



Delaware Valley A&WMA

Regulatory Update Meeting

December 6, 2018

Tom Wolf, Governor

Patrick McDonnell, Secretary

Proposed Rulemaking in Pennsylvania

- PM2.5 precursors in Nonattainment New Source Review Program
- Title V Fees and Operating Permit Fees
- Low Sulfur Fuel
- Stage II Decommissioning

PM2.5 Background

- On August 24, 2016, the United States Environmental Protection Agency (EPA) issued State Implementation Plan (SIP) requirements for the Fine Particulate Matter National Ambient Air Quality Standard (NAAQS).
- The EPA's implementation rule requires states with nonattainment areas for particulate matter less than and equal to 2.5 micrometers in diameter (PM_{2.5}) to amend their new source review (NSR) regulations to include emissions of volatile organic compounds (VOC) and ammonia as PM_{2.5} precursors.

Nonattainment Areas

- Allegheny, Delaware, and Lebanon Counties are currently designated as nonattainment areas for PM_{2.5}.
- The EPA recently approved clean monitoring data determinations for Delaware and Lebanon Counties for PM_{2.5} attainment.
- The Department is currently preparing maintenance plans and redesignation requests to submit to the EPA to reclassify Delaware and Lebanon Counties as attainment for the 2012 PM_{2.5} standard.
- Allegheny County Health Department is preparing an attainment demonstration for the Allegheny County PM_{2.5} nonattainment area.



Purpose of Proposed Rulemaking

Proposed amendments to Chapter 127, Subchapter E (relating to new source review) would:

- Establish that emissions of VOC and ammonia are precursors to $PM_{2.5}$ for new major sources or major sources being modified in certain counties of this Commonwealth that are designated as nonattainment for the $PM_{2.5}$ NAAQS.
- Propose significant impact levels (SIL) for $PM_{2.5}$.
- Propose offset ratios for emissions of VOCs and ammonia as $PM_{2.5}$ precursors.

§ 127.210 Offset Ratios

The EPA's implementation rule did not address specific emission offset ratios for VOC and ammonia as PM_{2.5} precursors.

- This proposed rulemaking would amend § 127.210 (relating to offset ratios) to establish an emissions offset ratio of 1:1 for VOC or ammonia as PM_{2.5} precursors.
- This is the minimum offset ratio required for NSR programs and is the same as the offset ratio for direct PM_{2.5} and for the other PM_{2.5} precursors SO₂ and NO_x.

Proposed Rulemaking

This proposed rulemaking would also amend three terms in § 121.1 (relating to definitions) to support the amendments to Chapter 127, Subchapter E.

- Major facility.
- Regulated NSR pollutant.
- Significant.

▶ “Major Facility” and “Regulated NSR Pollutant”

The existing definition of “major facility” specifies in subparagraph (i) that a facility that emits or has the potential to emit 100 tpy of a *regulated NSR pollutant* is a major facility, except as otherwise specified.

- The definition of “regulated NSR pollutant” would be amended to specify that in addition to SO₂, VOCs and ammonia are precursors to PM_{2.5} in all PM_{2.5} nonattainment areas.
- The definition of “major facility” would be amended to establish the emissions threshold of 70 tpy for PM_{2.5}, NO_x, SO₂, VOCs or ammonia in a PM_{2.5} serious nonattainment area.

“Significant”

The EPA implementation rule did not include an emissions rate threshold for ammonia in a PM_{2.5} nonattainment area, leaving that up to the states.

- The South Coast Air Quality Management District Rule 1325 established an emissions rate threshold of 40 tpy for ammonia in a PM_{2.5} nonattainment area.
- This proposed rulemaking would amend the definition of “significant” to specify that emission rates of 40 tpy or greater of VOCs or of ammonia are significant for PM_{2.5}.

Air Quality Fees

- Section 6.3(a) of the Air Pollution Control Act (APCA) 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 and operating permit program required by Title V of the Clean Air Act (CAA).
- The fees established must also be sufficient to cover other CAA requirements including the indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program and the Office of the Small Business Ombudsman.

Authority for Air Quality Fee Schedules

- Section 6.3(a) of the APCA also authorizes the EQB to establish fees by regulation to support the authorized air pollution control program and activities which are not covered by fees required by Section 502 of the CAA.
- Section 6.3(c) of the APCA provides that the EQB shall establish a permanent annual air emission fee for regulated pollutants as required by Section 502 of the CAA. This permanent emission fee shall not apply to emissions of more than 4,000 tons for any regulated pollutant.

