

PART B - PERMITS GENERALLY

§2102.01 CERTIFICATION

Any application form, report, or compliance certification submitted under this Article shall contain written certification by a responsible official as to truth, accuracy, and completeness. This certification and any other certification required under this Article shall be signed by a responsible official of the source, and shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

§2102.02 APPLICABILITY

Unless otherwise specifically indicated, this Part shall apply to all sources and air pollution control equipment located within the County that are subject to Part C of this Article as set forth under Sections 2103.10 and 2103.20 of this Article.

§2102.03 PERMITS GENERALLY *{Paragraph a.1 & d.2 & Subsections i & j amended, and k & l added September 6, 1995, effective October 20, 1995}*

a. Applications.

1. All permit applications, and documents, and other information which are submitted in support of a permit application, under this Part or Part C of this Article shall be in written form signed by a responsible official of the applicant, shall be submitted in duplicate, shall include payment of all applicable fees, and shall provide all information sufficient for the Department to commence evaluation of the subject source, including all activities which are exempted because of size or production rate, and to determine all applicable requirements, including fee amounts, on standard application forms provided by the Department.

2. In addition, the applicant shall promptly submit to the Department such additional information as is requested to evaluate the application under this Part. If the applicant fails to promptly provide such information, the Department may reject the application. No application shall be considered complete until the applicant has furnished to the Department all information needed to evaluate the application under this Part and the fee required by this Part.

b. Issuance. Unless otherwise specifically provided under Part C, all permits issued pursuant to this Part or Part C of this Article shall be in written form, signed and issued by the Director, the Deputy Director, Bureau of Environmental Quality, the head of the Division of Air Quality, or the head of the Engineering Section, Bureau of Environmental Quality Division of Air Quality.

c. Conditions. It shall be a violation of this Article giving rise to the remedies provided by Part I of this Article for any person to fail to comply with any terms or conditions set forth in any permit issued pursuant to this Part.

d. Rejection or Revocation.

1. If the Department rejects any permit application under this Part or Part C of this Article or revokes any permit previously issued under this Part or Part C of this Article, it shall so advise the applicant in writing, summarizing the reasons for the rejection or revocation.

2. The Department shall reject any permit or license application under this Article and may suspend, terminate, or revoke any permit or license previously issued under this Article if it finds that the permittee or a general partner, or parent or subsidiary corporation of the permittee is in violation of the Air Pollution Control Act, the rules and regulations promulgated under the Air Pollution Control Act, this Article, any City of Philadelphia air pollution control rule or regulation, or any air pollution control plan approval, permit, or order of the DEP, the Department, or the City of Philadelphia, as indicated by past or present violations or the DEP's compliance docket, unless the violation is being corrected to the satisfaction of the primary air pollution control enforcement agency(s) for the source(s) in violation.

e. **Transfers.** Permits issued pursuant to this Part or Part C of this Article shall not be transferrable from one person to another, except in accordance with the requirements of this Part or Part C in cases of change-in-ownership which are documented to the satisfaction of the Department, and shall be valid only for the specific sources and equipment for which they were issued. The transfer of permits in the case of change-in-ownership shall also require the submission to the Bureau of a Permit Transfer application fee in the amount of 25% of the total of all applicable annual permit application/administration fees required for said permits by this Part or Part C of this Article, but not less than \$50 per permit, and in the case of an Operating Permit a compliance certification in accordance with §2103.11.b.9 of this Article, and in the case of a Major Source a compliance certification in accordance with §2102.06.b.2 of this Article. The required documentation and fee must be received by the Bureau at least 30 days before the intended transfer date.

f. **Modification of Permits.** Upon written request or upon its own motion, the Department may modify a permit previously issued to correct clerical errors.

g. **Effect.** Except as specifically otherwise provided under Part C, issuance of a permit pursuant to this Part or Part C of this Article shall not in any manner relieve any person of the duty to fully comply with the requirements of this Article or any other provision of law, nor shall it in any manner preclude or affect the right of the Department to initiate any enforcement action whatsoever for violations of this Article, whether occurring before or after the issuance of such permit. Further, except as specifically otherwise provided under Part C of this Article, the issuance of a permit shall not be a defense to any nuisance action, nor shall such permit be construed as a certificate of compliance with the requirements of this Article.

h. Appeals.

1. Any person who is aggrieved by the denial or rejection of a permit application or revocation of a permit required by this Article, or the issuance or reissuance of such permit with conditions, or any person who participated in the public comment process for a permit, shall have the right to file an appeal pursuant to the provisions of Article XI, Rules and Regulations of the Allegheny County Health Department, or in accordance with such other procedures as may hereafter be established by the Board of County Commissioners.

2. In all such cases involving the provisions of this Part, a hearing granted pursuant to this Subsection:

A. Shall not be held before employees of the Department who are assigned to the Bureau of Environmental Quality Division of Air Quality; and

B. Shall be held before a Hearing Officer who represents the public interest and does not derive any significant portion of his income from persons subject to this Article within the meaning in Part A of this Article; except that , if a panel of three (3) or more persons is appointed to hear the case, a majority of the panel shall represent the public interest and shall not derive any significant portion of his income from persons subject to this Article. Prior to being appointed as a Hearing Officer, each proposed appointee shall file with the Chief Clerk of the County of Allegheny a Disclosure Statement as required by Part I of this Article. Said Disclosure Statement shall be subject to the public inspection provisions of Part I.

3. In any such administrative hearing, the person filing the appeal shall bear the burden of proof and the burden of going forward with respect to all issues.

i. **Compliance History.** *{Paragraphs 2, 3, & 4 added September 6, 1995, effective October 20, 1995}*

1. The Department may refuse to issue any permit or license under this Article if it finds that the applicant or permittee or a partner, or parent or subsidiary corporation of the applicant or permittee has shown a lack of intention or ability to comply with the Air Pollution Control Act, the regulations promulgated under the PA Act, this Article, the City of Philadelphia air pollution control rules and regulations, or any plan approval, permit, or order issued by the DEP, the City of Philadelphia, or the Department, as indicated by past or present violations, unless the lack of intention or ability to comply is being or has been corrected to the satisfaction of the primary air pollution control enforcement agency(s) for the violating source(s).

