

(c) — (d) (text unchanged)  
 [(10)] (11) — [(11)] (12) (text unchanged)  
 B. — C. (text unchanged)  
 D. Subsidy.  
 (1) Except as provided in Regulation .04B of this chapter for contractual and part-time employees, the State subsidy as provided in the State budget for active employees is available to those individuals identified in §A(1)—(6) of this regulation and their dependents as described in §A[(9)] (10) of this regulation.  
 (2) (text unchanged)  
 (3) The State subsidy available for individuals described in §A(8) and (9) of this regulation and their dependents as described in §A[(9)] (10) of this regulation shall be determined as provided in Regulation .05 of this chapter, provided that the dependents of those retired employees described in §A(8)(b) and (9)(b) of this regulation are not entitled to any State subsidy unless the retired employee has a total of 25 or more years of service with the State in a permanent, non-contractual position in the Executive, Judicial, or Legislative branch of State government. Prorated credit for service is provided for less than full-time service in such positions.

**.05 State Subsidy of Retired Employees Who Are Eligible for Health Insurance Benefits in Accordance with Regulation .03 of This Chapter.**

A. A retired employee who began State service on or before June 30, 2011, and the designated beneficiaries of a retired employee who began State service on or before June 30, 2011, and a retired employee of the Judges' Retirement System who began State service on or after July 1, 2011, and the designated beneficiaries of a retired employee of the Judges' Retirement System who began State service on or after July 1, 2011, are eligible to receive the subsidy provided by the State for the cost of the health insurance benefits program on the following basis:

(1) — (6) (text unchanged)  
 (7) If a retired State employee retires with a periodic benefit under the Optional Retirement System of State Personnel and Pensions Article, Title 30, Annotated Code of Maryland, the retiree and the dependents of the retiree shall receive the subsidy provided pursuant to State Personnel and Pensions Article, §2-509(a), Annotated Code of Maryland.

B. A retired employee who began State service on or after July 1, 2011 and the designated beneficiaries of a [the] retired employee who began State service on or after July 1, 2011 are eligible to receive the subsidy provided by the State for [shall pay the remainder of] the cost of the health insurance benefits [premium that is not provided for under §A of this regulation.] program on the following basis:

(1) If an employee retired from State service and had at least 10 years of creditable service, the retired employee and the designated beneficiaries of the retired employee shall receive 10/25 of the subsidy provided to a State employee;  
 (2) If an employee retired from State service and had more than 10 but less than 25 years of creditable service, the retired employee and the designated beneficiaries of the retired employee shall receive 1/25 of the subsidy for each year of creditable service that is more than 10 but less than 25 years;  
 (3) If an employee retired from State service and had 25 or more years of creditable service, the retired employee and the designated beneficiaries of the retired employee shall receive the same subsidy that is provided to a State employee;  
 (4) If a retired employee is in receipt of a State disability retirement allowance, the retired employee and the designated beneficiaries of the retired employee shall receive the same subsidy that is provided to a State employee;  
 (5) Except as provided in §B(6) of this regulation, a person in receipt of a special death benefit under State Personnel and Pensions

Article, §29-204, Annotated Code of Maryland, shall receive the same subsidy that is provided to a State employee; and  
 (6) If a retired State employee retires with a periodic benefit under the Optional Retirement System of State Personnel and Pensions Article, Title 30, Annotated Code of Maryland, the retiree and the dependents of the retiree shall receive the subsidy provided pursuant to State Personnel and Pensions Article, §2-509(b), Annotated Code of Maryland.  
 C. The health insurance benefit for eligible retirees and their designated beneficiaries includes a prescription drug benefit that:  
 (1) Has the same copayments, coinsurance, and deductible that apply to the prescription drug benefit for active State employees;  
 (2) Requires:  
 (i) Retirees and their designated beneficiaries who qualify for the maximum State subsidy to pay 25 percent of the premium for the prescription drug benefit; and  
 (ii) Retirees and their designated beneficiaries who qualify for a partial State subsidy to pay 25 percent of the premium for the prescription drug benefit plus the proportional additional amount required under State Personnel and Pensions Article, §2-508(b)(4)(ii) and (c)(4)(ii), Annotated Code of Maryland; and  
 (3) Requires retirees and designated beneficiaries to pay out-of-pocket limits up to:  
 (i) \$1,500 per plan year for the retiree only coverage; and  
 (ii) \$2,000 per plan year for the retiree plus dependent(s) coverage.  
 D. Beginning on July 1, 2020, Medicare-eligible retirees will cease to be eligible for the prescription drug benefit option provided under the State Employee and Retiree Health and Welfare Benefits Program.  
 E. A retired employee and the designated beneficiaries of the retired employee shall pay the remainder of the cost of the health insurance benefits premium that is not provided for under §§A—D of this regulation.

