

Chapter 127 -- Construction, Modification, Reactivation, and Operation of Sources

Subchapter F. Operating Permit Requirements

§127.401. Scope.

This subchapter is applicable to sources required to obtain an operating permit under the act.

§127.402. General provisions.

(a) A person may not operate a stationary air contamination source unless the Department has issued to the person a permit to operate the source under this article in response to a written application for a permit submitted on forms and containing the information the Department may prescribe.

(b) The Department will provide public notice and the right to comment on each permit prior to issuance or denial and may hold public hearings concerning a permit.

(c) A permit may be issued to an applicant for a stationary air contamination source requiring construction, assembly, installation, reactivation or modification when the requirements of this article related to operating requirements have been met and there has been performed upon the source a test or evaluation which satisfies the Department that the air contamination source will not discharge into the outdoor atmosphere an air contaminant at a rate in excess of that permitted by applicable regulations under this article, or in violation of a performance or emission standard or other requirements established by the EPA or the Department for the source, and will not cause air pollution.

(d) An application, form, report or compliance certification submitted under this subchapter shall contain certification by a responsible official as to truth, accuracy and completeness. This certification and other certification required under this subchapter shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.

§127.403. Permitting of sources operating lawfully without a permit.

(a) A stationary air contamination source operating lawfully without a permit for which fees required by Subchapter I (relating to plan approval and operating permit fees) have been paid is authorized to continue to operate without a permit until 120 days after the Department provides notice to the source that a permit application is required or until November 1, 1996, whichever occurs first.

(b) If the applicant submits a complete permit application within the time frame required by this section and the Department fails to issue a permit through no fault of the applicant, the source may continue to operate if the fees required by Subchapter I have been paid and the

source is operated in conformance with the act, the Clean Air Act and the regulations thereunder.

(c) For a performance or emission standard or other requirement established by the EPA or the Department for the source subsequent to July 9, 1992, but prior to the permit issuance date, the permit may contain a compliance schedule authorizing the source to operate out of compliance and requiring the source to achieve compliance as soon as possible but no later than the time required by the act, the Clean Air Act or the regulations thereunder.

(d) For the purposes of this section, a source is operating lawfully without a permit if it is a source for which no permit was previously required and the source is operating in compliance with applicable regulatory requirements.

§127.404. Compliance schedule for repermitting.

A new permit issued to a source which is operating under a valid permit on July 9, 1992, or which has received a permit subsequent to July 9, 1992, and which is required to meet performance or emission standards or other requirements established subsequent to the issuance of the existing permit, may contain a compliance schedule authorizing the source to continue to operate out of compliance and requiring the source to achieve compliance as soon as possible but no later than the time required by the act, the Clean Air Act or the regulations thereunder.

PERMIT APPLICATIONS.

§127.411. Content of applications.

(a) An application for an operating permit shall:

(1) Identify the location of the source and the name, title, address and telephone number of the individual responsible for the operation of the source.

(2) Contain information that is requested by the Department and is necessary to perform a thorough evaluation of the air contamination aspects of the source.

(3) Include the information contained in the plan approval application.

(4) Demonstrate that:

(i) The source is equipped with reasonable and adequate facilities to monitor and record the emissions of air contaminants and the operating conditions which may affect the emissions of air contaminants.

(ii) The records are being and will continue to be maintained.

(iii) The records will be submitted to the Department at specified intervals or

upon request.

(5) Demonstrate that the source is complying with applicable requirements of this article and requirements promulgated by the Administrator of the EPA under the Clean Air Act.

(6) Demonstrate that the emissions from a new source are the minimum attainable through the use of the best available technology as required by the plan approval.

(7) Demonstrate that the source is not preventing or adversely affecting the attainment or maintenance of ambient air quality standards when requested by the Department.

(8) Contain a plan of action for the reduction of emissions during each level specified in Chapter 137 (relating to air pollution episodes) when required by the Department.

(9) Demonstrate that the provisions of § 127.413 (relating to municipal notification) have been met. The applicant shall submit a copy of the notification letter and proof that the notice was received.

(10) Contain a plan for dealing with air pollution emergencies, when requested by the Department or when required by the Clean Air Act or the regulations adopted under the act or the Clean Air Act.

(11) Demonstrate that the source and the air cleaning devices are being and will be operated and maintained in accordance with good air pollution control practices.