2. Except as otherwise provided under this Subsection, the Compliance Review and Compliance Review Form requirements promulgated by the Pa. Environmental Quality Board and Dept. of Environmental Protection (DEP) under the Pa. Air Pollution Control Act at 25 Pa. Code §§127.12a and 127.412 are hereby incorporated, by reference, into this Article. Additions, revisions, and deletions to such requirements adopted by the EQB and the DEP are incorporated into this Article and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.

3. For purposes of this Article, 25 Pa. Code §§127.12a(c)(5) & 127.412(c)(5) shall only require the submission of information regarding permits in effect during the previous 12 months for the first permit application due after the effective date of this Section.

4. Under the regulations incorporated by reference under this Subsection:

A. "Plan approval" shall mean Installation Permit;

B. "Department" shall mean Department as defined under this Article;

C. "Responsible official" shall mean Responsible Official as defined under this Article; D. "Facility" shall mean Source;

E. "Deviation" shall mean "Deviation" as defined under 25 Pa. Code §121.1;

F. "EHB" shall mean the "Department under Article XI";

G. "Title V Permit" shall mean an Operating Permit issued under this Subpart;

H. "Documented conduct" shall mean "Documented conduct" as defined under 25 Pa. Code §121.1; and

I. "Compliance review form" shall mean "Compliance review form" as defined under 25 Pa. Code §121.1

j. General Permits.

1. Except as otherwise provided under this Subsection, the General Plan Approvals and Operating Permits requirements promulgated by the Pa. Environmental Quality Board and Dept. of Environmental Protection (DEP) under the Pa. Air Pollution Control Act at 25 Pa. Code §§127.611 through 127.622 are hereby incorporated, by reference, into this Article. Additions, revisions, and deletions to such requirements adopted by the EQB and the DEP are incorporated into this Article and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.

2. For purposes of this Article:

A. 25 Pa. Code §127.612(a) shall only require the publication of the required notice in the Pennsylvania Bulletin and one newspaper of general circulation in the County;

B. 25 Pa. Code §127.612(c) shall only require that comments be retained for a period of five (5) years following final action on a proposed permit; and

C. 25 Pa. Code §127.621(b) shall also allow delivery or transmittal of applications by regular U.S. mail or any other generally accepted manner of delivery or transmittal.

3. Under the regulations incorporated by reference under this Subsection:

A. "Plan approval" shall mean Installation Permit;

B. "Department" shall mean Department as defined under this Article;

C. "Pennsylvania Bulletin" shall mean Pennsylvania Bulletin or a newspaper of general circulation in the County; and

D. "Facility" shall mean Source.

k. Emissions Trading at Sources with Federally Enforceable Emissions Cap.

1. Except as otherwise provided under this Subsection, the Emissions Trading at Sources with Federally Enforceable Emissions Cap requirements promulgated by the Pa. Environmental Quality Board and Dept. of Environmental Protection (DEP) under the Pa. Air Pollution Control Act at 25 Pa. Code §127.448 are hereby incorporated, by reference, into this Article. Additions, revisions, and deletions to such requirements adopted by the EQB and the DEP are incorporated into this Article and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.

2. Under the regulations incorporated by reference under this Subsection:

- A. "Facility" shall mean Source as defined under this Article;
- B. "Source" shall mean Emissions Unit;
- C. "Department" shall mean Department as defined under this Article;
- D. "Article" shall mean Article as defined under this Article;
- E. "§127.516" shall mean Subsection §2103.22.e of this Article; and
- F. "Permit" shall mean Installation or Operating Permit.

* * *

§2102.04 INSTALLATION PERMITS *{Paragraph a.5 deleted, Paragraphs b.11 & h.2 and Subsection j added, and Subparagraph a.1.B & Subsections g, h, & i amended September 6, 1995, effective October 20, 1995}*

a. General Requirements.

1. It shall be a violation of this Article giving rise to the remedies set forth in Part I of this Article for any person to install, modify, replace, reconstruct, or reactivate any source or air pollution control equipment to which this Part applies unless either:

- A. The Department has first issued an Installation Permit for such source or equipment; or
- B. Such action is solely a reactivation of a source with a current Operating Permit which is approved under §2103.13 of this Article.

2. A physical change in, or change in the method of operation of, a major source which results in a greater than de minimis increase in actual emissions of a hazardous air pollutant shall not be considered a modification, if such increase in the quantity of actual emissions of any hazardous air pollutant from such source will be offset by an equal or greater decrease in the quantity of emissions of another hazardous air pollutant (or pollutants) from such source which is deemed more hazardous, pursuant to guidance issued by the Administrator under Section 112 of the Clean Air Act. The owner or operator of such source shall submit a showing to the Bureau, at least 30 days prior to such change, that such increase has been offset under the preceding sentence.

3. Notwithstanding the requirements of Subsection b below, a new source which is issued an Installation Permit and commences construction or reconstruction, in accordance with a permit issued under this Article, after a standard, limitation, or regulation applicable to such source is proposed and before such standard, limitation, or regulation is promulgated shall not be required to comply with such promulgated standard until the date three (3) years after the date of promulgation, or for such other period if specified in the regulation, if:

A. The promulgated standard, limitation, or regulation is more stringent than the standard, limitation or regulation proposed; and

B. The source complies with the standard, limitation, or regulation as proposed during such period immediately after promulgation.