Additional Authority for Air Quality Fee Schedules

- 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 PA “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 and welfare-based National Ambient Air Quality Standards.
- According to 40 CFR 70.9(a), the State program must require that the owners and operators of Title V sources pay annual fees, or the equivalent over some other period, that are sufficient to cover permit program costs. The fees must be used solely for permit program costs.
- The State Program must establish a fee schedule that results in the collection and retention of revenues sufficient to cover permit program costs (40 CFR 70.9(b)).

Air Quality Fee Schedule Adequacy

As provided in 40 CFR 70.9(b)(1), the permit program costs include the following:

- Preparing applicable regulations or guidance regarding the permit program
- General administrative costs
- Implementing and enforcing the terms of any Title V permit
- Emissions and ambient monitoring
- Modeling, analyses, or demonstrations
- Preparing inventories and tracking emissions
- Providing direct and indirect support to sources under the Small Business Stationary Source Technical and Environmental Compliance Assistance Program mandated under Section 507 of the CAA

2013 Title V Emission Fee Amendment

- DEP indicated in the final rulemaking notice published December 14, 2013, at 43 Pa. B. 7268 that the revised base Title V annual emission fee of \$85 per ton of each regulated pollutant would not be sufficient for the long-term solvency of the Clean Air Fund's Title V Major Emission Facilities Account.
- On March 18, 2015, EPA published in the Federal Register that:
 - If funds become insufficient to sustain the Title V permitting program in Pennsylvania, EPA may determine that Pennsylvania has not taken “significant action to assure adequate administration and enforcement of the Program” and take subsequent required action under 40 CFR 70.10(b) and (c) as well as impose mandatory and discretionary sanctions under the CAA (80 FR 14038).

Pennsylvania Clean Air Fund

The Clean Air Fund is comprised of two “special fund” appropriations:

- Title V Account for annual emission and major source permit fees
- Non-Title V Account for all civil penalties and permit fees for non-major facilities

Clean Air Fund: Title V Account

Title V Account in thousands of dollars
without proposed fee amendments

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

Revenue includes Title V emission fees, major source plan approval and permit fees, and interest.

Clean Air Fund: Non-Title V Account

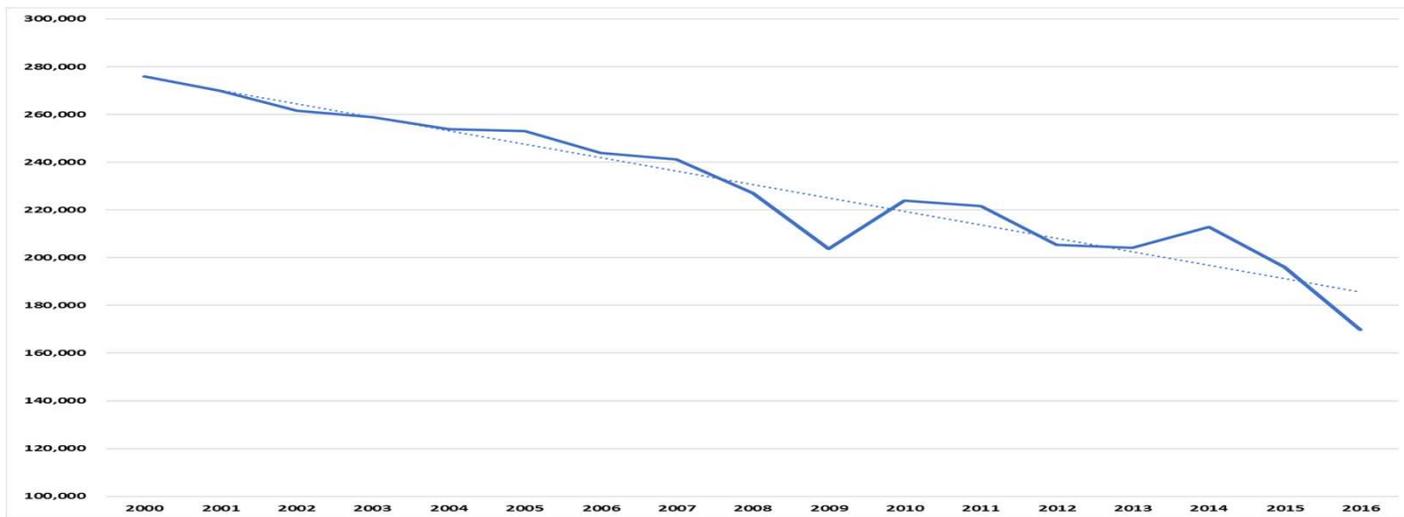
Non-Title V Account in thousands of dollars
without proposed fee amendments

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

Revenue includes plan approval and permit fees, penalties, coke oven reimbursement, and interest.