(12) Contain a completed compliance review form or reference the most recently submitted compliance review form for facilities submitting compliance review forms on a periodic basis.

(b) The Department will not approve an application which fails to meet the requirements of subsection (a).

(c) The records, reports or information obtained by the Department or referred to at public hearings shall be available to the public, except as provided in subsection (d).

(d) Upon cause shown by any person that the records, reports or information, or a particular portion thereof, but not emission data, to which the Department has access under the provisions of the act, if made public, would divulge production or sales figures or methods, processes or production unique to that person or would otherwise tend to affect adversely the competitive position of that person by revealing trade secrets, including intellectual property rights, the Department will consider the record, report or information, or particular portion thereof confidential in the administration of the act: The Department will implement this section consistent with sections 112(d) and 114(c) of the Clean Air Act (42 U.S.C.A. §§ 7412(d) and

7414(c)). Nothing in this section prevents the disclosure of the report, record or information to Federal, State or local representatives as necessary for purposes of administration of Federal, State or local air pollution control laws, or when relevant in any proceeding under the act.

§127.412. Compliance review forms.

(a) This section establishes the compliance review procedures applicable during the review of an application for an operating permit, including a general operating permit.

(b) Each applicant for an operating permit shall, as part of the application or on a periodic basis as authorized under subsection (j), submit a compliance review on a form provided by the Department signed by a corporate officer or other responsible official of the facility and containing a verification that the information contained in the application is true and correct to the best of the signatory's belief formed after reasonable inquiry.

(c) The compliance review form shall provide information related to the compliance status of the applicant and related parties including the following:

(1) The name, address, telephone number, taxpayer identification number and plan approval or application number.

(2) The form of management under which the applicant conducts its business and a brief description of the types of business activities performed.

(3) The name and location, including both the address and the municipality and county, telephone number and relationship to the applicant (parent, subsidiary or general partner) of all related parties in this Commonwealth.

(4) The name and business address of the plant manager and general partner of the applicant.

(5) A list of plan approvals and operating permits issued by the Department or the Allegheny County or Philadelphia County air pollution control agencies to the applicant or related parties that are in effect at the time of application or were in effect during the previous 5 years. The list shall include each plan approval and operating permit number, locations and expiration dates.

(6) A list of documented conduct and deviations by the applicant or a related party. The list shall include the date, location, plan approval or operating permit number, nature of the documented conduct or deviation, and the incident status--litigation, existing/continuing, corrected and date of correction. Unless specifically required by the Department, the applicant is not required to report deviations which have been previously reported to the Department in writing under the requirements of this title related to monitoring and reporting requirements.

(d) The applicant shall update the compliance review form if documented conduct or deviations occur from the date of the submission of the application through the date of operating permit issuance.

(e) The Department may establish a supplemental compliance review form that may be used to update information submitted on the compliance review form.

(f) If the Department finds that the applicant or related party has an existing or continuing violation or lacks the intention or ability to comply with the act, or the rules or regulations promulgated under the act, or a plan approval operating permit or order of the Department, as indicated by past or present violations, the Department will attempt to resolve the violations or lack of intention or ability to comply informally.

(g) If the Department is unable to resolve the violation or lack of intention or ability to comply on an informal basis, the Department will place the violation and may place the lack of intention or ability to comply on the compliance docket. The violation or lack of intention or ability to comply shall remain on the compliance docket until it is resolved to the satisfaction of the Department.

(h) An operating permit will not be issued to an applicant or related party if a violation or lack of intention or ability to comply at a source owned or operated by the applicant or a related party appears on the compliance docket.

(i) A permittee or applicant may appeal to the EHB a violation or lack of intention or ability to comply which the Department places on the compliance docket.

(j) Other provisions of this section notwithstanding, a source may, upon approval by the Department, submit the compliance review form required by this section on a periodic basis of not less than once every 6 months. The owners and operators of the facility shall make an election to submit the compliance review information on a periodic basis or as part of the operating permit application with the submission of the first operating permit filed after November 26, 1994, or by making an election in writing by May 26, 1995. The facility may only change the election with the approval of the Department in writing or upon renewal of the first filed permit or a Title V permit.

(k) The owners and operators of the facility shall have reasonable procedures in place to insure that documented conduct and deviations are identified and made part of the compliance review information submitted to the Department.