4. A source for which construction or reconstruction is commenced after the date a MACT emission standard applicable to such source is proposed by EPA, but before the date a health risk based emission standard applicable to such source is proposed by EPA, shall not be required to comply with the health risk based emission standard until the date ten (10) years after the date construction or reconstruction is commenced.

b. Standards for issuance. The Department shall not issue any Installation Permit unless it has complied with all applicable requirements under this Article for public notice and received a complete application meeting the requirements of this Part, which application includes, or demonstrates that:

1. An identification of all other Installation Permits issued by the Department for the sources affected after November 15, 1990;

2. The nature and amounts of emissions from the sources affected and from associated mobile sources;

3. The location, design, construction and operation of the sources affected as they relate to emission

characteristics;

4. Emissions from the proposed source will not prevent the attainment and maintenance of the ambient air quality standards established by Part A of this Article at any location within the Commonwealth, nor will such emissions interfere with reasonable further progress toward the attainment of the NAAQS's; provided, however, that nothing herein contained shall preclude the applicant from agreeing to a more stringent emission limitation than established by this Article or securing enforceable emission reductions from existing sources so that such prevention or interference will not occur;

5. The proposed source will comply with all applicable emission limitations established by this Article, or where no such limitations have been established by this Article, RACT has been applied to existing sources with respect to those pollutants regulated by this Article;

6. For new sources, BACT has been applied;

7. Emissions from the proposed source will not endanger the public health, safety or welfare;

8. The proposed source or modification will comply with all applicable NSPS requirements, existing and new source MACT standards, Generally Achievable Control Technology (GACT) standards, and NESHAP requirements established by the EPA, and where no applicable MACT emission limitations have been established by EPA after the federal deadline set for such establishment, such determinations of MACT as shall be made on a case-by-case basis by the Department;

9. All existing air pollution sources within the Commonwealth which are required to have operating permits and which are owned, operated, or allowed to be operated, by the applicant or permittee or by any person controlling, controlled by, or under common control with the applicant or permittee are in compliance with all applicable requirements of the Air Pollution Control Act, the rules and regulations promulgated under the Air Pollution Control Act, this Article, any City of Philadelphia air pollution control rule or regulation, and any air pollution control plan approval, permit, or order of the DEP, the Department, or the City of Philadelphia, as indicated by the DEP's compliance docket, or such noncompliance is being corrected to the satisfaction of the primary air pollution control enforcement agency(s) for the source(s) in violation;

10. All terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Department. Such terms and conditions:

A. Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted source a record of the new scenario under which it is operating; and

B. Must ensure that the terms and conditions of each such alternative scenario meet all applicable requirements under this Article;

11. For new or reconstructed major sources of hazardous air pollutants or modifications of such sources, the proposed source or modification will comply with all applicable MACT standards, and where no applicable MACT emission limitation has been established by EPA, such determination of MACT as shall be made on either a case-by-case or source category basis by the Department under federal regulations promulgated pursuant to §112(g) of the Clean Air Act.

A person appealing the establishment of a performance or emission standard by the Department under this Paragraph shall have the burden to demonstrate that the performance or emission standard does not meet the requirements of §112 of the Clean Air Act.

c. **Major Sources.** The Department shall not issue any Installation Permit for a major source unless, in addition to meeting the requirements of Subsection b above, the application demonstrates compliance with all applicable requirements of this Part.

d. **Construction Activities.** If construction activities associated with the installation, modification, replacement, reconstruction, or reactivation of any source of air pollution control equipment to which this Article applies involves the grading, excavating, or deposition of earth on one half (0.5) acre of land or more, the application required by this Section shall include a plan for the implementation of all reasonable actions to prevent fugitive dust from becoming airborne. Such plan shall include at a minimum, a description of the nature and scope of the activities involved, fugitive dust control measures to be implemented, and a time schedule on which these measures will be implemented. Such plan shall be reviewed by the Department as part of the permit application review provided for by this Part and, once approved, shall be considered part of the permit issued by the Department.

e. **Conditions.** The Department may issue permits subject to such terms and conditions as are appropriate to ensure continued compliance with the requirements of this Article, the Air Pollution Control Act and the Clean Air Act. Such terms and conditions may include, but are not limited to, requiring periodic progress reports, ambient or source monitoring, and operating or maintenance requirements. The initiation of installation, modification, replacement, reconstruction, or reactivation without having first been issued an Installation Permit as required by this Section, and any reactivation plan required by Part C of this Article, shall be deemed acceptance by the source of all terms and conditions later specified by the Department. Further, the initiation of installation, modification, replacement, reconstruction, or reactivation under an Installation Permit and any reactivation plan shall be deemed acceptance by the source of all terms and conditions specified by the Department in the permit and plan.

f. **Revocation.** The Department may, at any time, revoke an Installation Permit if it finds that:

1. Any statement made in the permit application is not true, or that material information has not been disclosed in the application;
2. The source is not being installed, modified, replaced, reconstructed, or reactivated in the manner indicated by the permit or applicable reactivation plan;
3. Air contaminants will not be controlled to the degree indicated by the permit; Art XXI, Part B-9

4. Any term or condition of the permit has not been complied with;

5. The Department has been denied lawful access to the premises or records, charts, instruments and the like as authorized by Part I of this Article; or

6. In the case of a major source, the EPA has found, pursuant to Section 126(b) of the Clean Air Act, that emissions from such source would prevent the attainment or maintenance by any other state of any primary or secondary NAAQS's or that such emissions would interfere with any measure required to be included in the applicable SIP for any other state under Part C of the Clean Air Act relating to prevention of significant deterioration of air quality or protection of visibility; provided, however, that nothing herein contained shall prevent the re-issuance of such permit upon a demonstration that the conditions leading to such finding by the EPA have been corrected. In addition, the Department may, prior to the date on which construction of the proposed source has commenced, revoke an Installation Permit if a significantly better air pollution control technology has become available for such source, a more stringent regulation applicable to such source has been adopted, or any other change has occurred which requires a more stringent degree of control of air contaminants.

g. **Term.** An Installation Permit shall expire in 18 months if construction has not commenced within such period or shall expire **18 months** after such construction has been suspended, if construction is not resumed within such period. Installation Permits shall authorize temporary operation to facilitate shakedown of sources and air cleaning devices, to permit operations pending issuance of a related subsequent Operating Permit, or to permit the evaluation of the air contamination aspects of the source. Such temporary operation period shall be valid for a limited time, not to exceed 180 days, but may be extended for additional limited periods, each not to exceed 120 days, except that no temporary operation shall be authorized or extended which may circumvent the requirements of this Article.