Projected Title V Emission Fees Revenue

- Title V emission fees are projected based on past emission trends.
- There has been a significant and steady downward trend in emissions as shown in the following chart of emissions (tons) on which Title V emission fees are paid.



Pennsylvania Clean Air Fund

- The Clean Air Fund supports:
 - Personnel
 - Equipment
 - Contracts
 - Grants
- The proposed fee increases will support:
 - Potential additional staff
 - Development of an electronic permit application system
 - Deployment of an electronic fee payment system
 - Additional compliance inspections and complaint response

Proposed Fee Rulemaking

The proposed rulemaking will affect approximately 500 Title V facilities and 2,100 non-Title V facilities permitted by DEP. The proposed rulemaking will also impact the owners/operators of approximately 5,000 asbestos projects per year.

Fee schedules are established for:

- Review of Request for Determination (RFD) Forms
- Plantwide Applicability Limits (PAL)
- Annual Operating Permit Maintenance Fees
- Review of Ambient Air Modeling associated with certain Plan Approval Applications
- Notifications of Asbestos Abatement and Demolition/Renovation
- Claims of Confidential Information

Proposed Fee Rulemaking

- The proposed rulemaking amends the existing air quality fees for the following:
 - Application fees for plan approvals including new source review (NSR), prevention of significant deterioration (PSD), new source performance standards (NSPS), and maximum achievable control technology (MACT)
 - Application fees for operating permits
 - Annual operating permit administration/maintenance fee
- Proposes that general plan approval or general operating permit fees will be set when the general plan approval or general permit is issued or modified by the Department and will be published in the *Pennsylvania Bulletin*.

Plan Approval Fees (for non-Title V facilities)

				2021-2025	2026 - 2030	2031 +
Description	Proposed Section	# of Facilities	Current Fee	Proposed Fee	Proposed Fee	Proposed Fee
Plan Approval (PA) Fee, Subchapter B	127.702(b)	113	\$1,000	\$2,500	\$3,100	\$3,900
Review of NSPS/NESHAPs/MACT (3 max)	127.702(d)	40	\$1,700	\$2,500	\$3,100	\$3,900
Minor Modification	127.702(i)(1)	22	\$300	\$1,500	\$1,900	\$2,400
Extension	127.702(i)(2)	234	\$300	\$750	\$900	\$1,100
Transfer of Ownership	127.702(i)(2)	4	\$300	\$750	\$900	\$1,100
Significant Modification; Reassessment of Control Technology	127.702(j)(1)	1	\$0	\$2,500	\$3,100	\$3,900
Significant Modification; Ambient Impact Analysis	127.702(j)(2)	1	\$0	\$9,000	\$11,300	\$14,100

Operating Permit Fees (for non-Title V facilities)

				2021-2025	2026 - 2030	2031 +
Description	Proposed Section	# of Facilities	Current Fee	Proposed Fee	Proposed Fee	Proposed Fee
New Application	127.703(b)(1)	66	\$375	\$2,500	\$3,100	\$3,900
Renewal of an Operating Permit	127.703(b)(2)	353	\$375	\$2,100	\$2,600	\$3,300
Transfer of Ownership	127.703(b)(5)	9	\$375	\$1,500	\$1,900	\$2,400
Administrative Amendment	127.703(b)(5)	94	\$375	\$1,500	\$1,900	\$2,400
Minor Modification	127.703(b)(3)	19	\$375	\$1,500	\$1,900	\$2,400
Significant Modification	127.703(b)(4)	1	\$375	\$2,000	\$2,500	\$3,100
Annual Operating Permit Administration Fee	127.703(c)(1)	2100	\$375	\$0	\$0	\$0
Annual Operating Permit Maintenance Fee for Natural Minor Facility	127.703(c)(2)(i)	1345	\$0	\$2,000	\$2,500	\$3,100
Annual Operating Permit Maintenance Fee for Synthetic Minor Facility	127.703(c)(2)(ii)	755	\$0	\$2,500	\$3,100	\$3,900