T. ELOISE FOSTER  
 Secretary of Budget and Management

  
**Title 26**  
**DEPARTMENT OF THE**  
**ENVIRONMENT**

**Subtitle 11 AIR QUALITY**

**26.11.02 Permits, Approvals, and Registration**

Authority: Environment Article, §§1-404, 2-103, 2-301—2-303, 2-401, 2-402, and 2-404, Annotated Code of Maryland

**Notice of Proposed Action**  
 [12-327-P]

The Secretary of the Environment proposes to amend Regulations .17 and .19 under **COMAR 26.11.02 Permits, Approvals, and Registration**.

**Statement of Purpose**

The purpose of this action is to:  
 (1) The purpose of the amendments to COMAR 26.11.02.17 is to clarify how fees are applied to Air Quality Permit to Construct source categories; to establish a new fee for an additional source category that requires an Air Quality Permit to Construct; and to raise the existing minimum fee for securing a standard Air Quality Permit

to Construct from \$200 to \$500, for most sources. The proposed fee increases apply to sources requiring an individual Air Quality Permit to Construct. The fees will remain the same for small sources requiring an Air Quality General Permit to Construct.

(2) The purpose of the amendments to COMAR 26.11.02.19 is to raise the annual base fee for large air pollution sources in Maryland that are required to obtain a federal Title V Permit or State Permit to Operate. The proposed amendments raise the annual base fee from \$200 to \$5,000 for sources requiring a federal Title V Permit and from \$200 to \$500-\$1,000 for sources requiring a State Permit to Operate.

**Background**

COMAR 26.11.02.17 — Fee Schedule: Permit to Construct:

COMAR 26.11.02.17 establishes fees for Air Quality Permit to Construct source categories. Under the current fee structure, fees range from \$200 for simple permits to \$20,200 for the most complex permits. This fee structure has not been adjusted for nearly 20 years despite increases in the number and complexity of applicable federal and state air pollution control and public review requirements for permit applications. The fee structure does not currently match the extensive level of effort required to process permit applications.

In addition, the current regulation is not clear on how fees should be applied to permit applications that require multiple permits or approvals. For example, in rare cases, very large construction projects can require both a Prevention of Significant Deterioration (PSD) approval and a New Source Review (NSR) approval. A single \$20,000 fee for these types of projects does not adequately reflect the amount of Department resources required to review and process these applications. The amended regulation clarifies that a separate fee should be charged for each of those permits or approvals. The amended regulation also clarifies that a Plant-wide Applicability Limit (PAL) permit, a type of NSR approval, is also subject to the same \$20,000 fee.

In addition, an Air Quality Permit to Construct can be issued to a source that does not involve a new or modified emissions unit, but requires enforceable conditions set forth in a permit. For example, a source can apply for a permit that includes plant-wide limits to preclude applicability of major source regulations such as Title V operating permits, NSR, PSD, or major source MACT. These types of Air Quality Permit to Construct applications require extensive review but are not listed under the current fee structure. The amended regulation establishes a new fee of \$1500 for this type of permit.

COMAR 26.11.02.19 — Fee Schedule: Title V Permit or a State Permit to Operate:

COMAR 26.11.02.19 establishes annual fees for sources that are required to obtain a federal Title V Permit or an Air Quality State Permit to Operate. The annual fee consists of a base fee plus an emissions-based fee for each ton of regulated emissions from the source. The current base fee is inadequate to compensate for the extensive level of effort required to process these permit applications.

State Permit to Operate sources include asphalt plants, academic institutions, crematories and aggregate operations. Under separate rulemaking (COMAR 26.11.02.13 amendments proposed in the Maryland Register on April 22, 2011 and effective on August 22, 2011), the Department has streamlined the State Permit to Operate list such that only sources with the potential to have significant environmental impacts or sources that typically generate significant public interest are required to obtain State Permits to Operate. In addition, some State Permits to Operate may contain synthetic minor limits (i.e. limits that sources voluntarily take to avoid triggering more onerous permitting requirements, such as major Non-Attainment New Source Review). These facilities require more

oversight on the part of the Department to ensure that they operate in compliance with their synthetic minor limits. Of the 360 State Permit to Operate sources, currently 142 facilities are operating under synthetic minor limits. The Department is proposing to establish a tiered fee system for State Permit to Operate sources. Under the proposed regulations, non-synthetic minor State Permit to Operate facilities will pay a base fee of \$500 per year and synthetic minor State Permit to Operate facilities will pay a base fee of \$1,000 per year.