For major sources, if the construction, modification or installation is not commenced within 18 months of the issuance of an installation permit or if there is more than an 18-month lapse in construction, modification, or installation, a new installation permit application shall be submitted. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified.

h. Synthetic Minors - Administrative Operating Permit Amendments.

1. Any permit applicant for a source, emission unit, or a pollutant at such source or emission unit, not otherwise subject to §2102.05 below, upon written notice to the Department as part of its application under this Part, may choose to, and thereafter become, subject to §2102.05.c below for the purposes of subjecting the application to public and federal review in order to establish federal enforceability of such permit upon issuance.

2. Any permit applicant for a source, emission unit, or a pollutant at such source or emission unit, not otherwise subject to §2102.05 below, but for which a subsequent related Operating Permit or Operating Permit amendment is required under Part C of this Article, shall be subject to §2102.05.c below for the purposes of subjecting the application to public and federal review in order to establish federal enforceability of such permit upon issuance, except that where only a

minor Operating Permit modification is required, only such minor modification procedures regarding notice shall be required. Until the first amendments to this Article, including this Subsection, are approved by the EPA, all applications under this Subsection, upon approval by the Department, will be submitted to the EPA as proposed revisions to the County's portion of the SIP. Except as required for a SIP amendment, the public hearing provided for under §2102.05, for purposes of this Subsection shall only be held if deemed necessary by the Department.

i. Advance Notice.

In addition to all other notice requirements under this Part, the Department shall cause to be published a public notice of all permit applications received as soon as is practicable after such applications have been deemed to be complete. At the time of publication of such notice, the applicant shall cause a copy of such notice to be sent to all municipalities in which the source for which the application has been submitted is located as required by Section 1905-A of the Pa. Administrative Code of 1929 (71 PS §510-5).

j. Miscellaneous Notice Requirements.

Except as specifically otherwise provided under this Article, the requirements promulgated by the Pa. Environmental Quality Board and Dept. of Environmental Protection (DEP) under the Pa. Air Pollution Control Act at 25 Pa. Code §§127.44, 127.45, & 127.51, and the related definitions at 25 Pa. Code §121.1, are hereby incorporated, by reference, into this Article. Additions, revisions, and deletions to such requirements adopted by the EQB and the DEP are incorporated into this Article and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.

§2102.05 INSTALLATION PERMITS FOR NEW AND MODIFIED MAJOR SOURCES

a. **General.** In addition to satisfying the requirements of Subsection 2102.04.b of this Part above, the Installation Permit application for any new or modified major source shall demonstrate compliance with all provisions of this Section.

b. Interstate Notification.

1. The Installation Permit application for a proposed new or modified major source shall include proof that the applicant has provided written notice to the air quality permitting agencies or departments of all affected states. Such notice shall include at a minimum an identification of the type of source to be constructed or modified, its location and projected start-up date, an identification of the types and amounts of air contaminants which will be emitted and the effective height of all significant emissions points, the name and address of a person who will provide such additional information as may be requested, and the address of the Bureau of Environmental Quality for the receipt of comments.

2. No Installation Permit shall be issued pursuant to this Article sooner than 60 days after issuance of any notice to all affected states as required under paragraph 1 above.

c. **Public Notice and Hearing.** Upon a determination that an Installation Permit application for a new or modified major source meets the requirements of this Article, the Department shall prepare a

notice of its proposed approval of the application and of a public hearing on such proposed approval to be held no sooner than 30 days following publication of such notice in accordance with this Subsection. Such notice shall include at a minimum the name of the owner or operator, the type and size of the source, the proposed location, a concise summary of the manner in which the requirements of this Part have been met, an identification of at least one location within the County where all information submitted in support of the application may be examined by the public, an employee of the Department to whom public comments may be sent no later than ten (10) days following the public hearing and to whom requests to testify at the public hearing may be sent within 30 days of the publication of the notice, and the date, time, and location of the public hearing. The Department shall then:

1. Cause such notice to be published by prominent advertisement in either, at the discretion of the Department, at least two newspapers of general circulation in the County, or at least one newspaper of general circulation in the County and at least one local newspaper of general circulation in the municipality of the proposed location, for at least one day in each newspaper. The applicant shall pay for the cost of all publications and certifications under this Paragraph;
2. Cause copies of the notice to be mailed to the Regional Administrator of the EPA, the Chairman of the Allegheny County Air Pollution Control Advisory Committee, the Chairman of the Allegheny County Board of Health, the appropriate agencies or departments of affected states, such other regional and local government units as specified by the Department, and to persons on a mailing list developed by the Department, including residents of the County who specifically request in writing to be on the list;
3. Retain all information submitted in support of the permit application in at least one location in the County and make all such information available for public inspection;
4. Provide copies of the Department's notice to any person who requests it; and
5. Obtain facilities for a public hearing to be held by the Department, at a place, date, and time determined in advance by the Department, and cause such hearing to be stenographically transcribed and a copy thereof to be furnished to the Department. The applicant shall pay for the cost of all public hearings and transcripts under this Paragraph.