§127.413. Municipal notification.

The applicant for an operating permit shall notify the local municipality and county where the air pollution source is to be located that the applicant has applied for the operating permit. The

notification shall clearly describe the source and modifications that are to take place. The notice shall state that there is a 30-day comment period which begins upon receipt of the notice by the municipality and county.

§127.414. Supplemental information.

(a) The applicant shall provide additional information as necessary to address requirements that become applicable to the source after the date it files a complete application but prior to the Department taking action on the permit application.

(b) The applicant shall provide supplementary facts or corrected information upon becoming aware that it has submitted incorrect information or failed to submit relevant facts.

(c) Except as otherwise required by this article, the Clean Air Act or the regulations thereunder, the permittee shall submit additional information as necessary to address changes occurring at the source after the date it files a complete application but prior to the Department taking action on the permit application.

(d) The applicant shall submit information requested by the Department which is necessary to evaluate the permit application.

REVIEW OF APPLICATIONS

§127.421. Review of applications.

(a) The Department will determine if an application is complete within 60 days from receipt of the application. An application is complete if it contains sufficient information to begin processing the application, has the applicable sections completed and has been signed by a responsible official.

(b) Except as provided in subsections (c) and (d), the Department will approve or disapprove a complete application within 18 months after the date of receipt of a complete application.

(c) The Department will establish a phased schedule for acting on permit applications received within the first 12 months after the approval from the EPA of the Title V permit program established to implement the Clean Air Act.

(d) The schedule established under subsection (c) shall assure that at least one third of the permit applications will be acted upon by the Department annually over a period not to exceed 3 years.

(e) The submission of a complete application does not affect the requirement to obtain a plan approval as required by this chapter.

§127.422. Denial of permits.

The Department will deny or refuse to revise or renew an operating permit to a source to which one or more of the following applies:

(1) The Department has determined it is likely to cause air pollution or to violate the act, the Clean Air Act or the regulations thereunder applicable to the source.

(2) In the design of the source, provision is not made for adequate verification of compliance, including source testing or alternative means to verify compliance.

(3) The EPA has notified the Department in writing that the permit is not in compliance with the requirements of the Clean Air Act or the regulations thereunder.

(4) The applicant has constructed, installed, modified or operated an air contamination source or installed air pollution control equipment or devices on the source contrary to the plans and specifications approved by the Department.

(5) The applicant or a related party has a violation or lack of intention or ability to comply that is listed on the compliance docket.

§127.423. Notice of basis for certain operating permit decisions.

(a) When the Department refuses to grant an approval or to issue or reissue a permit or to terminate, modify, suspend or revoke an operating permit already issued, the action will be in the form of a written notice to the person affected informing the person of the action taken by the Department and setting forth in the notice a full and complete statement of the reasons for the action.

(b) The notice required by subsection (a) will be served upon the person affected either by hand delivery or by certified mail return receipt requested.

(c) The action set forth in the notice shall be final and not subject to review unless, within 30 days of the service of the notice, a person affected thereby appeals to the EHB setting forth the grounds relied upon.

(d) The EHB will issue an adjudication affirming, modifying or overruling the action of the Department.

§127.424. Public notice.

(a) Except as provided in § 127.462 (relating to minor operating permit modifications), the Department will prepare a notice of action to be taken on applications for an operating permit.

(b) For sources identified in § 127.44(a)(1)--(4) (relating to public notice), the notice required by subsection (a) will be completed and sent to the applicant, the EPA, any state within 50 miles of the facility and any state whose air quality may be affected and that is contiguous to this Commonwealth. The applicant shall, within 10 days of receipt of notice, publish the notice on at least 3 separate days in a prominent place and size in a newspaper of general circulation in the county in which the source is to be located. Proof of the publication shall be filed with the Department within 1 week thereafter. An operating permit will not be issued by the Department if the applicant fails to submit the proof of publication. The Department will publish notice for the sources identified in § 127.44(a), in the Pennsylvania Bulletin.

(c) If the Department denies an operating permit, written notice of the denial will be given to requestors and to the applicant and will be published in the Pennsylvania Bulletin.

(d) In each case, the Department will publish notices required in subsection (a) in the Pennsylvania Bulletin.

