\$5.9 million for Title V facilities; \$6.8 million for non-Title V) which will increase the total fees collected per year to \$29.6 million. The potential impact on the owners and operators of small business is estimated to be approximately \$4.8 million in increased plan approval applications, operating permit and asbestos notification costs.

In some instances, the EQB is proposing to increase existing fees by over 500 percent while also instituting a number of new fees. The Preamble states that the increased fees and new fees will allow the Department to maintain staffing levels as well as cover operating expenses.

The commenters are concerned about the economic and fiscal impact of this rulemaking on small businesses and ultimately the Commonwealth's taxpayers. They strongly object to the "exponential" fee increases being put forth by the EQB and remark that the decline in revenues due to a decrease in emissions is to be expected because, it is, in fact the goal of the Clean Air Act. They question the need for the program to have the same amount of funding if there are significantly less pollutants being released into the air. In addition, the commenters assert the Department's proposed fees, which are expected to generate revenue in excess of its expenditures, violate the APCA which states that "in no case shall the amount of the permanent fee be more than that which is necessary to comply with section 502(b) of the Clean Air Act." 35 P.S. § 4006.3(c).

Based on the concerns of the Committee and lawmakers, the EQB should address the issues relating to statutory authority and intent of the General Assembly. It should also explain its rationale for the timeline for implementation of the proposed air quality fee schedule amendments. How did the EQB determine that the incremental approach for fee increases until 2031 is appropriate? How will the EQB assess whether fees moving forward will be commensurate with the activities being performed, fair to the regulated community, and competitive with other states?

Response: Please see the responses to Comments 1—12 for a discussion of the issues relating to statutory authority. Please see the responses to 60, 61, 71, 80, 86, 95, and 100 for a discussion of the incremental approach to the fee increases, the relationship of the fees to the activities being performed, fairness to the regulated community, and competitiveness with the other states.

Compliance with the RRA

103. Comment: The commenter states that the Summary of Regulatory Requirements provided in the Preamble to the proposed regulation lacks an explanation for the new fees in §§ 127.708, 127.709, 127.711, and 127.712. The commenter asks the Board to provide a detailed description in the Preamble to the final-form rulemaking of the amendments proposed for each section and why the amendments are required. (1427)

Response: Proposed §§ 127.708, 127.709, 127.711, and 127.712 are renumbered in this final-form rulemaking. The provisions of proposed § 127.708 are moved to § 127.702(k). Section 127.709 is renumbered to § 127.708; § 127.710 to § 127.709; and § 127.712 to § 127.710. Proposed § 127.711 is deleted in this final-form rulemaking. Section D of the preamble to this final-form rulemaking includes a detailed description of the amendments for final-form §§ 127.702(k), 127.708, 127.709, and 127.710 and why these amendments are required.

Section 127.465. Significant operating permit modification procedures.

104. Comment: These commenters state that the rulemaking contains a new § 127.465, titled Operating Permit Modifications and request that the Department provide a more complete explanation of the purpose of this section. (46, 47, 48, 49)

This commenter states that § 127.465(e) provides for the Department's role once it has taken final action on the proposed change for the significant modification of an operating permit. The commenter asks: What is meant by final action? Does final action by the Department result in an approval or disapproval of the modification request? Subsection (e) should be revised to define final action. Also, the Department should specify a time period from final action within which it will publish notice in the *Pennsylvania Bulletin*. (1427)

Response: This section is consistent with a similar requirement for administrative amendments found in § 127.450(e), which states that, "The Department will take final action on the administrative amendment and publish notice of the final action in the *Pennsylvania Bulletin*." This section is also consistent with a similar requirement for minor modifications found at § 127.462(h), which states that, "The Department will take final action on the proposed change within 60 days of receipt of the complete application for the minor permit modification and, after taking final action, will publish notice of the action in the *Pennsylvania Bulletin*." In both cases, final action is not defined and a timeframe to publish the final action in the *Pennsylvania Bulletin* is not specified. Final action is understood to mean issuance or denial of the authorization. Final-form § 127.465(e) is revised to specify that the Department will take final action on the proposed change within 180 days of receipt of the complete application for the significant operating permit modification and, after taking final action, will publish notice of the action in the *Pennsylvania Bulletin*.

105. Comment: The commenters suggest that language be included in § 127.465 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. (32, 33)

Response: Limitations on the method of submission were not included in § 127.465, thereby allowing for hand delivery, US Mail, reputable express services, and electronic submission.