**§2102.06 MAJOR SOURCES LOCATING IN OR IMPACTING A
NONATTAINMENT AREA** {Paragraph b.2 & Subparagraphs b.4.C & D amended and
Paragraph a.4 & Subsection f added September 6, 1995, effective October 20, 1995 and amendments
made 04/03/2012 to 2102.04, .06 and.08 – changes shown by ~~strikeout~~ and **bold** font also the
following should be noted from the FR notice dated 03/30/2015: As per request by PADEP, In a
letter to EPA dated 6/27/2014, the following language appearing at Paragraph B.1; Subparagraph
B.3.a AND Subsections e and g. is excluded from the SIP – “Additions, revisions, or deletions to such
regulations by the Commonwealth are incorporated in this Subsection and are effective on he date
established by the state regulation, unless otherwise established by regulation under this Article}

- a. **Applicability.** This Section shall apply to any **new major facility, as defined by 25 PA Code 121.1** and to any major modification of an existing source which is located in a nonattainment area or transport region of the County or which will have a significant air quality impact on any nonattainment area or transport region. ~~The requirements of this Section shall apply only with regard to those air contaminants for which such source or modification is a major source or modification and for which such area is a nonattainment area or transport region. This Section shall also apply with respect to emissions of volatile organic compounds and nitrogen oxides for those areas which are nonattainment with respect to ozone. This Section shall also apply with respect to emissions of sulfur dioxide, nitrogen oxides, and volatile organic compounds for those areas which are nonattainment with respect to PM-10.~~ **Procedures in 25 PA Code 127.203a shall be followed in determining whether any modification at a major source is determined to be a major modification.**
1. Except as otherwise specifically provided under this Section, this Section shall be applied consistent with the provisions of the state regulation for New Source Review Applicability Determination promulgated under the Air Pollution Control Act at 25 Pa. Code ~~127.211~~ **127.203(b), 127.203(a), and 127.204**, which ~~is~~**are** hereby incorporated by reference into this **Subsection**. All terms used in 25 PA code 127.203 (except 127.203(b), 127.203(a) and 127.204, and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein. Additions, revisions, or deletions to such regulation by the Commonwealth are incorporated into this **Article Subsection** and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.
 2. **For purposes of this Subsection:**
 - A. **“Department” shall mean Department as defined under this Article; and**
 - B. **“Plan approval” shall mean Installation Permit.**

~~**Reconstructed Sources.** For purposes of this Section, reconstructed sources shall be considered new sources. For purposes of this Section, reconstruction triggering the application of this Section will be presumed to have taken place when the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new stationary source. Any final determination as to whether such a reconstruction has occurred shall be made by the Department based on:~~

~~A. Fixed capital cost of the new components in comparison to the fixed capital cost that would be required to construct a comparable entirely new source.~~

~~B. Estimated life of the source after the replacements compared to the life of a comparable entirely new source.~~

~~C. The extent to which the components being replaced cause or contribute to the emissions from the source. For those reconstructed sources which are subject to the requirements of this Section, the Department shall take into account technical or economic limitations which are inherent in the particular reconstruction in determining the LAER standard for such sources.~~

~~**3.2. Incremental Construction.** Where a source is constructed or modified in increments which individually have not met the requirements of this Section, this Section shall apply to all such increments when the sum of emissions from such increments for which an Installation Permit was issued after July 1, 1979, cause such source or modification to become a major source or modification.~~ **Circumvention.** **Regardless of the exemptions provided in this section, an owner or other person may not circumvent this section by causing or allowing a pattern of ownership or development, including the phasing, staging, delaying or engaging in incremental construction, over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a permit or submission of an installation permit application.** In determining the LAER standard for such increments, the Department shall consider the stage of construction of each increment and the feasibility of installing additional air pollution controls on each.

~~**3. Secondary Emissions.** Secondary emissions shall not be considered in determining whether this Section applies to a new or modified source. If, however, this Section otherwise applies to such source, the requirements of this Section shall also apply to all secondary emissions which impact the same general nonattainment area as emissions from the source, except that Paragraphs b.1 and 2 shall not apply to any secondary emissions which are not under the control of the applicant.~~

~~**4. Application Consistent with State Regulations.** Except as otherwise specifically provided under this Section, this Section shall be applied consistent with the provisions of the state regulation for New Source Review Applicability Determination promulgated under the Air Pollution Control Act at 25 Pa. Code §127.211 which is hereby incorporated by reference into this Article. Additions, revisions, or deletions to such regulation by the Commonwealth are incorporated into this Article and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.~~

b. Conditions for Approval. The Department shall not issue an Installation Permit, or issue, amend, modify, or reissue a related Operating Permit, for any source to which this Section applies unless the applicant demonstrates that all of the following conditions are met:

1. Except as otherwise specifically provided under this Subsection, conditions for approval of an installation permit shall be applied consistent with the provisions of the state regulation for

New Source Review promulgated under the Air Pollution Control Act at 25 Pa. code 127.201 through 127.205 (except for 127.201(f), which are hereby incorporated by reference into this Subsection. All terms used in 25 PA Code Section 127.201 through 127.205 (except for 127.201(f), and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein. ~~Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.~~

2. For Purposed of this Subsection:

- A. "Department" shall mean Department as defined under this Article;
- B. "Plan approval" shall mean Installation Permit;
- C. "Title V Permit" shall mean Operating Permit issued under Subpart C;
- D. "Responsible Official" shall mean Responsible Official as defined under this Article;
- E. Public notification procedures shall follow the requirements of Sections 2102.03, 2103.04, 2102.05 and 2102.06 and
- F. "EHB" shall mean the "Department under Article XI".

~~1. **Lowest Achievable Emission Rate.** The applicant shall agree to meet an emission limitation which specifies the LAER standard for such source.~~

~~2. **Other Sources.** The applicant shall demonstrate that all major existing sources within the Commonwealth which are owned, operated, or allowed to be operated, by the applicant or by any person controlling, controlled by, or under common control with the applicant are in compliance with all applicable requirements of the SIP and the Clean Air Act, or are in compliance with enforceable permit conditions or an enforceable compliance order or court decree for compliance with such Plan and Act. A responsible official of the applicant shall certify as to the sources' compliance in writing on a form provided by the Department.~~

~~3. **Net Air Quality Benefit.** In addition to complying with all other applicable requirements, the applicant shall demonstrate that the emission reductions secured under Paragraph b.4 below will result in a net air quality benefit in the affected nonattainment area(s) and that emissions from the new or modified source will not have a more adverse health, ambient air quality, and environmental impact than the emissions from the existing source(s) which are reduced pursuant to Paragraph b.4.~~

3. 4. Emission Offsets.

