



Maryland
Department of
the Environment

Facts About...

Amendments to MDE Fees

August 2025

Purpose

The purpose of this action is to propose amendments to Regulation .19 under COMAR 26.11.02 – Permits, Approvals, and Registration and amendments to Regulation .02 under COMAR 26.28.02 – Benchmarking and Reporting

The Maryland Department of the Environment (MDE or the Department) proposes to update permit and reporting fees per legislation recently passed in the 2025 session. MDE proposes to increase the emissions-based rate fee for our Air and Radiation Administration's Operating Permits and remove an expired maximum \$500,000 annual cap on permit to operate fees for any source as well as add an annual reporting fee under the Subtitle Building Energy Performance Standards (BEPS).

Submission to EPA as Revision to Maryland's State Implementation Plan (SIP)

This action will not be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's State Implementation Plan (SIP).

Background

Per the Federal Clean Air Act (CAA) of 1989, facilities with significant sources of air pollution or those that have the potential to cause harm, based on the nature of their emissions, are required to obtain an operating permit. MDE has collected emissions-based fees from sources having a federal or a state operating permit, and these fees have been deposited into the Maryland Clean Air Fund ("the Fund" or "CAF") since that time. The Fund is a special revenue fund that began receiving receipts from penalties on July 1, 1988, and later from emission-based operating permit fees. The Fund's revenues are for activities under Title 2 of the Environment Article related to identifying, mitigating, monitoring, reducing, and regulating air pollution in Maryland, including program development of these activities. Historically, MDE's overall clean air programs were funded through a mixture of funding sources: the Clean Air Fund, federal grants, reimbursable funds from the Maryland Department of Transportation and the Maryland Department of Natural Resources, and general funds.

COMAR 26.11.02.19 establishes annual fees for pollution sources that are required to obtain a federal Title V - Part 70 Operating 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. State Permit to Operate sources include asphalt plants, academic institutions, crematories, and aggregate operations. Title V - Part 70 Operating Permit sources are the largest air pollution sources in the State. These sources include power plants, cement plants, chemical plants, and federal facilities. In addition to large emission



Maryland
Department of
the Environment

Facts About...

Amendments to MDE Fees

sources, certain smaller, environmentally significant sources are required to obtain Title V - Part 70 Operating Permits (e.g. incinerators and landfills).

Per the Climate Solutions Now Act (CSNA) of 2022, Maryland, specifically the Department, is required to establish BEPS for covered buildings to achieve zero net direct greenhouse gas emissions and energy use intensity standards by 2040. On May 25, 2025, [House Bill 49](#) was enacted under the Environmental Article II, § 17(c) of the Maryland Constitution. Among other alterations to the BEPS program that will be enacted via future rulemakings after extensive study, House Bill 49 requires MDE to update COMAR 26.28 to include a \$100 annual reporting fee for each building subject to BEPS. This fee is indexed to the consumer price index and as such adjusted for inflation each year. The fee covers the administrative costs of implementing the BEPS program.

On May 13, 2025, Governor Moore signed [Senate Bill 250](#) or *the Department of the Environment - Fees, Penalties, Funding, and Regulation Act* enacting into law an increase of the emissions-based fee from not exceeding \$50.00 per ton to not exceeding \$200.00 per ton and removing a \$2M cap on carrying over unused funds in the Clean Air Fund at the end of each fiscal year. Effective June 1, 2025, the emissions-based fee rate has increased to \$200.00 per ton and may be adjusted in the future to reflect changes in the Consumer Price Index (CPI). For information purposes, the CPI adjustment increase applied on January 1, 2025 was 3.2%. The Act also removes an expired maximum \$500,000 annual cap on permit to operate fees for any source. Additionally, the Act locks in the Clean Air Funds by adding the following under the Environmental Article § 2-107(c)(4) "MONEY DEPOSITED INTO THE FUND IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND MAY NOT REVERT TO THE GENERAL FUND OF THE STATE." This supports the activities of the Department and solidifies the funding for the Clean Air Act programs.