Section 127.709. Asbestos abatement or regulated demolition or renovation project notification.

106. Comment: These commenters state that § 127.709 establishes an asbestos abatement project notification fee for owners and operators of a project not located in Philadelphia or Allegheny Counties and that the proposed language did not differentiate between an initial notification and a subsequent revised notification. These commenters suggest that the fee should apply only to the initial notification and not to a subsequent revised notification. (1, 1427)

Response: Proposed § 127.709 is renumbered to § 127.708 in this final-form rulemaking. The final-form fee applies only to the initial notification by 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) 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. Final-form § 127.708 is amended with subsection (b) as follows:

(b) The Department will waive the fee for a subsequent notification form submitted for the asbestos abatement or regulated demolition or renovation project.

Claims of confidentiality

107. Comment: The commenters support the introduction of a fee for requests to the Department to treat permitting materials confidentially. Besides the obvious benefit of pricing a request which imposes costs on the agency, there is the added benefit of giving the permit applicant “skin in the game” in making the request. Based on commenters’ experience reviewing permit applications and litigating some of the resulting permits, claims of confidentiality are often made overzealously, including materials that are not truly confidential. This needlessly puts more application material out of reach of public access and scrutiny, hampering the public’s ability to comment on and watchdog permit applications. Excessive withholding due to claims of confidentiality is a problem with little remedy at the moment. It should be deterred.

First and foremost, the Department should more closely scrutinize claims of confidentiality. Fixing the Department’s understaffing—see above—is needed for that. Meanwhile, though, building in a fee for claims of confidentiality may help deter frivolous claims. (46, 47, 48, 49)

Response: The Department appreciates the commenters’ support of this fee. Section 13.2 of the APCA and § 127.12(d) outline the conditions under which companies can request and the Department can keep material confidential. The Department sometimes receives requests for confidentiality with no accompanying explanation or justification upon which to grant confidentiality. Occasionally, the Department receives entire applications with each page stamped “confidential.” In either case the Department must request and review a justification from the applicant. All this takes Department time and resources. However, while the Department has broad authority under the APCA to establish fees, the Department determined that the proposed fee for claims of confidentiality is unneeded at this time and removed it from the final-form rulemaking. Please also see the response to Comment 8.

Reallocating expenses between Title V and Non-Title V accounts

108. Comment: The commenters express concern with this statement in Box 10 of the RAF: “*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.*” It is questionable whether reallocating expenses between the two accounts is permitted under 40 CFR 70.9 (a) and (b). Section (a) declares that “*the state program... shall ensure that any fee required by this section will be used solely for permit program costs.*” (52—98)

Response: After reviewing indirect costs currently billed to the Non-Title V Account, the Department has decided not to transfer any of these costs to the Title V Account. However, as explained in the response to Comment 24, the proposed schedule of Title V and Non-Title V

facility annual operating permit maintenance fees has been revised in this final-form rulemaking and the Non-Title V Account is no longer projected to be in deficit.

109. Comment: The commenters state that according to the EPA's 1993 Operating Permits Program fee schedule guidance "*only funds collected from Part 70 sources may be used to fund a state's Title V permits program.*" The Department's proposal to potentially re-allocate expenses between these accounts is without legislative authority. (52—98)

Response: Please see the responses to Comments 34 and 37.

Volkswagen diesel emissions cheating settlement

110. Comment: The commenters note that Pennsylvania was recently allocated over \$118.5 million in the State Trust Agreement as a result of the Volkswagen Diesel cheating settlement. While this is a separate program focused more on vehicle sourced air pollution, it underscores the multi-pronged approach to reduce air pollution, and though the air quality program's revenue may be declining (because of better technology and a reduction in polluting facilities), total overall financial resources to combat air pollution have not. (52—98)

Response: Under the terms of the State Trust Agreement that resulted from the Volkswagen (VW) diesel emissions cheating settlement, the Pennsylvania allocation of \$118.5 million may only be used for the purposes specified in the State Trust Agreement. These funds also should not be considered as furthering air pollution reduction; to the contrary, these funds are intended to *mitigate* the excess air pollution caused by the unlawful vehicles at issue in the settlement.