(e) The notice will state, at a minimum, the following:

(1) The location at which the application may be reviewed. This location shall be in the region affected by the application.

(2) A 30-day comment period, from the date of publication, will exist for the submission of comments.

(3) Permits issued to sources identified in § 127.44(a)(1)--(4) or permits issued to sources with limitations on their potential to emit used to avoid otherwise applicable Federal requirements may become a part of the SIP and will be submitted to the EPA for review and approval.

§ 127.425. Contents of notice.

The notice required by § 127.424 (relating to public notice) shall include the following:

(1) The name and address of the applicant.

(2) The location and name of the plant or facility at which operation of the source will take place.

(3) The type and quantity of air contaminants being emitted.

(4) A brief description of the conditions being placed in the permit.

(5) A description of the procedures for reaching a final decision on the proposed permit action including the following:

- (i) The ending date of the receipt of written protests.
 - (ii) The procedures for requesting a hearing and the nature of that hearing.
 - (iii) Other procedures by which the public may participate in the final decision.
- (6) The name and telephone number of a person to contact for additional information.
- (7) A statement that a person may object to the operating permit or a proposed condition thereof by filing a written protest with the Department at the appropriate regional offices described in § 121.4 (relating to regional organization of the Department).

§127.426. Filing protests.

- (a) A protest to a proposed action shall be filed with the Department within 30 days of the date that notice of the proposed action was published under § 127.424 (relating to public notice).
- (b) A protest shall include the following:
- (1) The name, address and telephone number of the person filing the protest.
 - (2) An identification of the proposed permit issuance being opposed.
 - (3) A concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based.

§127.427. Consideration of protest.

- (a) A protest alerts the Department to the fact and nature of the objection of the protestant to the proposed action on the application.
- (b) The Department is not required to consider protests filed subsequent to the time designated in § 127.426 (relating to filing protests), but it may consider them if filed prior to issuance of an operating permit.

§127.428. Conferences and hearings.

- (a) Prior to issuing an operating permit, the Department may hold a fact-finding conference or hearing at which the petitioner, and a person who has properly filed a protest under § 127.426 (relating to filing protests) may appear and give testimony. The Department is not required to hold a conference or hearing.
- (b) The applicant, the protestant and other participants will be notified of the time, place and purpose of a conference or hearing, in writing or by publication in a newspaper or the

Pennsylvania Bulletin, unless the Department determines that notification by telephone will be sufficient.

§127.429. Conference or hearing procedure.

(a) Conferences and hearings shall be conducted by a presiding officer.

(b) Except if provided otherwise in the notice or by the presiding officer, conferences and hearings shall be conducted in an informal manner and the rules of evidence are not applicable.

(c) When provided in the notice, a participant may be required to present a written statement, together with exhibits required, at the conference or hearing for the use of the participants. Persons unable to attend the conference or hearing may submit three copies of a written statement and exhibits within 10 days thereafter to the Department.

(d) At the conference or hearing, a participant, may, at his own cost, record the proceedings using a stenographer, tape recorder or other means.

§127.430. Conference or hearing record.

(a) Following the conference or hearing, the presiding officer shall prepare a summary which contains the following:

(1) An identification of the operating permit application and the name of the plant or facility which is being constructed or modified.

(2) The names and addresses of each participant and whom the participant represents.

(3) The substance of the opening and closing statement by the presiding officer.

(4) The substance of the matters discussed or testified to and agreements entered into by the participants.

(5) Other relevant matters to inform the Department of the results of the conference or hearing.

(b) A copy of the summary shall be submitted upon request to each participant in the proceeding. Copies of the summary, together with any transcript of the proceedings, written statements, exhibits and protests will also be placed in the file in the appropriate office in the Department for review by the participants prior to disposition of the operating permit application.

§127.431. Operating permit disposition.

(a) After reviewing a protest or record of a conference or hearing, the Department may take action authorized by this chapter.

(b) A notice of denial or an operating permit will be issued to the applicant. Each protestant who has submitted a comment within the time period in § 127.426 (relating to filing protests) will be notified personally or by mailing a copy of the plan approval disposition to the address set forth in the protest.

(c) The Department will also publish notice of its action in the Pennsylvania Bulletin which will be deemed to be sufficient notice to others.

OPERATING PERMIT CONDITIONS

§127.441. Operating permit terms and conditions.

