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June 17, 2019

**RE: Air Quality Fee Schedule Amendments Proposed Rulemaking**

On behalf of the membership of the Pennsylvania Chamber of Business and Industry, the largest, broad-based business advocacy organization in the Commonwealth, thank you for the opportunity to comment on the Department's proposed rulemaking to amend its air quality fee schedule for Title V and non-Title V permits and authorizations.

The PA Chamber has over many decades sought to provide thoughtful policy recommendations to the agency as it contemplates regulations and policy to protect the environment and grow the economy. The PA Chamber's membership support the agency having the resources to effectuate its state and delegated federal requirements in a predictable and timely manner. The PA Chamber also supports a regulatory environment that is competitive with that of peer states. With these twin aims in view, the PA Chamber offers the following comments.

The Department's April 13, 2019 PA Bulletin notice of proposed rulemaking described three options for the regulated community and public to consider. Generally, these three options would either increase the per-ton annual emissions fee to \$118/ ton and not institute a \$10,000 per Title V facility annual "maintenance fee;" institute the \$10,000 annual maintenance fee and not raise the annual emissions fee; or institute a \$5,000 annual maintenance fee and increase per-ton annual emissions fees to \$110/ton.

The PA Chamber's member companies, to the extent a fee increase is necessary, have, based on their operating conditions, individually expressed preference for either increasing the per-ton emissions fee or instituting the maintenance fee. The PA Chamber does not have consensus on which of these options is preferable as a matter of broad opinion. The PA Chamber notes that an annual maintenance fee does not incent further emissions reductions; on the flip side, relying long-term on revenues derived from increasing the per-ton emissions fee could result in shortfalls in the out-years should emissions continue to fall or further deactivations occur in higher-emitting industries.

However, where there is consensus among the membership is that, regardless of which option DEP ultimately selects, operating expenses for complying with air quality fees will increase by double digits (as much as 30% on an annual basis). In terms of actual operating expenses the various options represent five- to six-figure increases in operating expenses. Further, compared to other large manufacturing peer states, such as West Virginia (\$52 per ton), Ohio (\$51 per ton) and Florida (\$20 per ton) the per-ton emissions fees are already higher in Pennsylvania and will be even more so should the per-ton emissions fees increase. Many of the state's Title V facilities are also projecting operating cost increases as a result of the agency's recently proposed amendments to the state's Chapter 91 and 92a permits.

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These cost increases, referenced above, can, in certain circumstances, be dwarfed by the costs imposed from permitting delays, resulting in lost revenues from missing out on a season of production or racking up interest on debt used to finance a project. Therefore, the PA Chamber again reiterates its support for sufficient revenues in the Title V and non-Title V program, provided these revenues are combined with efforts to improve the functionality of the program.

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.

In closing, thank you for the opportunity to comment on this proposed rulemaking and for your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Sunday". The signature is written in a cursive style with a large, stylized "K" and "S".

Kevin Sunday  
Director, Government Affairs