Plan Approval Fees (for Title V facilities)

				2021-2025	2026 - 2030	2031 +
Description	Proposed Section	# of Facilities	Current Fee	Proposed Fee	Proposed Fee	Proposed Fee
Plan Approval (PA) Fee	127.702(b)	71	\$1,000	\$2,500	\$3,100	\$3,900
Review of NSPS/NESHAPs/MACT (3 max)	127.702(d)	39	\$1,700	\$2,500	\$3,100	\$3,900
Minor Modification	127.702(i)(1)	16	\$300	\$1,500	\$1,900	\$2,400
Extension	127.702(i)(2)	164	\$300	\$750	\$900	\$1,100
Transfer of Ownership	127.702(i)(2)	2	\$300	\$750	\$900	\$1,100
Significant Modification; Reassessment of Control Technology	127.702(j)(1)	1	\$0	\$2,500	\$3,100	\$3,900
Significant Modification; Ambient Impact Analysis	127.702(j)(2)	1	\$0	\$9,000	\$11,300	\$14,100
Plantwide Applicability Limit (PAL)	127.702(g),(h)	1	\$5,300	\$7,500	\$9,400	\$11,800
NSR Plan Approval, Subchapter E	127.702(c)	4	\$5,300	\$7,500	\$9,400	\$11,800
Review of Case by Case MACT	127.702(e)	1	\$8,000	\$9,500	\$11,900	\$14,900
PSD Plan Approval, Subchapter D	127.702(f)	3	\$22,700	\$32,500	\$40,600	\$50,800

Operating Permit Fees (for Title V facilities)

				2021-2025	2026 - 2030	2031 +
Description	Proposed Section	# of Facilities	Current Fee	Proposed Fee	Proposed Fee	Proposed Fee
New Application	127.704(b)(1)	10	\$750	\$5,000	\$6,300	\$7,900
Renewal of an Operating Permit	127.704(b)(2)	76	\$750	\$4,000	\$5,000	\$6,300
Transfer of Ownership	127.703(b)(5)	3	\$375	\$1,500	\$1,900	\$2,400
Administrative Amendment	127.704(b)(5)	66	\$375	\$1,500	\$1,900	\$2,400
Minor Modification	127.704(b)(3)	28	\$750	\$1,500	\$1,900	\$2,400
Significant Modification	127.704(b)(4)	9	\$750	\$4,000	\$5,000	\$6,300
Title V Operating Permit to Incorporate PAL	127.704(d),(e)	0	\$0	\$10,000	\$12,500	\$15,600
Annual Operating Permit Administration Fee	127.704(c)(1)	30	\$750	\$0	\$0	\$0
Annual Operating Permit Maintenance Fee	127.704(c)(2)	500	\$0	\$10,000	\$12,500	\$15,600

Annual Operating Permit Maintenance Fee

- The annual operating permit maintenance fee in § 127.703(c)(2) is proposed for a synthetic minor facility operating permit and a natural minor operating permit.
- The Department is proposing to establish an annual operating permit maintenance fee for all Title V facilities in § 127.704(c)(2) .
- The annual operating permit maintenance fee is due on or before December 31 of each year for the next calendar year.

Proposed Fees at §§ 127.708-127.710

Description	Proposed Section	# of Facilities	Current Fee	2021-2025	2026 - 2030	2031 +
				Proposed Fee	Proposed Fee	Proposed Fee
RFD – At small business stationary source	127.210(a)	650	\$0	\$400	\$500	\$600
RFD – At non-small business stationary source	127.210(a)	350	\$0	\$600	\$800	\$1,000
Asbestos Notification	127.709	5000	\$0	\$300	\$400	\$500
Risk Assessment Analysis - Inhalation only	127.708(b)	3	\$0	\$10,000	\$12,500	\$15,600
Risk Assessment Analysis - Multi-pathway	127.708(c)	1	\$0	\$25,000	\$31,300	\$39,100
Claims of Confidential Information	127.710(b)	12	\$0	\$300	\$400	\$500