(a) A permit may contain terms and conditions the Department deems necessary to assure the proper operation of the source.

(b) At a minimum, each permit shall incorporate by reference the emission and performance standards and other requirements of the act, the Clean Air Act or the regulations thereunder.

(c) The operating permit shall incorporate the monitoring, recordkeeping and reporting requirements required by Chapter 139 (relating to sampling and testing) and other monitoring, recordkeeping or reporting requirements of this article and additional requirements related to monitoring, recordkeeping and reporting required by the Clean Air Act and the regulations thereunder including, if applicable, the enhanced monitoring requirements of 40 CFR Part 64 (relating to enhanced monitoring).

(d) The permit shall contain a requirement that the permittee develop an accidental release program consistent with the Clean Air Act and the regulations thereunder.

§127.442. Reporting requirements.

(a) Each source shall submit reports to the Department containing information the Department may prescribe relative to the operation and maintenance of the source.

(b) At a minimum, each permit shall incorporate by reference the reporting requirements of the act, the Clean Air Act or the regulations thereunder applicable to the source.

§127.443. Operating permit requirements.

(a) A person may not cause or permit the operation of a source the construction, modification

or reactivation of which, or the installation of an air cleaning device on which, is subject to § 127.11 (relating to plan approval requirements), unless the Department has issued a permit to operate the source.

(b) The permit shall be issued with the condition that the source shall operate in compliance with the plan approval, the conditions of the plan approval and the conditions of the operating permit. The Department may issue the permit with additional appropriate conditions.

(c) The Department will not issue an operating permit unless the source was constructed in accordance with the plan approval and the conditions of the plan approval.

§127.444. Compliance requirements.

A person may not cause or permit the operation of a source subject to this article unless the source and air cleaning devices identified in the application for the plan approval and operating permit and the plan approval issued to the source are operated and maintained in accordance with specifications in the application and conditions in the plan approval and operating permit issued by the Department. A person may not cause or permit the operation of an air contamination source subject to this chapter in a manner inconsistent with good operating practices.

§127.445. Operating permit compliance schedules.

(a) The Department may issue an operating permit to an existing and operating source that is out of compliance with the act, the Clean Air Act or the regulations thereunder.

(b) An operating permit issued under subsection (a) shall contain an enforceable schedule requiring the source to attain compliance as soon as possible but no later than the date required by the act or the Clean Air Act.

(c) The compliance schedule required by subsection (b) may contain interim milestone dates for completing any phase of the required work, as well as a final compliance date and may contain stipulated penalties for the failure to meet the compliance schedule.

(d) If the permittee fails to achieve compliance by the final compliance date or fails to pay the stipulated penalties for failure to meet an interim compliance date, the permit shall be revoked.

(e) The operating permit shall be part of an overall resolution of the outstanding noncompliance and may include the payment of an appropriate civil penalty for past violations and shall contain other terms and conditions the Department deems appropriate.

(f) An operating permit may incorporate by reference a compliance schedule contained within a consent order and agreement, including provisions related to the implementation or enforcement of the compliance schedule or consent order and agreement.

§127.446. Operating permit duration.

(a) An operating permit issued under this chapter will be issued for a 5-year term unless a shorter term is required to comply with the Clean Air Act or the regulations thereunder or the permittee requests a shorter term.

(b) Notwithstanding subsection (a), a permit for acid deposition control will be issued for a 5-year term.

(c) The terms and conditions of an expired permit are automatically continued pending the issuance of a new permit when the permittee has submitted a timely and complete application and paid the fees required by Subchapter I (relating to plan approval and operating permit fees) and the Department is unable, through no fault of the permittee, to issue or deny a new permit before the expiration of the previous permit. An application is complete if it contains sufficient information to begin processing the application, has the applicable sections completed and has been signed by a responsible official.

(d) Failure of the Department to issue or deny a new permit prior to the expiration date of the previous permit for which a timely renewal application has been filed shall be an appealable action. The EHB may require that the Department take action on an application without delay.

(e) Applications for permit renewals shall be submitted at least 6 and not more than 18 months before expiration of the existing permit.

§127.447. Alternate operating scenarios.

(a) Stationary air contamination sources may make changes at a facility to implement alternate operating scenarios identified in its permit under this section.