A. The applicant shall demonstrate that it has secured ~~either~~ emission reduction credits from the state ERC registry system ~~or emission reductions from existing sources in the County~~ to offset allowable emissions and fugitive dust emissions from the proposed new source or the proposed modification by at least the ratios set forth below; ~~provided that, in the case of a source to which this Section applies solely because of a significant air quality impact in a nonattainment area, offsets resulting in a net air quality benefit in the affected nonattainment area shall be sufficient.~~

- A. **Incorporation by Reference.** Except as otherwise specifically provided under this Subsection, the state regulations for the use of Emission Reduction Credits and offset ratios promulgated under the Air Pollution Control Act at 25 Pa. Code

§§127.206 through 127.210 inclusive, are hereby incorporated by reference into this Subsection. All terms used in 25 PA Code 127.206 through 127.210 inclusive, and defined in 25 PA Code Section 121.1, are incorporated by reference except as explicitly set forth herein. ~~Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.~~

B. For purposes of this Subsection:

1. "Plan approval" shall mean Installation Permit; and
2. For 25 Pa. Code §§ 127.206 through 127.210 (except 127.206(d)(2), 127.207(3)(vii), 127.208 (5), 127.209(a) and 127.209 (e)), "Department" shall mean Department as defined under this Article.

~~Such emission reductions shall be made legally binding by a court decree, order, or permit condition by no later than the date on which the proposed new source or the proposed modification either is approved to commence, or actually commences, operation, whichever is sooner, and such reductions shall be maintained throughout the operating life of the source for which such permit was issued. Such emissions reductions, if not created from the same source premises as the proposed new source or proposed modification, shall be approved by the EPA as a revision to the SIP.~~

~~B. The ratio of actual emission reductions to new emissions shall be greater than or equal to the applicable ratio specified in the following table:~~

~~**Ratio of Required**~~

~~**Type of Type of Emission Reduction to
New Emissions Emission Reductions New Emissions**~~

~~Flue Emissions Flue Emissions~~

~~for: VOCs and Nitrogen Oxides 1.15 to 1~~

~~All other air contaminants 1 to 1~~

~~Flue Emissions Fugitive Emissions 2 to 1~~

~~Fugitive Emissions Fugitive Emissions 1.3 to 1 (where emissions are quantified by the same technique);~~

~~2 to 1 (where emissions are not quantified by the same technique).~~

~~C. **Calculation of Offsets.** Offset credit for emission reductions shall be calculated based on the emission characteristics for the actual operating conditions of the source(s) affected averaged over the two calendar years immediately preceding the emission reduction, or if such two year period is not representative, such other two year period, within the past five years, as is specified by the Department, but shall not be greater than the allowable emissions at the time the emission reductions are created or such credit is used, whichever is less. In no event shall offset credit be available for emission reductions which: *{iii & iv amended, & xii added September 6, 1995, effective October 20, 1995}*~~

~~i. Are not surplus, or would be required by any applicable proposed federal, state, or local regulation which has been published for public comment prior to the time such credit is used; provided, however, that if such regulation is not adopted, offset credit shall again become available, but any such period(s) of unavailability shall in no manner operate to extend the life of the offsets;~~
~~ii. Are part of a proposed or approved Alternative Emission Reduction Plan authorized by Part C of this Article prior to the time such credit is used;~~
~~iii. Take credit for emissions which are inherently less than actual emissions, if such lesser emissions were used by the Department in the air quality demonstration submitted in support of its portion of the SIP at any time prior to the use of such credit;~~
~~iv. Are not quantifiable at the time that they are created, or are not permanent and federally enforceable at the time that they are created, either by the applicable SIP, by an Installation Permit issued pursuant to this Article, by an Enforcement Order or Operating Permit issued pursuant to this Article, or by the revocation of an Operating Permit pursuant to this Article;~~
~~v. Have been traded off against civil penalties payable to any governmental unit at any time prior to the use of such credit;~~
~~vi. Are required by a consent order or court decree issued prior to the time such credit is used, unless such order or decree specifically allows such reductions to be used as offsets;~~
~~vii. Occurred in an area for which a current EPA approvable attainment plan or demonstration has not been submitted to EPA, unless such emission reductions are created on or after the date such credit is used, or, the applicant can establish that the Installation Permit application using such credit is for a proposed new source that is a replacement source for the shutdown or curtailed source from which the emission reductions were created;~~
~~viii. Occurred before the date of the most recent emissions inventory used in the applicable EPA-approved attainment plan's demonstration of attainment, except the Department may consider a prior shutdown or curtailment to have occurred after the date of the most recent emissions inventory if the inventory explicitly includes as current "existing" emissions the emissions from such previously shutdown or curtailed sources;~~
~~ix. Are from replacing one hydrocarbon compound with another of lesser reactivity;~~
~~x. Are generated from emissions in excess of either those previously identified in required actual emission statements or those for which applicable emission fees have been paid;~~
~~xi. Are from emission reductions previously used in an applicability determination for netting purposes; or xii. Are not entitled to offset credit under the state regulations for Emission Reduction Credits promulgated under the Air Pollution Control Act and incorporated by reference into this Article under §2102.08.e below. *{Added September 6, 1995, effective October 20, 1995}*~~
~~The applicant and the Department shall follow the procedures relating to the permissible location of offsetting emissions set out in 40 CFR Part 51 Appendix S Section IV.D. as amended by Section 173(e) of the Clean Air Act.~~

