

Executive Summary
Air Quality Title V Fee Amendment
25 Pa. Code Chapter 127

Purpose of the Final Rulemaking

The Department of Environmental Protection (Department) recommends amendments to 25 Pa. Code Chapter 127 (relating to construction, modification, reactivation and operation of sources) for consideration by the Environmental Quality Board (Board) as final rulemaking. The final rulemaking amends the Title V annual emission fee codified in § 127.705 (relating to emission fees) of Chapter 127, Subchapter I (relating to plan approval and operating permit fees). An adequate fee must result in the collection and retention of revenue sufficient to cover the costs of administering the Commonwealth's Title V air quality permit program as required under section 6.3 of the Air Pollution Control Act (APCA) (35 P.S. § 4006.3). To meet these obligations, the final rulemaking increases the Title V annual emissions fee paid by the owner or operator of a Title V facility to \$85 per ton of "regulated pollutant" for up to 4,000 tons of emissions of each regulated pollutant beginning with emissions occurring in calendar year 2013 and payable by September 1, 2014, to reflect actual expenditures on this program. Minor clarifying amendments are included for § 127.701 (relating to general provisions).

The Commonwealth has established a uniform Title V annual emission fee across the state. The approved Title V Programs for the local air pollution control programs in Allegheny and Philadelphia Counties collect the Title V annual emission fee revenue for sources under their jurisdictions. The increased Title V annual emission fee revenue will be used to support the Commonwealth's air quality program as authorized by the APCA. Without an increase in the annual emission fee, Title V annual emission fee deficits for the Department of \$7.235 million, \$19.406 million, \$32.001 million, and \$45.028 million are projected for fiscal years 2015-2016, 2016-2017, 2017-2018, and 2018-2019, respectively. Revenue from the fee increase will be used solely to address the projected deficits in the Title V permit program. The final Title V annual emission fee of \$85 per ton for up to 4,000 tons of emissions of each regulated pollutant will result in increased revenue to the Department of \$5.1 million in the Title V Account for fiscal years 2014-2015 and 2015-2016, and \$3.5 million for fiscal years 2016-2017, 2017-2018, and 2018-2019 if the fee is imposed beginning with emissions occurring in calendar year 2013 and payable by September 1, 2014. An increase in the Title V annual emission fee will provide increased emission fee revenue of approximately \$570,000 and \$167,000 for the Title V programs in Allegheny County and Philadelphia County, respectively. The increase in the Title V annual emission fee will result in a combined increase of revenue to the three agencies of \$5.8 million in fiscal year 2014-2015. The Title V annual emission fee paid in 2013 was \$57.50 per ton for up to 4,000 tons of emissions of each regulated pollutant occurring in 2012. Fee projections may be further reduced if additional facilities close or curtail operations.

Upon publication in the *Pennsylvania Bulletin* as final rulemaking, the final-form regulation will be submitted to the United States Environmental Protection Agency as a revision to the State Implementation Plan and 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).

Summary of Final Rulemaking

The final rulemaking revises § 127.701 to clarify that annual emission fees are deposited into the Pennsylvania Clean Air Fund.

The final rulemaking revises § 127.705 to establish a Title V annual emission fee of \$85 per ton for up to 4,000 tons of emissions of regulated pollutant, beginning with the fees due by September 1, 2014, for emissions released in calendar year 2013.

Affected Parties

The final rulemaking will affect the owners and operators of major air pollution sources that meet the definition of a Title V facility codified in 25 Pa. Code § 121.1 (relating to definitions) and pay the Title V annual emission fee. The owners or operators of approximately 560 Title V facilities (including facilities in Allegheny and Philadelphia Counties) will be subject to the revised Title V annual emission fee.

Advisory Groups

The Air Quality Technical Advisory Committee (AQTAC) reviewed this final rulemaking at its meeting of June 13, 2013. In addition, the final revisions were reviewed with the Citizens Advisory Council (CAC) on July 16, 2013, and with the Small Business Compliance Advisory Committee (SBCAC) on July 24, 2013. The AQTAC, CAC, and SBCAC concurred with the Department's recommendation to move the final rulemaking forward to the Board.

Public Comments and Board Hearings

The Board adopted the proposed rulemaking at its meeting of November 20, 2012. The proposed rulemaking was published in the *Pennsylvania Bulletin* on February 2, 2013, with a 66-day public comment period (43 *Pa.B.* 677). Three public hearings were held on March 5, 6, and 7, 2013, in Pittsburgh, Norristown, and Harrisburg, PA, respectively. The public comment period closed on April 8, 2013.