The State Trust Agreement funds belong to the citizens of Pennsylvania. They were allocated to Pennsylvania and are held in trust specifically to offset the excess vehicle emissions caused by the VW diesel emissions cheating scandal and the negative impact of those emissions on the citizens of the Commonwealth. The funds were not awarded, and may not be used, to bolster the activities of the Air Quality Program or the Department more broadly.

In particular, the State Trust Agreement limits eligible expenditures to a very small list of potential projects. Reimbursement for operational costs (administrative expenditures) is also closely prescribed under the State Trust Agreement, which only allows reimbursement of those costs directly related to the eligible actions identified in the State Trust Agreement. These funds cannot be used to fund staff costs or program obligations for any of the many other responsibilities of the Department. For these reasons, the State Trust Agreement funds must not be considered in the broader Air Quality Program funding discussion. While every ton of air pollution reduced is a win for the citizens of Pennsylvania, even expending all of the available State Trust Agreement funds will only result in replacing or repowering a small percentage of the eligible diesel vehicles, engines, and equipment.

From a broader Air Quality Program funding perspective, total financial resources to combat air pollution have declined while obligations have increased. Funding from the Federal government can fluctuate year to year, resulting in state level fees being the only source of revenue that is entirely predictable. Additionally, the use of Federal grant funds is usually constrained, and the

Department does not have the authority to assign those funds to support other projects or obligations.

Since the Clean Air Fund balance has been drawn down and can no longer meet ongoing obligations, the Department needs to adjust the plan approval application and permitting fees to match expenditures.

Air monitoring in the shale gas areas

111. Comment: The *Pennsylvania Bulletin* proposed rulemaking notice said in Section F that the proposed fees will allow the Department to expand its air monitoring network in shale gas areas. No further discussion regarding this subject was found in the proposal. The commenters would like the Department to clarify the previous statement and provide justification for additional air monitoring activity in the shale area. (32, 33)

Response: The CAA mandates that every state establish an ambient air monitoring network for criteria pollutants including carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. The monitoring stations are located, constructed, and operated in accordance with Federal criteria promulgated by the EPA, including the size of the local population. The ambient air data collected at the monitoring stations are submitted to the EPA's Air Quality System database on an hourly or daily basis, as appropriate. The Department currently operates and maintains 68 air monitoring sites in 38 counties in this Commonwealth. Additionally, the Allegheny and Philadelphia County agencies operate air monitoring networks in their jurisdictions consisting of 13 and 9 monitoring sites, respectively. The majority of the ambient air monitoring sites is primarily designed for demonstrating compliance with the NAAQS for criteria air pollutants. A portion of these sites also collect air samples for a comprehensive suite of volatile organic compounds, toxic carbonyls, and toxic metals. Each monitoring site is configured with a unique suite of equipment designed to characterize atmospheric conditions at the sampling location.

In response to shale gas development in this Commonwealth, the Department has installed air quality monitors at several locations in both Northern and Southwestern Pennsylvania to better characterize air quality in those areas impacted by oil and gas operations. It is incumbent on the Department to operate air monitors in both rural and urban areas to characterize the quality of the air that our citizens breathe daily and to ensure that all areas of the state are meeting Federal ambient air quality standards.

As the EPA has tightened the various NAAQS standards, the Department has had to invest significant sums of money in equipment to either sample more accurately at lower levels of pollution or to expand the air monitoring network into areas of the state where monitoring was not previously conducted. The Department has invested millions of dollars in upgrading its air monitoring equipment, quality assurance software and protocols, and support equipment over the past several years. These expenditures have been drawn from the balance of the Clean Air Fund. As the Clean Air Fund balance goes to zero, the costs of the air monitoring system need to be addressed in the permitting fee structure.

Net generation in megawatt hours

112. Comment: The commenters suggest that the Title V fees be assessed based upon the calendar year annual amount of net generation in megawatt hours (MWh) from each facility with no “cap” placed upon the number of net MWh generated used for the assessment of the fees. (34, 45)

Response: The basis by which Title V emission fees are charged must be consistent among all source types, including sources that do not produce electricity. The Department believes that establishing Title V fees on the basis of annual amounts of net generation in MWh from each facility would not work well across the different types of Title V-permitted facilities located in this Commonwealth.