~~D. Use of Offsets. For purposes of this Part, an offset shall be considered used when either: *{ii added September 6, 1995, effective October 20, 1995}*~~

~~i. It is committed to a specific new or modified source in an Installation Permit application; or~~
~~ii. It is considered used under the state regulations for Emission Reduction Credits promulgated under the Air Pollution Control Act and incorporated by reference into this Article under §2102.08.e below. *{Added September 6, 1995, effective October 20, 1995}* If the Department rejects an Installation Permit application using offsets, or such application is withdrawn by the applicant, or the permit is issued but is canceled or expires before the permit and the offsets are ever used, the offsets so committed shall again become available for use, but in no event shall any such period(s) of unavailability operate to extend the life of any registered offsets.~~

c. Temporary Sources. Temporary sources shall not be required to comply with **Paragraphs b.3 and**

~~b.4 above~~ net air quality benefit and offsets requirements.

d. **Fuel Switches.** ~~Notwithstanding the failure of the applicant to comply with Paragraph b.4 above,~~ The Department may issue an Installation Permit for the modification of an existing source which is required to switch fuels pursuant to a federal order or fuel curtailment plan if:

1. The applicant demonstrates that it has used all best efforts to secure all available offsets; and,
2. The applicant is made subject to a permit condition requiring it to use all best efforts to secure additional offsets until the requirements of Paragraph b.4 are met.

e. **Portable facilities. Incorporation by Reference.** ~~The state regulations for portable facilities under the Air Pollution Control Act at 25 Pa. Code §§127.212 are hereby incorporated by reference into this Subsection. All terms used in 25 PA Code §§127.212 and defined in 25 PA Code Section 121.1 are incorporated by reference. Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.~~

~~e. **Analysis of Alternatives.** The Department shall not issue an Installation Permit for any source to which this Section applies unless, in addition to meeting all other requirements of this Section, the applicant submits to the Department an analysis of alternative sites, sizes, production processes, and environmental control techniques which demonstrates that the benefits of the source significantly outweigh the environmental and social costs imposed by the source.~~

~~f. **Economic Development Zones.** In the case of a new or modified source which is located in a nonattainment area, and within a zone, identified by the EPA Administrator, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted, emissions of a pollutant resulting from the proposed new or modified source may not cause or contribute to emission levels which exceed the allowance permitted for the pollutant for the area from new or modified sources in the SIP.~~

f. **Requirements for Modeling.** Where air quality models are used to meet the provisions of this Section, modeling shall be based on the applicable models and other requirements specified in 40 CFR Part 51 Appendix W (Guideline on Air Quality Models). Where an air quality model is inappropriate, the model may be modified or another model may be substituted only on a case-by-case basis at the Department's discretion upon written approval by the Administrator of EPA. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures set forth in 40 CFR 51.102. **(Note change to this section from EPA FR notice dated 5/30/2015 80 FR 16568)**

g. **PLANTWIDE APPLICABILITY LIMIT (PALs)**

The Plantwide Applicability Limits (PALs) regulations in 25 Pa. Code § 127.218 are hereby incorporated by reference into this Subsection. All terms used in 25 PA Code § 127.218 and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein. ~~Additions, revisions, or deletions to such regulations by the Commonwealth~~

~~are incorporated into this Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.~~

For purposes of this Subsection:

- 1. Public notification procedures shall follow the requirements of §2102.03, 2103.04, 2102.05, and 2102.06;**
- 2. “Plan approval” shall mean Installation Permit; and**
- 3. “Department” shall mean the Allegheny County Health Department.**

§2102.07 PREVENTION OF SIGNIFICANT DETERIORATION

{Subsection a amended September 6, 1995, effective October 20, 1995, Subsection a modified January 22, 1998 effective March 31, 1998}

- a. General Provisions.** The Prevention of Significant Deterioration (PSD) requirements as promulgated in 40 CFR §52.21 by the Administrator of the EPA pursuant to Section 161 of the Clean Air Act are hereby adopted in their entirety and incorporated herein by reference. For the purposes of this Section all of the definitions adopted by the federal regulations in this subsection are hereby incorporated by reference, including those of source and major source. Additions, revisions, or deletions to the PSD requirements adopted by EPA are incorporate by regulation of the Department.
- b. Permits.** Notwithstanding the issuance of any Installation Permit pursuant to this Article, no person shall commence the construction of, and no Operating Permit shall be issued pursuant to this Article for, any new or modified major source in an attainment or unclassified area of the County until such person has obtained a PSD Permit from the Department or has obtained a written determination from the Department that a PSD Permit is not required for such source under the applicable statutes, regulations, or other laws.
- c. Exemption.** The PSD provisions of this Article shall not apply to sources of hazardous air pollutants as defined in Part A of this Article.
- d. Violation.** It shall be a violation of this Article giving rise to the remedies provided by Section 2109.02 of this Article for any person to commence construction of or to allow construction to commence on, or to own, operate, or allow to be operated, any new or modified major source in an attainment or unclassified area of the County in a manner that does not comply with all PSI) requirements as promulgated by the EPA and incorporated herein, except if such person is lawfully temporarily relieved of the duty to comply with such requirements.

§2102.08 EMISSION OFFSET REGISTRATION *{Paragraph a.2 & Subsection e amended September 6,1995, effective October 20, 1995}*

- a. Incorporation by Reference.** Except as otherwise specifically provided under ~~Paragraph a.2 and Subsection e of this Section~~ **Subsection**, the state regulations for **registration of** Emission Reduction Credits promulgated under the Air Pollution Control Act at 25 Pa. Code §§127.206 through 127.209 inclusive, are hereby incorporated by reference into this ~~Article~~ **Subsection**. **All terms used in 25 PA Code Sections 127.206 through 12.209 and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein.** Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this ~~Article~~ and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.
- b. For Purposes of this Subsection:**
- 1. "Plan approval" shall mean Installation Permit; and**
 - 2. For 25 Pa. Code §§ 127.206 through 127.209 (except 127.206(d)(2), 127.207(3)(vii), 127.208 (5), 127.209 ((a) and 127.209 (e)), "Department" shall mean Department as defined under this Article.**

c. d. Reports. ~~Copies of all~~ **All applications**, notices and reports required to be submitted to the Commonwealth under the applicable state emission reduction credit regulations shall be submitted to the **Allegheny County Health Department** by the same deadline set forth in such regulations.