Title V Permit sources are the largest air pollutions sources in the state. These sources include power plants, cement plants, chemical plants, federal facilities, a steel mill, a paper mill, and incinerators. In addition to large emission sources, certain smaller environmentally significant sources are required to obtain Title V operating permits (e.g. incinerators and landfills). As a result, these facilities' current emission fees are not commensurate with the level of resources required to review and process their Title V operating permits. Finally, as of July 1, 2011, sources can now be subject to Title V operating permit requirements solely because of Greenhouse Gas (GHG) Emissions for which no fees are assessed. Under the proposed regulations, facilities required to obtain a Title V operating permit will be required to pay a base fee of \$5000.

**Sources Affected and Location**

COMAR 26.11.02.17 — Fee Schedule: Permit to Construct:

Stationary air pollution sources located throughout the State are required to obtain permits to construct. The Air Quality Permits Program issues approximately 300 individual permits to construct per year. These sources are located throughout the entire State, and range in a wide variety of industrial, manufacturing, commercial and service sectors.

COMAR 26.11.02.19 — Fee Schedule: Title V Permit or a State Permit to Operate

Certain large air pollution sources located throughout the State are required to obtain a federal Title V Permit or State Permit to Operate. Currently (as of 9/4/12), there are 122 Title V permit sources and 341 State Permit to Operate sources in Maryland.

**Requirements**

These amendments will require affected sources to pay increased fees for a standard Air Quality Permit to Construct, a State Permit to Operate and a federal Title V permit.

**Expected Emissions Reductions**

No emission reductions are expected as a result of these amendments.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**

The total economic impact of this action is \$936,900 annually. This impact includes \$178,000 annually for Permit to Construct fee increases and \$758,900 annually for Title V and State Permit to Operate Fee increases.

<b>II. Types of Economic Impact.</b>	Revenue (R+/-)	Magnitude
	Expenditure (E+/-)	
A. On issuing agency:		
Total fee increase	(R+)	\$936,900 annually

- B. On other State agencies: NONE
- C. On local governments: NONE

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

The Department of the Environment will hold a public hearing on the proposed action on January 3, 2013 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than January 3, 2013, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

Copies of the proposed action and supporting documents are available for review at the following locations: The Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

Anyone needing special accommodations at the public hearing should contact the Department's Fair Practices Office at (410) 537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Permit to Construct Fee Increases	(-)	\$178,000 annually
(2) Title V and State Permit to Operate Fee increases	(-)	\$758,900 annually
E. On other industries or trade groups: NONE		
F. Direct and indirect effects on public: NONE		

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

A. \$178,000 annually (Permit to Construct Fee Increases) + \$758,900 annually (Title V and State Permit to Operate Fee increases) = \$936,900 annually

D(1). Economic Impact of Proposed Fee Increases under COMAR 26.11.02.17

Base fee increase from \$200 to \$500 for approximately 300 permits to construct issued per year:

$(\$500 - \$200) * 300 \text{ permits} = \$90,000$  in additional fees collected annually

New fee of \$1500 for new permitted source category for approximately 45 permits issued per year:

$(\$1,500) * 45 \text{ permits} = \$67,500$  in additional fees collected annually

The proposed amendments clarify that a separate fee should be charged for each of the following source categories: New Source Review Approval, including a Plant-wide Applicability Limit Permit, a Prevention of Significant Deterioration Approval, or a special permit under COMAR 26.11.15. Previously, only one fee of \$20,000 was charged even if more than one type of permit/approval was required. Additional fee collected for sources subject to multiple source categories for approximately one approval/permit issued per year:  $(\$20,000) * 1 \text{ approval/permit per year} = \$20,000$  in additional fees collected annually

Total Economic Impact of Proposed Fee Increases under COMAR 26.11.02.17 = \$178,000 annually

D(2). Base fee increase from \$200 to \$500 for non-synthetic minor State Permit to Operate sources:

$(\$500 - \$200) * 199 \text{ sources} = \$59,700$  in additional fees collected annually

Base fee increase from \$200 to \$1,000 for 142 synthetic minor State Permit to Operate sources:

$(\$1,000 - \$200) * 142 \text{ sources} = \$113,600$  in additional fees collected annually

Base fee increase from \$200 to \$5,000 for 122 Title V Permit sources:

$(\$5,000 - \$200) * 122 \text{ sources} = \$585,600$  in additional fees collected annually

Total Economic Impact of Proposed Fee Increases under COMAR 26.11.02.19 = \$758,900 annually

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**.17 [Fee Schedule for New or Modified Emissions Units.] Fee Schedule: Permit to Construct.**

A. A person who submits an application for a permit to construct [a new or modified emissions unit] shall pay [a base fee of \$200 plus any applicable additional fees listed in §B of this regulation.] *one of the following:*

(1) *A fee of \$200 for tank farms at motor vehicle or off-road vehicle refueling facilities, charbroilers, and pit barbecues; or*

(2) *A base fee of \$500 for all other sources, plus any applicable additional fees listed in §B of this regulation.*

B. [A person who submits an application for a permit to construct an emissions unit that is subject to T-BACT requirements under COMAR 26.11.15.05, permit to operate requirements under Regulation .13 of this chapter, NESHAP requirements under COMAR 26.11.15.02, NSPS requirements under COMAR 26.11.06.12, PSD requirements under COMAR 26.11.06.14, or NSR requirements under COMAR 26.11.17, shall pay the following additional fees as applicable: ] *Additional Fees.*

[Category ]

[Additional Fee]

(1) [Dry cleaner, fuel-burning] *Fuel-burning* equipment burning gas [or No. 2 oil] with a rated heat input capacity of *at least 30 million Btu per hour but less than 50 million Btu per hour*[, ground water or on-site soil remediation installation, paint spray booth] *or fuel-burning equipment burning No. 2 fuel oil with a rated heat input capacity of at least 10 million Btu per hour but less than 50 million Btu per hour — \$300 each;*

(2) [Any other toxic source] *A source that:*

(a) Does not discharge a Class I TAP[; ],

(b) Has emissions of less than 25 pounds per day[; ], and

(c) (text unchanged)

(3) [Other toxic source] *A source* subject to T-BACT but not required to obtain a State permit to operate — \$800;

(4) *A source* required to obtain a State permit to operate but not covered by §B(5), (6), (7) or [(7)] (8) of this regulation — \$1,000;

(5) *A NESHAP or NSPS source, except fuel-burning equipment with a rated heat input capacity of less than 50 million Btu per hour burning either gas or No. 2 fuel oil, but not covered by §B(6), (7), or [(7)] (8) of this regulation — \$1,500;*

(6) A source that requests a limitation on emissions to preclude applicability of major source regulations, and is not covered by §B(7) or (8) of this regulation — \$1,500;

[(6)] (7) A source that demonstrates compliance with COMAR 26.11.15 using a dispersion model other than a screening model, and is not covered by [§B(7)] §B(8) of this regulation — \$5,000; or

[(7)] (8) [PSD or NSR source, or a toxic source applying for] A source applying for a PSD approval, an NSR approval (including a Plantwide Applicability Limit (PAL) permit), or a special permit under COMAR 26.11.15 — \$20,000 each.

**.19 Fee Schedule: Title V Permit or a State Permit to Operate.**

A. [The owner or operator of a source that is required to obtain, and have in current effect, a permit issued under Title V of the federal Clean Air Act Amendments of 1990, 42 U.S.C. §§7661—7661f, including a Part 70 permit, or a State permit to operate, shall pay an annual fee consisting of a base fee of \$200 plus an emission-based fee for each ton of regulated emissions from all installations at the plant or facility.] *Annual Fees.*

(1) *The owner or operator of a source that is required to obtain, and have in current effect, a permit issued under Title V of the federal Clean Air Act Amendments of 1990, 42 U.S.C. §§7661—7661f, including a Part 70 permit, shall pay an annual fee consisting of a base fee of \$5,000 plus an emission-based fee for each ton of regulated emissions from all installations at the plant or facility.*

(2) *The owner or operator of a Synthetic minor source that is required to obtain, and have in current effect, a State permit to operate, shall pay an annual fee consisting of a base fee of \$1,000, plus an emission-based fee for each ton of regulated emissions from all installations at the plant or facility.*