Carbon dioxide is a regulated pollutant

113. Comment: The commenters state that the proposed fee package does not address the fact that carbon dioxide (CO₂) became a “regulated pollutant” on December 22, 2015, and therefore should be assessed in some way regarding the Title V Emission Fee dollar per ton calculation. (34, 45)

Response: In the EPA’s July 21, 1992, final rule addressing the Part 70 operating permit program, the EPA stated that “[t]he EPA interprets title V to offer permitting authorities flexibility in setting *variable fee amounts for different pollutants* or different source categories, as long as the sum of all fees collected is sufficient to meet the reasonable direct and indirect costs required to develop and administer the provisions of title V of the Act, including section 507 as it applies to part 70 sources [emphasis added].” See 57 FR 32258 (July 21, 1992). Additionally, the EPA stated that “[t]he State is not required to assess fees on any particular basis and can use application fees, service-based fees, emissions fees based on either actual or allowable emissions, other types of fees, or any combination thereof.” See 57 FR 32292. The Department is therefore exercising enforcement discretion to not assess a permanent annual air emission fee for CO₂ emissions or in other words is assessing a fee of \$0 per ton in this final-form rulemaking. If the Department were to assess the current annual air emission fee for CO₂ emissions, which is \$93.06 per ton of regulated pollutants emitted in 2019, the amount would be more than that which is necessary to comply with section 502(b) of the CAA, as prohibited under subsection 6.3(c) of the APCA.

However, the Department is exploring appropriate ways to address CO₂ emissions. On October 3, 2019, Governor Wolf signed Executive Order 2019-07, directing the Department to develop a proposed rulemaking to abate, control, or limit CO₂ emissions from fossil fuel-fired electric generating units as authorized by the APCA. The proposed rulemaking is expected to establish a CO₂ budget consistent with the participating states in the Regional Greenhouse Gas Initiative, as well as a fee per ton of CO₂ emitted from a fossil fuel-fired electric generating unit.

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 to 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

(Editor's Note: The following section is proposed to be added and is printed in regular type to enhance readability.)

§ 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 WITHIN 180 DAYS OF RECEIPT OF THE COMPLETE APPLICATION for the significant OPERATING PERMIT 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 for the calendar years beginning with 2031.

(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] (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking, WHEN PUBLISHED AS A FINAL-FORM 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.]

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(i) 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~~ 2021—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~~ 2021—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.

(3) THE FEE FOR AN EXTENSION OF A PLAN APPROVAL WILL NOT APPLY IF, THROUGH NO FAULT OF THE APPLICANT, AN EXTENSION IS REQUIRED.

(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~~ 2021—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).

(k) THE OWNER OR OPERATOR OF A SOURCE APPLYING FOR A RISK ASSESSMENT SHALL, AS PART OF THE PLAN APPROVAL APPLICATION, PAY THE FEE IN PARAGRAPH (1) OR PARAGRAPH (2) AS APPLICABLE.

(1) FOR A RISK ASSESSMENT THAT IS INHALATION ONLY FOR ALL MODELING, A FEE EQUAL TO:

(i) TEN THOUSAND DOLLARS (\$10,000) FOR APPLICATIONS FILED DURING CALENDAR YEARS ~~2020—2025~~ 2021-2025.

(ii) TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$12,500) FOR APPLICATIONS FILED DURING CALENDAR YEARS 2026—2030.

(iii) FIFTEEN THOUSAND SIX HUNDRED DOLLARS (\$15,600) FOR APPLICATIONS FILED FOR THE CALENDAR YEARS BEGINNING WITH 2031.

(2) FOR A MULTIPATHWAY RISK ASSESSMENT, A FEE EQUAL TO:

(i) TWENTY-FIVE THOUSAND DOLLARS (\$25,000) FOR APPLICATIONS FILED DURING CALENDAR YEARS ~~2020—2025~~ 2021-2025.

(ii) THIRTY-ONE THOUSAND THREE HUNDRED DOLLARS (\$31,300) FOR APPLICATIONS FILED DURING CALENDAR YEARS 2026—2030.

(iii) THIRTY-NINE THOUSAND ONE HUNDRED DOLLARS (\$39,100) FOR APPLICATIONS FILED FOR THE CALENDAR YEARS BEGINNING WITH 2031.

§ 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 annual operating permit administration fee is:] ~~For applications filed through calendar year _____~~ *(Editor's Note: The blank refers to the year of the effective date of adoption of this proposed rulemaking.)*, each EACH applicant subject to subsection (a) shall pay the annual operating permit administration fee of three hundred seventy-five dollars (\$375) THROUGH DECEMBER 31, 2020.

