



pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Bureau of Air Quality

Proposed Air Quality Title V Emission Fee Amendments

Environmental Quality Board

November 20, 2012

Regulatory Requirements

- Section 502(b) of the Clean Air Act (CAA) (42 U.S.C.A. § 7661a(b)) requires the Commonwealth to adopt rules 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 sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of Title V.
- Implementing regulations in 40 CFR § 70.9 (relating to fee determination and certification) provide that the State program shall require that the owners or operators of Title V sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs and shall ensure that any fee required by this section will be used solely for permit program costs.

Regulatory Requirements

- Section 6.3(a) of the Air Pollution Control Act (APCA) (35 P.S. § 4006.3) authorizes the Environmental Quality Board (EQB) 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 related requirements of the CAA, and the Small Business Compliance Assistance Programs including the Small Business Compliance Advisory Committee and the Office of Small Business Ombudsman.
- An adequate fee schedule must result in the collection and retention of revenues sufficient to cover the permit program costs.

Air Quality Program Funding

The Air Quality program is supported by four funding sources in FY 2012-2013:

State General Fund	\$3,600,000	9%
EPA Grants	\$6,000,000	16%
Permit Fees and Penalties	\$10,200,000	27%
Title V Emissions Fees	\$18,400,000	48%

Title V Facilities

- The term “Title V facility” is defined in 25 Pa. Code § 121.1 and includes:
 - Any air contamination source with a potential to emit 25 tons per year (tpy) or more of VOC or NO_x in the Philadelphia area and 100 tpy or more of VOCs and NO_x in the remainder of the commonwealth;
 - Has the potential to emit 10 tpy or more of any hazardous air pollutant under section 112(b) of the CAA (42 U.S.C.A. § 7412(b)); has the potential to emit 25 tpy or more of a combination of the hazardous air pollutants; or
 - Is a major stationary source of air pollutants, as defined in section 302 of the CAA (42 U.S.C.A. § 7602), that directly emits or has the potential to emit, 100 tpy or more of any air contaminant.
- There are approximately 560 Title V facilities in Pennsylvania; there were over 800 when the program was established in 1994.

Title V Emission Fee

- The annual Title V emission fee was established in 1994 at \$37 per ton of regulated pollutant up to 4,000 tons of regulated pollutant per facility.
- The Title V emission fee is adjusted each year based on the Consumer Price Index for All-Urban Consumers as provided in § 127.705(e).
- The Title V emission fee due no later than September 1, 2012, for emissions released in calendar year 2011, is \$56 per ton.

Regulated Air Pollutant

Regulated Air Pollutants for Title V emissions fees are:

- NO_x, VOC, and pollutants for which a NAAQS has been established,
- Air contaminants subject to a standard under Section 111,
- Air contaminants subject to a standard under Section 112 or certain other requirements of Section 112,
- A Class I or II substance subject to a standard promulgated under or established by Title VI of the CAA.

A regulated air pollutant for Title V emissions fees does not include greenhouse gases including carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

Clean Air Fund

- The Clean Air Fund, which supports all air quality protection programs implemented by the Department, is comprised of two “special fund” appropriations: the Major Emission Facilities or Title V Appropriation (077) and the Mobile and Area Facilities Appropriation (084).
- The Title V Major Emission Facilities Appropriation is funded through an emission fee that requires owners and operators to pay an annual per ton emission fee, up to a maximum of 4,000 tons of regulated pollutant.
- Section 502(b)(3) of the CAA and implementing regulations at 40 CFR § 70.9 restrict the use of Title V emission fee revenue deposited in the Major Emission Facilities Account.

Clean Air Fund – Title V Emission Fee Revenue

- Because of declining Title V emission fee revenue due to the installation of control technology on stationary sources and the retirement or curtailment of operations by major sources including coal-fired power plants, **deficits of \$6.15 million** and **\$17.30 million** in FY 2015-2016 and FY 2016-2017, respectively, are projected for the Title V Major Facilities Account.

Proposed Air Quality Title V Fee Revision

The proposed rulemaking establishes a base Title V annual emission fee of \$85 per ton of each “regulated pollutant” for up to 4,000 tons beginning in 2014 for emissions during the 2013 calendar year.

FY 2014/2015 Projected DEP Emission Fee Revenue w/o Title V Fee Increase	\$10.30 Million
FY 2014/2015 Projected DEP Emission Fee Revenue w/\$85 per ton Base Fee	\$15.63 Million
FY 2014/2015 Projected Increase in DEP Emission Fee Revenue w/\$85 per ton Base Fee	\$5.33 Million
FY 2014/2015 Projected Increase in Emission Fee Revenue for Philadelphia AMS w/\$85 per ton Base Fee	\$0.176 Million
FY 2014/2015 Projected Increase in Emission Fee Revenue for Allegheny County w/\$85 per ton Base Fee	\$0.581 Million

Title V Emission Fees

- The \$85/ton Title V emission fee would be paid in 2014 for emissions of regulated pollutants during the 2013 calendar year.
- A number of states including NJ, MD, NY, NC and CT have either increased or eliminated the cap on emissions of regulated pollutants to provide adequate funding for their Title V Programs.
- Certain states have also adopted additional Title V fees. Virginia has adopted yearly maintenance fees ranging from \$1,500 to \$10,000 and Title V Permit application and Title V renewal fees of \$20,000 and \$10,000, respectively.

Other States' Title V Emission Fees

State	Title V Permit Emission Fees for 2012	Emissions CAP tons per year	Number of Active Title V Facilities
Connecticut	\$283.46 per ton	No	74
Delaware	\$5,000 to \$243,000 and user fees starting at \$2,000	7,500	61
Illinois	\$21.50 per ton up to \$294,000 (based on allowable emissions)	13,675	455
Maryland	\$53 per ton	No	122
New Jersey	\$106.67 per ton	No	301
New York	\$45 to \$65 per ton	7,000	417
N. Carolina	\$30 per ton + \$6,500 base fee	4,000	279
Ohio	\$44.48 per ton	4,000	532
Pennsylvania	\$56 per ton	4,000	560
Rhode Island	\$266 per ton	No	34
Virginia	\$57.90 per ton	4,000	276
West Virginia	\$31.07 per ton	4,000	207

▶ Advisory Committee Action

- On September 12, 2012, the Air Quality Technical Advisory Committee concurred with the DEP recommendation to forward the proposed Title V emission fee amendments for consideration by the EQB.
- On October 3, 2012, the Citizens Advisory Council Air Committee agreed to recommend to the full Council that the package be moved along to EQB for consideration.
- On October 24, 2012, the Small Business Compliance Advisory Committee concurred with presenting the Title V fee amendments to the EQB for consideration.

Department Recommendation

- DEP recommends the Board approve the proposal to amend Chapter 127 to revise the base Title V emission fee for publication as proposed rulemaking.
- DEP recommends three public hearings and a 60-day public comment period.
- If published in the Pennsylvania Bulletin as a final rulemaking, the regulatory package will be forwarded to the EPA for approval.



Thank you.

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