(b) A permit issued under this section shall contain terms and conditions for reasonably anticipated operating scenarios determined to be necessary or otherwise identified by the source in its application as approved by the Department. The terms and conditions:

(1) Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating at all times and may require the source to notify the Department at the time it implements the change.

(2) Shall extend the permit shield described in § 127.516 (relating to permit shield) to the terms and conditions under each operating scenario, unless precluded by the Clean Air Act or the regulations thereunder.

(3) Shall ensure and require that the terms and conditions of each alternate scenario

meet applicable requirements of the Clean Air Act, the act and the regulations thereunder.

§127.448. Emissions trading at facilities with Federally enforceable emissions cap.

(a) The owner or operator of a facility with a Federally enforceable emissions cap may trade increases and decreases in emissions between sources with Federally enforceable emissions caps at the permitted facility, when the applicable SIP and this article provide for the emissions trades without requiring a permit revision and when the owner or operator of the facility provides 7 days written notice to the Department prior to the proposed change. This subsection is applicable when the permit does not already provide for the emissions trading.

(b) The written notification required by subsection (a) shall include information required by the SIP and this article authorizing the emissions trade, including at a minimum, when the proposed change will occur, a description of each change, changes in emissions that will occur as a result of the change from any source within the facility, the permit requirements with which the source will comply using the emissions trading provisions of the applicable implementation plan and this article and the air contaminants emitted subject to the emissions trade. The notice shall also refer to the provisions with which the source will comply in the applicable implementation plan and this article that provide for the emissions trade.

(c) Unless precluded by the Clean Air Act or the regulations thereunder, the permit shield described in § 127.516 (relating to permit shield) extends to a change made under this section. Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the SIP and this article authorizing the emissions trade.

(d) If a permit applicant requests it, the Department may issue permits that contain terms and conditions allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with Federally-enforceable emissions caps that are established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The Department will not include in the emissions trading provisions sources for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with applicable requirements.

(1) The facility shall provide 7 days written notice to the Department of the proposed trade.

(2) In addition to the information contained in subsection (b), the notice shall also state how the increases and decreases in emissions will comply with the terms and conditions of the permit.

§127.449. De minimis emission increases.

(a) The Department may allow, as a condition of an operating permit, de minimis emission increases from a new or existing source up to the amounts authorized in this section.

(b) A de minimis increase may not occur at a facility if it would do one or more of the following:

(1) Increase the emissions of a pollutant regulated under section 112 of the Clean Air Act (42 U.S.C.A. § 7412) except as authorized in subsection (d)(4) and (5).

(2) Subject the facility to the permit requirements of Subchapters D and E (relating to prevention of significant deterioration of air quality; and new source review).

(3) Violate an applicable requirement of the act, the Clean Air Act or the regulations promulgated under the act or the Clean Air Act.

(c) The permittee shall provide the Department with 7 days prior written notice of any de minimis emission increase. The notice shall identify and describe the pollutants that will be emitted as a result of the de minimis emissions increase and provide emission rates in tons/year and in terms necessary to establish compliance consistent with any applicable requirement. The Department may disapprove or condition the de minimis emission increase at any time.

(d) Except as provided in subsection (e), the maximum de minimis emission rate increases, as measured in tons/year, that may be authorized in the permit during the term of the permit are one or more of the following:

(1) Four tons of carbon monoxide from a single source during the term of the permit and 20 tons of carbon monoxide at the facility during the term of the permit.

(2) One ton of the NO_x from a single source during the term of the permit and 5 tons of NO_x at the facility during the term of the permit.

(3) One and six-tenths tons of the oxides of sulfur from a single source during the term of the permit and 8.0 tons of the oxides of sulfur at the facility during the term of the permit.

(4) Six-tenths of a ton of PM₁₀ from a single source during the term of the permit and 3.0 tons of PM₁₀ at the facility during the term of the permit. This shall include emissions of a pollutant regulated under section 112 of the Clean Air Act unless precluded by the Clean Air Act, the regulations thereunder or this title.

(5) One ton of VOCs from a single source during the term of the permit and 5 tons of VOCs at the facility during the term of the permit. This shall include emissions of a pollutant regulated under section 112 of the Clean Air Act unless precluded by the Clean Air Act, the regulations thereunder or this title.

(e) The Department may allow, as a condition of an operating permit, installation of the following minor sources:

(1) Air conditioning or ventilation systems not designed to remove pollutants generated by or released from other sources.