Following these legislative changes, MDE needs to amend regulation COMAR 26.11.02.19 and COMAR 26.28.02.02 to align with the adopted laws.

Is there an Equivalent Federal Standard to this Proposed Regulatory Action?

Yes, in part. MDE is required by the EPA to collect sufficient fees to fund all reasonable Title V federal operating permit program costs (See 40 CFR §70.9). There is no corresponding federal requirement relating to emission-based fees for State Permits to Operate. There is no corresponding federal requirement relating to the annual reporting fee for BEPS.

Sources Affected and Location

Air pollution sources located throughout the State that are required to maintain a federal Title V - Part 70 Operating Permit or a State Permit to Operate will be affected. There are currently 108 Title V - Part 70 Operating Permit sources and 368 State Permit to Operate sources regulated by the MDE Air and



Maryland
Department of
the Environment

Facts About...

Amendments to MDE Fees

Radiation Administration. Buildings covered by BEPS, generally those 35,000 square feet or larger in the State of Maryland, will need to file a report and pay the \$100 per year per building.

Requirements

The proposed amendments to COMAR 26.11.02.19 provide for emission rate fees to be calculated at \$200.00 per ton and to remove an outdated cap applied to facilities until 2009. Implementation effective dates are set to meet the legislative requirements. The emission fee shall be adjusted annually beginning in 2027 per the Consumer Price Index (as calculated per §B(5) of COMAR 26.11.02.19).

The proposed amendments to COMAR 26.28.02.02 require every building required to be included in a benchmarking report for the previous calendar year to pay the Department a \$100 fee, starting in 2026. The fee is due June 1 of each year. Buildings will need to do this in addition to the existing requirements to submit their annual benchmarking report to be in compliance with the regulation. This fee is adjusted by the Consumer Price Index each year.

Projected Emission Reductions

COMAR 26.11.02.19 is an emissions-based fee schedule for sources with a federal Title V - Part 70 Operating Permit or State Permit to Operate. This amendment does not affect emissions but rather determines a fee based on actual emissions emitted. This amendment does not directly affect the emissions from BEPS-covered buildings. However, the fee will support the implementation of the BEPS program, which has substantial projected emissions reductions.

Economic Impact on Affected Sources, the Department, other State Agencies, Local Government, other Industries or Trade Groups, the Public

This action codifies *the Department of the Environment - Fees, Penalties, Funding, and Regulation Act*. This action adjusts an air emissions fee that will affect permitted air emissions sources in Maryland by increasing emission-based fees for those sources required to pay such fees and will provide revenue to MDE to administer the required permit program. The majority of permitted affected sources are not small businesses and the increase is not expected to be impactful. This action will have a minimal economic impact on local governments. Owners of BEPS-covered buildings, which could include small businesses, local government, and others, will see a minimal economic impact from the \$100 per building per year reporting fee.



Facts About...

Amendments to MDE Fees

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude \$\$, Minimal or Indeterminate
A. On issuing agency:	(R+)	\$2.6 million per year
B. On other State agencies:	NONE	
C. On local governments:	NONE	
Types of Economic Impact.	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	\$2.6 million per year
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. This action will add revenue to MDE. The permit fees are estimated at \$1.9M per year as calculated utilizing emissions of regulated pollutants from affected sources for the previous 2 years. The BEPS benchmarking annual reporting fees are estimated at \$700,000 based on the approximately 7,000 covered buildings in the State, that are not in Montgomery County or are expected to be exempt. D. This action will affect permitted air emissions sources in Maryland. The fee increase will impact approximately 470 sources with an estimated total cost of \$1.9M per year, and about 7,000 covered buildings with an estimated total cost of \$700,000 due to the \$100 per year benchmarking report fee.		



Maryland
Department of
the Environment

Facts About...

Amendments to MDE Fees

Some of the buildings and permitted facilities are owned by local governments, the State of Maryland, and the federal government.