[(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 EXCEPT AS SPECIFIED IN PARAGRAPH (1), BEGINNING _____ *(Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking, WHEN PUBLISHED AS A FINAL-FORM RULEMAKING.)*, each applicant subject to subsection (a) shall pay the annual operating permit maintenance fee in paragraph ~~(1)~~ (2) or paragraph ~~(2)~~ (3) on or before December 31 of each year for the next calendar year.

(1) THE ANNUAL OPERATING PERMIT MAINTENANCE FEE IN PARAGRAPH (2) OR PARAGRAPH (3) FOR CALENDAR YEAR 2021 IS DUE ON OR BEFORE BLANK (EDITOR'S NOTE: THE BLANK REFERS TO THE DATE 60 DAYS AFTER THE EFFECTIVE DATE OF THIS RULEMAKING, WHEN PUBLISHED AS A FINAL-FORM RULEMAKING).

(2) For a synthetic minor facility, a fee equal to:

(i) ~~Two thousand five hundred dollars (\$2,500)~~ FOUR THOUSAND DOLLARS (\$4,000) for calendar years 2021—2025.

(ii) ~~Three thousand one hundred dollars (\$3,100)~~ FIVE THOUSAND DOLLARS (\$5,000) for calendar years 2026—2030.

(iii) ~~Three thousand nine hundred dollars (\$3,900)~~ SIX THOUSAND THREE HUNDRED DOLLARS (\$6,300) for the calendar years beginning with 2031.

~~(2)~~ (3) 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)~~ SEVEN HUNDRED FIFTY DOLLARS (\$750) 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)~~ SEVEN HUNDRED FIFTY DOLLARS (\$750) 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)~~ SEVEN HUNDRED FIFTY DOLLARS (\$750) 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)~~ SEVEN HUNDRED FIFTY DOLLARS (\$750) 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 annual operating permit administration fee 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:] 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 _____ (Editor's Note: The blank refers to the year of the effective date of adoption of this proposed rulemaking.) DECEMBER 31, 2020.

[(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 EXCEPT AS SPECIFIED IN PARAGRAPH (1), BEGINNING _____ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking, WHEN PUBLISHED AS A FINAL-FORM RULEMAKING.), each applicant subject to subsection (a) shall pay the annual operating permit maintenance fee. The annual operating permit maintenance fee is due IN PARAGRAPH (2), PARAGRAPH (3) OR PARAGRAPH (4) on or before December 31 of each year for the next calendar year and is equal to:

(1) THE ANNUAL OPERATING PERMIT MAINTENANCE FEE IN PARAGRAPH (2) FOR CALENDAR YEAR 2021 IS DUE ON OR BEFORE BLANK (EDITOR'S NOTE: THE BLANK REFERS TO THE DATE 60 DAYS AFTER THE EFFECTIVE DATE OF THIS RULEMAKING, WHEN PUBLISHED AS A FINAL-FORM RULEMAKING).

(2) ~~Ten thousand dollars (\$10,000)~~ EIGHT THOUSAND DOLLARS (\$8,000) for calendar years 2021—2025.

(2) (3) ~~Twelve thousand five hundred dollars (\$12,500)~~ TEN THOUSAND DOLLARS (\$10,000) for calendar years 2026—2030.

(3) (4) ~~Fifteen thousand six hundred dollars (\$15,600)~~ TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$12,500) 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 2021—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)~~ (e) shall pay a fee equal to:

(1) Ten thousand dollars (\$10,000) for applications filed during calendar years 2020—2025 2021—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.

(Editor's Note: The following sections are proposed to be added and are printed in regular type to enhance readability.)

§ 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 multipathway 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. § 127.708. Asbestos abatement or regulated demolition or renovation project notification.~~

~~(a) 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) 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 2021—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.~~

~~(b) THE DEPARTMENT WILL WAIVE THE FEE FOR A SUBSEQUENT NOTIFICATION FORM SUBMITTED FOR THE ASBESTOS ABATEMENT OR REGULATED DEMOLITION OR RENOVATION PROJECT.~~

~~§ 127.710. § 127.709. 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 2021—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 2021—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. § 127.710. 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).



August 14, 2020

David Sumner
Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17120

Re: Final Rulemaking: Air Quality Fee Schedule Amendments (#7-536 / IRRC # 3231)

Dear Mr. Sumner:

Pursuant to Section 5.1(a) of the Regulatory Review Act (RRA), please find enclosed the Air Quality Fee Schedule Amendments (#7-536) final-form rulemaking for review by the Independent Regulatory Review Commission (IRRC). The Environmental Quality Board (EQB or Board) adopted this rulemaking at its July 21, 2020, meeting.