(2) Combustion units rated at 2,500,000 or less Btu per hour of heat input.

(3) Combustion units with a rated capacity of less than 10,000,000 Btu per hour of heat input fueled by natural gas supplied by a public utility or by commercial fuel oils which are No. 2 or lighter, viscosity less than or equal to 5.82 c St, and which meet the sulfur content requirements of § 123.22 (relating to combustion units). Combustion units converting to fuel oils which are No. 3 or heavier, viscosity greater than 5.82 c St, or contain sulfur in excess of the requirements of § 123.22 require an operating permit. For the purpose of this section, commercial fuel oil shall be virgin oil which has no reprocessed, recycled or waste material added.

(4) Space heaters which heat by direct heat transfer.

(5) Laboratory equipment used exclusively for chemical or physical analyses.

(f) Unless precluded by the Clean Air Act or the regulations thereunder, the permit shield described in § 127.516 (relating to permit shield) shall extend to changes made under this section.

(g) Emissions authorized under this section shall be included in the monitoring, recordkeeping and reporting requirements of the source.

(h) De minimis emission threshold levels cannot be met by offsetting emission increases or the emission decreases at the same source.

(i) The Department will maintain a list of de minimis increases authorized by this section in the permit file for the facility and shall publish a list of the de minimis increases in the Pennsylvania Bulletin within 60 days of the receipt of notice for the source.

§127.450. Administrative operating permit amendments.

(a) An "administrative permit amendment" is a permit revision that does one or more of the following:

(1) Corrects typographical errors.

(2) Identifies a change in the name, address or phone number of a person identified in the permit, or provides a similar minor administrative change at the source.

(3) Requires more frequent monitoring or reporting by the permittee.

(4) Allows for a change in ownership or operational control of a source if the Department determines that no other change in the permit is necessary, and if a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittee and a compliance review form has been submitted to and the permit transfer has been approved by the Department.

(5) Except when precluded by the Clean Air Act or the regulations, incorporates into an operating permit the requirements from plan approvals including plan approvals issued under Subchapter B (relating to plan approval requirements), Subchapter D (relating to prevention of significant deterioration of air quality) and Subchapter E (relating to new source review) or § 127.35 (relating to maximum achievable control technology standards for hazardous air pollutants) authorized under an EPA-approved program, if the program meets procedural requirements of this chapter.

(b) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Clean Air Act (42 U.S.C.A. §§ 7641 and 7642).

(c) An administrative permit amendment may be made by the Department consistent with the following:

(1) The Department will take no more than 60 days from receipt of a request from the owner or operator of a source for an administrative permit amendment to the Department with a copy to the EPA to take final action on the request, and may incorporate the changes without providing notice to the public or affected states except for permit revisions made under subsection (a)(5).

(2) The Department will submit a copy of the revised permit to the Administrator of the EPA.

(d) Unless precluded by the Clean Air Act or the regulations thereunder, the Department will, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in § 127.516 (relating to permit shield) for administrative permit amendments which meet the relevant requirements of this article.

(e) The Department will take final action on the administrative amendment and publish notice of the final action in the Pennsylvania Bulletin.

(f) Administrative amendments are not authorized for any amendment precluded by the Clean

Air Act or the regulations thereunder from being processed as an administrative amendment.

OPERATING PERMIT MODIFICATIONS

§127.461. Operating permit changes for cause.

An operating permit may be terminated, modified, suspended or revoked and reissued if one or more of the following applies:

(1) The permittee constructs or operates the source subject to the operating permit so that it is in violation of the act, the Clean Air Act, the regulations thereunder, a plan approval, a permit or in a manner that causes air pollution.

(2) The permittee fails to properly or adequately maintain or repair an air pollution control device or equipment attached to or otherwise made a part of the source.

(3) The permittee has failed to submit a report required by the operating permit or an applicable regulation.

(4) The EPA determines that the permit is not in compliance with the Clean Air Act or the regulations thereunder.

§127.462. Minor operating permit modifications.

(a) Stationary air contamination sources and facilities may make minor permit modifications on an expedited basis under this section.

(b) The owner or operator of the facility shall submit to the Department, on a form provided by or approved by the Department, a brief description of the change, the date on which the change is to occur and the proposed language for revising the operating permit conditions proposed to be changed. The form shall be submitted to the Department by hand delivery or certified mail, return receipt requested.