Proposed Title V Fees

	Existing Fees	Proposed
Title V Emission Fee Per Ton	\$93.87	\$93.87
Emission Fee Floor	\$0	\$0
Emission Fee Revenue	\$14,901,397	\$14,901,397
Maintenance Fee Per Year	\$0	\$10,000
Maintenance Fee Revenue	\$0	\$5,000,000
Other Permit Fee Revenue	\$435,125	\$1,380,000
Total Title V Facility Revenue Starting in 2021	\$15,336,522	\$21,281,397

- The per ton emission fee does not change from the existing fee
- There is no floor to the emission amount a Title V facility has to pay
- The total revenue from the new Title V permit fees is \$6,380,000 per year

Clean Air Fund: Title V Account

Title V Account in thousands of dollars
with fee amendments

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
	ACTUAL	ACTUAL	BUDGET	BUDGET	PLAN YR.1	PLAN YR.2	PLAN YR.3	PLAN YR.4
Beginning Balance	\$ 19,533	\$ 22,575	\$ 20,139	\$ 21,826	\$ 20,524	\$ 17,640	\$ 16,864	\$ 17,833
Total Revenue	\$ 20,415	\$ 18,614	\$ 20,278	\$ 16,576	\$ 15,352	\$ 18,354	\$ 20,986	\$ 20,989
Total Expenditures	\$ 17,373	\$ 21,050	\$ 18,591	\$ 17,878	\$ 18,236	\$ 19,130	\$ 20,017	\$ 20,889
Ending Balance	\$ 22,575	\$ 20,139	\$ 21,826	\$ 20,524	\$ 17,640	\$ 16,864	\$ 17,833	\$ 17,933

Clean Air Fund: Non-Title V Account

Non-Title V Account in thousands of dollars
with fee amendments

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
	ACTUAL	ACTUAL	BUDGET	BUDGET	PLAN YR.1	PLAN YR.2	PLAN YR.3	PLAN YR.4
Beginning Balance	\$ 20,433	\$ 15,670	\$ 10,947	\$ 7,253	\$ 1,644	\$ (4,359)	\$ (8,351)	\$ (8,504)
Total Revenue	\$ 5,379	\$ 6,731	\$ 7,192	\$ 3,760	\$ 3,553	\$ 5,755	\$ 9,789	\$ 9,793
Total Expenditures	\$ 10,142	\$ 11,454	\$ 10,886	\$ 9,369	\$ 9,556	\$ 9,747	\$ 9,942	\$ 10,141
Ending Balance	\$ 15,670	\$ 10,947	\$ 7,253	\$ 1,644	\$ (4,359)	\$ (8,351)	\$ (8,504)	\$ (8,852)

Proposed Rulemaking

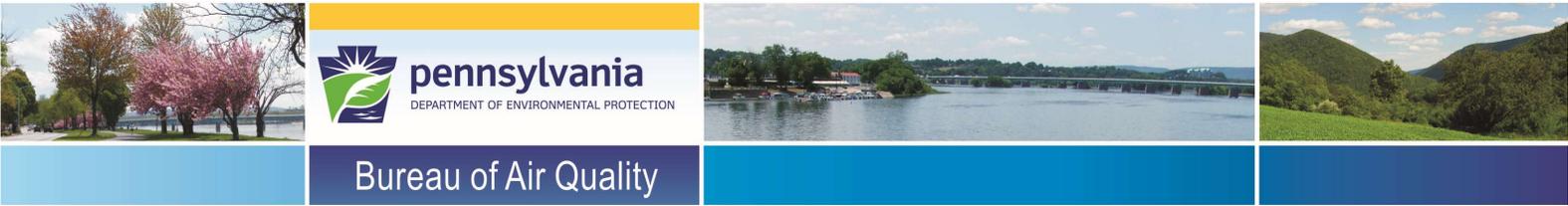
Low-Sulfur Fuel

- Amends Section 123.22
- #2 oil or lighter – Sulfur content lowered from 500 ppm to 15ppm
- Environmental Quality Board consideration is anticipated in the first quarter 2019

Proposed Rulemaking

Stage II Decommissioning

- Draft is in final stage of development
- Presentation at December 13 AQTAC meeting
- Environmental Quality Board consideration is anticipated in the third or fourth quarter 2019



Contact:

James Rebarchak
Environmental Program Manager
SERO Air Quality Program
(484) 250-5920
jrebarchak@pa.gov