The Board adopted the proposed rulemaking at its meeting on December 18, 2018. On April 13, 2019, the proposed rulemaking was published in the *Pennsylvania Bulletin* at 49 Pa.B. 1777 for a 66-day public comment period. Three public hearings were held on May 13, 15 and 16, 2019, in Pittsburgh, Norristown and Harrisburg, respectively. The public comment period closed on June 17, 2019. The Department received comments from 1,426 commenters including the House of Representatives Environmental Resources and Energy Committee and the House of Representatives. The Board provided the Environmental Resources and Energy Committees and IRRC with copies of all comments received in compliance with Section 5(c) of the RRA.

The Department will provide assistance as necessary to facilitate IRRC's review of the enclosed rulemaking under Section 5.1(e) of the Regulatory Review Act.

Please contact me by e-mail at laurgriffi@pa.gov or by telephone at 717.783.8727 if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink that reads "Laura E. Griffin". The signature is written in a cursive style with a large initial "L" and a decorative flourish at the end.

Laura Griffin
Regulatory Coordinator

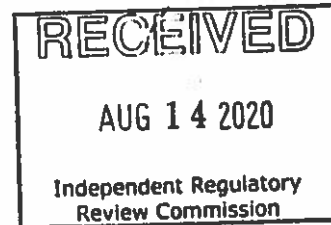
Enclosures

**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, Environmental Quality Board

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 Tolerated Regulation
 - a. With Revisions
 - b. Without Revisions



FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
<u>8/14/2020</u>	<u><i>Pamela Nygard</i></u>	Majority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY <i>Representative Daryl Metcalfe</i>
<u>8/14/20</u>	<u><i>Scott Keller</i></u>	Minority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY <i>Representative Craig Vitale</i>
<u>8/14/2020</u>	<u><i>electronic submittal</i></u>	Majority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY <i>Senator Gene Yaw</i>
<u>8/14/2020</u>	<u><i>electronic submittal</i></u>	Minority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY <i>Senator Steven Santarsiero</i>
<u>8/14/2020</u>	<u><i>electronic submittal</i></u>	INDEPENDENT REGULATORY REVIEW COMMISSION <i>David Summer</i>
_____	_____	ATTORNEY GENERAL (for Final Omitted only)
_____	_____	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

Stephen Hoffman

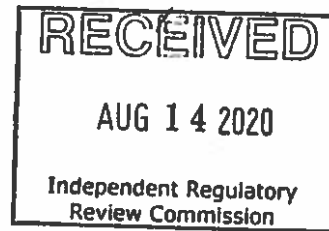
From: Bulletin <bulletin@palrb.us>
Sent: Friday, August 14, 2020 12:47 PM
To: steve.santarsirro@pa; gyaw@pa; timothy.collins@pasenate.com; ntroutman@pasen.gov
Cc: Martin, Megan; Vincent Deliberato; Duane Searle; A.J. Mendelsohn; Griffin, Laura
Subject: [External] Delivery of Final Rulemaking--Air Quality Fee Schedule Amendments (7-536)
Attachments: 7-536 - Final - Santarsiero_FINAL_packet.pdf; 7-536 - Final - Yaw_FINAL_packet.pdf

***ATTENTION:** This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA_SPAM@pa.gov. We have attached Final Rulemaking No. 7-536 from the Department of Environmental Protection Environmental Quality Board.*

Please confirm receipt of this email by replying to all.

Thank you.

The Pennsylvania Code & Bulletin Office



Stephen Hoffman

From: Griffin, Laura <laurgriffi@pa.gov>
Sent: Friday, August 14, 2020 11:49 AM
To: Bulletin
Cc: Shirley, Jessica; Reiley, Robert A.; Kauffman, Gregory; timothy.collins@pasenate.com; ntroutman@pasen.gov
Subject: Delivery of Final Rulemaking #7-536 to Senate ERE Committee
Attachments: 7-536 - Final - Santarsiero_FINAL_packet.pdf; 7-536 - Final - Yaw_FINAL_packet.pdf
Importance: High

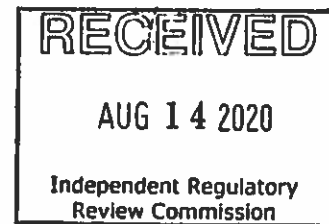
Good morning,

Pursuant to SR 318 and pursuant to the letter from House Parliamentarian dated March 25, 2020, authorizing the Legislative Reference Bureau to transmit regulations to the appropriate committees for consideration, we are submitting Final Rulemaking – Air Quality Fee Schedule Amendments (#7-536) to the Senate Environmental Resources and Energy Committee.