(3) *The owner or operator of all other sources required to obtain, and have in current effect, a State permit to operate, shall pay an annual fee consisting of a base fee of \$500, plus an emission-based fee for each ton of regulated emissions from all installations at the plant or facility.*

B. — E. (text unchanged)

ROBERT M. SUMMERS, Ph.D.  
Secretary of the Environment

**Subtitle 11 AIR QUALITY**

**26.11.34 Low Emissions Vehicle Program**

Authority: Authority: Environment Article, §§1-404, 2-102, 2-103, [and] 2-301, 2-1102, and 2-1103, Annotated Code of Maryland[; Ch.111 and 112, Acts of 2007]

**Notice of Proposed Action**

[12-328-P-I]

The Secretary of the Environment proposes to amend Regulation .02 under **COMAR 26.11.34 Low Emissions Vehicle Program.**

**Statement of Purpose**

The purpose of this action is to update Maryland’s Clean Car regulations to reflect the changes made to the California Low Emissions Vehicle Program (i.e., Cal LEV or Clean Car Program) since the last update in 2010.

These amendments will be submitted to the U.S. Environmental Protection Agency (EPA) as a revision to Maryland’s State Implementation Plan (SIP).

**Background**

The Maryland Clean Cars Act of 2007 required the Department of the Environment (MDE) to adopt regulations implementing the Cal LEV Program in Maryland. MDE’s implementing regulations adopted, through incorporation by reference, the applicable California regulations. The Cal LEV program is a dynamic, changing program in which many of the relevant California regulations are routinely reviewed and updated. To continue to implement California’s standards, Maryland must remain consistent with their regulations; hence when California updates its regulations, MDE must reflect these changes by amending COMAR 26.11.34.02. This action incorporates changes made by California to the applicable regulations incorporated by reference into the Maryland program.

This proposed action adopts the new Cal LEV III amendments, also known as the Advanced Clean Cars Program. The Cal LEV III amendments include proposed changes to the LEV II, Greenhouse Gas (GHG), and Zero Emission Vehicle (ZEV) standards. The new LEV III program regulates criteria pollutants, and requires that all new 2015 and subsequent model year vehicles transferred (including titled and registered) in the State of Maryland be certified to meet the new California emission standards. The LEV III standards will be phased in from 2015-2025, and significantly reduces criteria pollutants from motor vehicles. The new GHG emission standard will phase-in from 2017-2025, and develops a ‘footprint’ curve to establish GHG targets for vehicle models based on their size. Proposed changes to the ZEV regulation aim to simplify the program, as well as increase requirements for the deployment of ZEV vehicles starting in 2018. Due to this California action, Maryland and the other states that have adopted the California standards must change their regulations to allow the automobile manufacturers this compliance path. This proposed action is the administrative action necessary to remain consistent with the California program.

**Requirements of the Regulations**

The individual regulatory changes can be grouped into the following major areas:

(1) Low Emission Vehicle (LEV) III Standards

This amendment sets new, ever more stringent, standards for criteria pollutants, reducing fleet wide average emissions so that vehicles will produce 75% less smog-forming pollution than the average new car sold today, by 2025. The new regulation removes the individual Non-Methane Organic Gas (NMOG) and Nitrogen Oxides (NO<sub>x</sub>) standards, and replaces them with a combined NMOG and NO<sub>x</sub> emission standards. The combined standard provides manufacturers with greater flexibility in developing their own internal compliance strategies. The amendment also increases the emission system durability warranty requirements to 150,000 miles, in order to ensure vehicles maintain their low emissions for the life of the vehicle, as well as provide more stringent evaporative emission standards for personal cars, light-duty, and medium-duty vehicles.

(2) Zero Emission Vehicle (ZEV) Program

The ZEV program can be seen as the technology-forcing piece of the Cal LEV III Program, designed to spur commercialization of zero emission vehicles. The changes in this amendment provide compliance flexibility in the near term. CARB has removed credit expirations, lowered the requirements from intermediate volume manufacturers, and extended the ‘travel provision’ that allows eligible ZEVs placed in any 177 state to count towards the ZEV requirements in all states through 2017. Beginning with model year 2018, the amendments are intended to reflect the growing role that plug-in hybrid and electric vehicles will have in achieving future air quality improvement goals. These amendments increase the requirements for ZEV deployment starting in 2018 and beyond, while