Registration.

~~1. No later than one (1) year after the creation of an emission reduction for which offset credit is sought, the owner or operator of the source affected shall notify the Department in writing of all facts necessary to determine the availability and amount of offset credit from the emission reduction, except that for the creation of an emission reduction on or after January 1, 1991, but prior to the effective date of this Section, the owner or operator of the source affected may notify the Department in writing of all facts necessary to determine the availability and amount of offset credit from the emission reduction by no later than March 15, 1996. Emission offset credits registered with the Department as of the effective date of this Section shall be immediately submitted by the Department to the air quality permitting agency for the Commonwealth of Pennsylvania for registration under the state Emission Reduction Credit registry system. The County shall no longer maintain an emission offset credit registration system separate from the state system.~~

~~2. For purposes of this Section and §2102.06.b.4.C, an emission reduction achieved by shutting down or curtailing a source shall be considered to be "created" on the date on which a decision is made to permanently shut down or curtail such source, but in no event later than one year after the actual shutdown or curtailment, except that, any provisions to the contrary notwithstanding, upon approval of the Department and the Commonwealth under the requirements of 25 Pa. Code Chapter 127 Subchapter E, §§127.201 et seq., for an emission~~

~~reduction achieved by shutting down or curtailing public utility power generating sources which have been in "cold reserve" or temporarily shutdown for more than three years:~~

~~A. Such emission reduction shall be considered to be "created" on the expiration or termination date of the last Operating Permit for such source, whichever is later; and~~

~~B. The last five years prior to such "cold reserve" or temporary shutdown shall constitute the last five years for purposes of calculating actual emissions.~~

~~3d. The notice required by this Section~~ **Applications for registration of emission reduction credits** shall be accompanied by the payment of a non-refundable verification fee **in the amount of \$250** payable to the Allegheny County Air Pollution Control Fund. **The amount of the fee shall be set by the Board of Health and approved by Allegheny County Council.** The Department may prepare a form required to be used in providing the notice required by this Section.

4. Failure to provide the timely notice required by this Subsection may cause the affected emission reductions to be unavailable for use as offsets.

~~e. 5.~~ Within 180 days of receipt of a properly completed notice, with the appropriate fee, the Department shall verify the amount of offsets available, if any, setting forth the amount, location, pollutant characteristics, and the creation date of such offsets, and provide notice to the owner or operator of such verification. The owner or operator of the source affected shall provide the Department with all information, and shall bear the cost of such tests, studies, and the like, as are necessary for such verification.

~~f.6.~~ The Department shall then forward such notice and verification to the air quality permitting agency for the Commonwealth of Pennsylvania for registration in the state Emission Reduction Art Credit registry system.

~~g.7.~~ Emission offset credits under this Section shall not be available for use until registered in the state registry system, at which time the existence and availability of such credits becomes subject to the state regulations for registered Emission Reduction Credits promulgated under the Air Pollution Control Act.

b. **Life of Offsets.** Registered offsets shall only be available for use as provided for under the applicable state regulations and §2102.06.b.4 above.

~~h.e.~~ **Transfers.** Registered offsets shall only be transferable as provided for under the applicable state regulations, except that offsets created in Allegheny County or to be used in Allegheny County shall be transferrable to and from 501(c)(3) non-profit corporations and governmental bodies and authorities for the purpose of facilitating the use of such credits.

§2102.09 [Not in SIP]

§2102.10 INSTALLATION PERMIT APPLICATION AND ADMINISTRATION FEES

a. **Installation Permit Application Fee.** On the date that an application for an Installation Permit is submitted under this Part the owner or operator of such source shall submit to the Department, in addition to all other applicable emission and administration fees, an Installation Permit Application Fee in an amount determined under, and in accordance with, the requirements of this Section.

b. **Amount of Application Fees.** The amounts of the application fees required by this Part for Installation Permit Application fees:

1. For any source requiring a Prevention of Significant Deterioration (PSD) permit under this Article, shall be \$15,000;
2. For any source requiring an Installation Permit under this Section which requires the Department to establish a MACT standard for such source, shall be \$5,500;
3. For any source requiring an Installation Permit under this Section and subject to §2102.06 or §2102.07 above involving new major sources and major modifications, but not subject to Paragraph 1 above, shall be \$3,500;
4. For any source requiring an Installation Permit under this Section and subject to an existing NSPS, NESHAP, or MACT standard, but not subject to Paragraph 1 or 2 above, shall be \$1,200;
5. For any source requiring an Installation Permit under this Section but not subject to either Paragraph 1, 2, or 3 above, and for all applications to use general installation permits, shall be \$750.

c. **Annual Installation Permit Administration Fee.** No later than 30 days after the date that an application for an Installation Permit is approved under this Part, and on or before the last day of the month in which such permit application was approved in each year thereafter, during the term of such permit until a subsequent corresponding Operating Permit or amended Operating Permit is properly applied for, the owner or operator of such source shall pay to the Department, in addition to all other applicable emission and administration fees, an Annual Installation Permit Administration Fee in an amount equal to \$750.

d. **Minor Installation Permit Modifications.** Modifications to Installation Permits may be applied for but only upon submission of an application with a fee in the amount of \$200 and where:

1. No reassessment of any control technology determination is required; and

2. No reassessment of any ambient air quality impact is required.

e. **Payment of Fees.** Payment of the required fees under this Part shall be made by check or money order payable to the "Allegheny County Air Pollution Control Fund