Economic Impact on Small Businesses

The proposed action has minimal economic impact on small businesses because the BEPS reporting fee is minimal – \$100 per building – and the permitted air emissions sources are not small businesses.

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 11 AIR QUALITY

Chapter 02 Permits, Approvals, and Registration

Authority: Environment Article, §§1-101, 1-404, 1-601—1-606, 2-101—2-103, 2-301—2-303, and 2-401—2-404, Annotated Code of Maryland

.01 — .18 (text unchanged)

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

A. (text unchanged)

B. Method of Calculating Fees.

(1) The emission-based fee prescribed in §A of this regulation shall be calculated by multiplying the total weight of actual annual emissions in tons of regulated emissions times an amount in dollars per ton as prescribed below:

[(a) From January 1, 1997 through September 30, 2008: \$25 per ton as increased pursuant to §B(6) of this regulation;]

[(b)] (a) From October 1, 2008 through [December 31, 2008] *May 31, 2025*: \$50 per ton *as increased pursuant to §B(5) of this regulation*;

(b) *From June 1, 2025 through December 31, 2026: \$200 per ton*; and

(c) Beginning January 1, [2009] *2027*: [\$50] *\$200* per ton as increased pursuant to [§B(6)] *§B(5)* of this regulation.

(2) For the purposes of this regulation, "regulated emissions" means the actual rate of emissions, in tons per year, of a regulated air pollutant except for carbon monoxide and carbon dioxide emitted by a source, to be calculated using criteria consistent with 40 CFR 70 (operating permit program).

[(3) Effective October 1, 2008 through December 31, 2009, the maximum annual permit to operate fee for each plant or facility is \$500,000.]

[(4)] (3) Except as provided in [§B(5)] *§B(4)* of this regulation, the total weight of annual emissions used to calculate the annual permit fee is based on the total actual emission tonnages as certified by the source and verified by the Department. Annual emissions shall be rounded off to the nearest ton.

[(5)] (4) Basis for Annual Emissions. The annual emissions to be used to calculate the fee in §§A and B of this regulation shall be as prescribed below:

(a) For sources that certify emissions of less than 10,000 tons for calendar year 2008, the annual emissions shall be based on the emissions certification required under §D of this regulation which was submitted the previous calendar year; and

(b) For sources that certify emissions of 10,000 tons or greater for calendar year 2008, the annual emissions shall be based on the actual emissions of the same calendar year as the annual fee.

[(6)] (5) Consumer Price Index.

(a) The annual dollar per ton amount prescribed in §B(1) of this regulation shall be increased on January 1 of each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index of the previous calendar year.

(b) The Consumer Price Index for any calendar year is the 12-month average of the Consumer Price Index for all urban consumers published by the U.S. Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

C.— E. (text unchanged)

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 28 BUILDING ENERGY PERFORMANCE STANDARDS

Chapter 02 Benchmarking and Reporting

Authority: Environment Article, §§1-404, 2-301, 2-302, 2-1205, 2-1602, Annotated Code of Maryland

.01 (text unchanged)

.02 Reporting Requirements of Building Owners.

A. — D. (text unchanged)

E. *Annual Reporting Fee.*

(1) A building owner shall pay an annual reporting fee for each covered building as defined in Environment Article § 2-1601, Annotated Code of Maryland.

(2) The annual reporting fee is due by June 1st of each year beginning in 2026.

(3) In 2026, the annual reporting fee is \$100.

(4) Beginning in 2027 and each year thereafter, the annual reporting fee is \$100 as adjusted for inflation pursuant to § E(5) of this regulation.

(5) Consumer Price Index

(a) The annual reporting fee rate set forth in this chapter shall be increased each calendar year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the previous calendar year.

(b) The Consumer Price Index for any calendar year is the 12-month average of the Consumer Price Index for all urban consumers published by the U.S. Department of Labor.

.03 — .05 (text unchanged)