Please provide written (email) confirmation that the attached rulemaking was received by both of the offices of the Senate Committee chairs.

Thank you,
Laura

Laura Griffin | Regulatory Coordinator
Department of Environmental Protection | Policy Office
Rachel Carson State Office Building
400 Market Street | Harrisburg, PA
Phone: 717.772.3277 | Fax: 717.783.8926
Email: laurgriffi@pa.gov
www.dep.pa.gov



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In order to prevent the further spread of COVID-19, all DEP offices will remain closed until restrictions are lifted. In the meantime, I will be working remotely to continue the mission of the Pennsylvania Department of Environmental Protection and frequently retrieving emails. Thank you for your patience.

Stephen Hoffman

From: Collins, Timothy <Timothy.Collins@pasenate.com>
Sent: Friday, August 14, 2020 1:32 PM
To: steve.santarsirro@pa; gyaw@pa; ntroutman@pasen.gov; Bulletin
Cc: Martin, Megan; Vincent Deliberato; Duane Searle; A.J. Mendelsohn; Griffin, Laura
Subject: Re: Delivery of Final Rulemaking--Air Quality Fee Schedule Amendments (7-536)

Sen. Santarsiero's office has received the final rulemaking documents.

Thank you.

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Sent: Friday, August 14, 2020 12:46:59 PM
To: steve.santarsirro@pa <steve.santarsirro@pa>; gyaw@pa <gyaw@pa>; Collins, Timothy <Timothy.Collins@pasenate.com>; ntroutman@pasen.gov <ntroutman@pasen.gov>
Cc: Martin, Megan <mtmartin@os.pasen.gov>; Vincent Deliberato <vdeliberato@palrb.us>; Duane Searle <dsearle@palrb.us>; A.J. Mendelsohn <amendelsohn@palrb.us>; Griffin, Laura <laurgriffi@pa.gov>
Subject: Delivery of Final Rulemaking--Air Quality Fee Schedule Amendments (7-536)

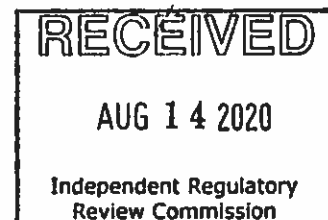
■ EXTERNAL EMAIL ■

We have attached Final Rulemaking No. 7-536 from the Department of Environmental Protection Environmental Quality Board.

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The Pennsylvania Code & Bulletin Office



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Stephen Hoffman

From: Troutman, Nick <ntroutman@pasen.gov>
Sent: Friday, August 14, 2020 12:51 PM
To: Bulletin; steve.santarsirro@pa; gyaw@pa; timothy.collins@pasenate.com
Cc: Martin, Megan; DeLiberato, Vincent C. (LRB); Duane Searle; A.J. Mendelsohn; Griffin, Laura
Subject: RE: Delivery of Final Rulemaking--Air Quality Fee Schedule Amendments (7-536)

Senator Yaw's Office has received this rulemaking. Thank You

From: Bulletin <bulletin@palrb.us>
Sent: Friday, August 14, 2020 12:47 PM
To: steve.santarsirro@pa; gyaw@pa; timothy.collins@pasenate.com; Troutman, Nick <ntroutman@pasen.gov>
Cc: Martin, Megan (OS) <mtmartin@os.pasen.gov>; DeLiberato, Vincent C. (LRB) <vdeliberato@palrb.us>; Duane Searle <dsearle@palrb.us>; A.J. Mendelsohn <amendelsohn@palrb.us>; Griffin, Laura <laurgriffi@pa.gov>
Subject: Delivery of Final Rulemaking--Air Quality Fee Schedule Amendments (7-536)

⊙ CAUTION : External Email ⊙

We have attached Final Rulemaking No. 7-536 from the Department of Environmental Protection Environmental Quality Board.

Please confirm receipt of this email by replying to all.

Thank you.

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