

LAWS OF DELAWARE
VOLUME 81
CHAPTER 75
149th GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 103

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO THE CLEAN AIR ACT TITLE V OPERATING PERMIT PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 6097, Title 7 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 6097. Fees.

(c) The Department shall collect annual fees, payable annually or in quarterly installments, during calendar years 2018, 2019, and 2020, from each source that is required to pay the annual fee as set forth in subsection (a) of this section. The annual fee for each subject source will be determined by the sum of 2 component fees: a base fee as set forth in subsection (d) of this section and a user fee as set forth in subsection (e) of this section. For any source that becomes subject to the Program after December 31, 2017, the base fee and user fee shall be calculated as set forth in subsection (f) of this section.

(d)(1) The base fee relates to services that are common to all sources subject to the program. These services include activities such as permit issuance and renewals; stationary source regulation development; ambient monitoring; emission inventory; control strategy development; and development, administration, and implementation of 2 additional programs: the Small Business Stationary Source Technical and Environmental Compliance Program and a portion of the accidental release prevention program.

(2) In calendar years 2018, 2019, and 2020, the Department will place each subject source into 1 of the following 10 categories:

Category A	Greater than 6,000 hours will pay \$ 277,020
Category B	from 5,001 to 6,000 hours will pay \$ 108,300
Category C	from 4,001 to 5,000 hours will pay \$ 93,480
Category D	from 3,001 to 4,000 hours will pay \$ 80,940
Category E	from 2,001 to 3,000 hours will pay \$ 57,000
Category F	from 1,501 to 2,000 hours will pay \$ 42,180
Category G	from 1,001 to 1,500 hours will pay \$ 28,500
Category H	from 667 to 1,000 hours will pay \$ 18,240
Category I	from 334 to 666 hours will pay \$ 9,120
Category J	up to 333 hours will pay \$ 5,700.

(3) The Department's category determination pursuant to paragraph (d)(2) of this section shall be based upon 5 years' data of engineering, compliance, and enforcement hours expended for each facility from 2012 to 2016. The Department will continue to track the actual hours spent processing Title V permits and performing other related services under the Title V program. This information may be used in the evaluations of the Title V program associated with the expiration of this statute on December 31, 2020.

(e)(1) The user fee relates to activities not identified in subsection (d) of this section for the Program, such as: development, administration, and implementation of a compliance and enforcement program; implementation and enforcement of the terms of any Title V Operating Permit or synthetic minor permit; permit revisions or amendments, including the development of an applicable requirement as part of the processing of the permit issuance, revision or amendment; the supporting and tracking of data; modeling; and adequate resources to determine which sources are subject to the Program. Such fees shall be based on the emissions of each air contaminant, in whole tons and in the aggregate, excluding carbon monoxide (CO) and particulate matter less than 2.5 microns (PM2.5), as listed in the 2014 Delaware Point Source Emission Inventory of Estimated Actual Regulated Air Contaminants.

(2) In calendar years 2018, 2019, and 2020, the Department will place each subject source into 1 of the following 9 categories:

Category 1	Greater than 2,000 tons will pay \$ 350,000
Category 2	from 1,001 to 2,000 tons will pay \$ 100,000
Category 3	from 501 to 1,000 tons will pay \$ 60,000
Category 4	from 201 to 500 tons will pay \$ 28,000
Category 5	from 101 to 200 tons will pay \$ 12,000
Category 6	from 51 to 100 tons will pay \$ 9,000
Category 7	from 26 to 50 tons will pay \$ 6,000
Category 8	from 6 to 25 tons will pay \$ 4,100
Category 9	from 0 to 5 tons will pay \$ 3,950.

(f) The Department shall assess a base fee that is consistent with the categories and amounts specified in subsection (d) of this section for any source that becomes subject to the Program after December 31, 2017. The estimated hours on which the base fee assessment is calculated shall include an evaluation of specific regulatory applicability to the source. This shall include, but is not limited to, the following: new source review; new source performance standards; toxic requirements, to include maximum achievable control technology and National Emission Standards for Hazardous Air Pollutants; and continuous emission monitoring requirements. The Department shall assess a user fee based upon allowable emissions specified in its permit that is consistent with the categories and amounts specified in subsection (e) of this section for any source that becomes subject to the Program after December 31, 2017.

(g)(1) In calendar years 2018, 2019, and 2020, the Department will grant sources with an active Title V or synthetic minor permit on or before December 31, 2017, and without delinquent accounts, annual user fee credits. The credit shall be determined by the categorical status of a qualifying facility in calendar year 2017. User fee credits for 2018, 2019, and 2020 will be calculated as a percentage of the total Program annual fee reduction amount of \$385,000. Eligible facilities will be granted the following fee credit percentages by category established under paragraph (e)(2) of this section:

Category 1	Will receive a credit of 30.14% of \$385,000
Category 2	Will receive a credit of 8.61% of \$385,000
Category 3	Will receive a credit of 5.17% of \$385,000
Category 4	Will receive a credit of 2.41% of \$385,000
Category 5	Will receive a credit of 1.03% of \$385,000
Category 6	Will receive a credit of 0.77% of \$385,000
Category 7	Will receive a credit of 0.52% of \$385,000
Category 8	Will receive a credit of 0.35% of \$385,000
Category 9	Will receive a credit of 0.34% of \$385,000.

(2) The fee reduction credit will be terminated on December 31, 2020.

(h) These fees may be increased on an annual basis by no more than the Federal Consumer Price Index for the previous calendar year. Any increases in fees are subject to review and approval by the committee established pursuant to § 6099 of this title. After December 31, 2020, no fees shall be collected pursuant to this section unless authorized by a further act of the General Assembly. The Department shall consult with the Title V Operating Permit Program Advisory Committee prior to any proposed increase to the complement of full-time equivalent employees funded in whole or in part by the Program.

(i) Annual fees must be paid in full by the end of each calendar year 2018, 2019, and 2020. Any delinquent subject source shall be subject to a 2% compounding monthly interest rate for each month overdue. Each source is required to pay its annual fee. The Department has the authority to revoke a Title V permit on the sole basis that the annual fee has not been paid. Sources that have not paid their annual fee may be given notice that their Title V permit will be revoked for nonpayment of the fee. No permit shall be revoked without 60 days written notice or prior to 3 months past the due date for the fee. Cancellation of the permit shall not relieve the source of the obligation to pay the last year's fee. The Department shall track payment records of overdue and delinquent sources and shall document actions taken to recover delinquent fees. The Department shall include a

detailed summary of delinquent facilities in the Title V Annual Status report, including the amount owed and the documented action taken by the Department to collect such fees.

[Repealed.]

Section 2. This Act takes effect on January 1, 2018.

Approved July 17, 2017