(c) At the time of submission of the application for a minor permit modification, the owner and operator shall notify the municipality where the source or facility is located under section 1905-A of The Administrative Code of 1929 (71 P.S. § 510-5), any state within 50 miles of the location of the source or facility or whose air quality may be affected by the change and the EPA and shall also publish a notice in a local newspaper of general circulation briefly describing the change including a change in actual emissions, of any air contaminant that would occur as a result of the change.

(d) The notice required by subsection (c) shall clearly indicate that a person may comment to the Department and the source or facility concerning the proposed change within 21 days from

the date of submission of the proposed minor permit modification to the Department and the EPA.

(e) The Department will have 21 days in the absence of receipt of public comments and 28 days if public comments are received from receipt of the application for a minor permit modification to seek additional information or to disapprove the change.

(f) The source or facility may make the change subject to subsequent review and final action by the Department and the EPA under one of the following conditions:

(1) After the 21st day following submission under subsection (b) if the Department has received no public objection and does not otherwise object to the change.

(2) After the 28th day following submission under subsection (b) if the Department has received a public objection within 21 days of the submission which the Department determines is not bona fide and the Department does not disapprove the proposed change or require it to be processed as a plan approval or significant modification.

(g) Unless precluded by the Clean Air Act or the regulations thereunder, the permit shield described in § 127.516 (relating to permit shield) shall extend to an operational flexibility change authorized by this section.

(h) The Department will take final action on the proposed change within 60 days of receipt of the complete application for the minor permit modification and, after taking final action, will publish notice of the action in the Pennsylvania Bulletin.

(i) Approval of a minor permit modification for a physical change of minor significance authorized under § 127.14(c)(1) (relating to exemptions) is also approval of the request for minor significance determination for the physical change.

(j) For purposes of this section, a bona fide public objection is one that provides factual or other relevant information that the change does not meet the requirements for a minor modification or that objects to the change because of its impact on air quality.

§127.463. Operating permit revisions to incorporate applicable standards.

(a) The Department will require revisions to an operating permit to incorporate applicable standards or regulations promulgated under the Clean Air Act after the issuance of the permit.

(b) The revisions shall occur as expeditiously as practicable, but not later than 18 months after the promulgation of the standards or regulations.

(c) A revision will not be required if the effective date of the standards or regulations is a date after the expiration of the permit term or if less than 3 years remain in the permit term.

(d) A revision issued under this section shall be treated as a permit renewal if it complies with the act and the regulations promulgated thereunder regarding renewals.

(e) Regardless of whether a revision is required under this section, the permittee shall meet the applicable standards or regulations promulgated under the Clean Air Act within the time frame required by standards or regulations.

§127.464. Transfer of operating permits.

(a) An operating permit may not be transferred from one person to another except in cases of change-of-ownership which are documented and approved to the satisfaction of the Department.

(b) Section 127.412 (relating to compliance review forms) applies to a request to transfer an operating permit.

(c) An operating permit is valid only for that specific source and that specific location of the source as described in the permit.

Subchapter I. Plan Approval and Operating Permit Fees

§127.701. General provisions.

(a) This subchapter establishes fees to cover the direct and indirect costs of administering the air pollution control planning process, operating permit program required by Title V of the Clean Air Act (42 U.S.C.A. §§ 7661--7661f), other requirements of the Clean Air Act, the indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, Compliance Advisory Committee and the Office of Small Business Ombudsman and the costs to support the air pollution control program authorized by the act.

(b) The fees collected shall be deposited into the Clean Air Fund established under section 9.2 of the act (35 P.S. § 4009.2).

(c) Fees collected to implement the requirements of Title V of the Clean Air Act and the Small Business Stationary Source Technical and Environmental Compliance Assistance, Compliance Advisory Committee and the Office of Small Business Ombudsman shall be deposited into a restricted revenue account within the Clean Air Fund.

§127.702. Plan approval fees.

(a) Each applicant for a plan approval shall, as part of the plan approval application, submit the application fee required by this section to the Department.

(b) Except as provided in subsections (c)--(g) a source requiring approval under Subchapter B

(relating to plan approval requirements) shall pay a fee equal to:

- (1) Seven hundred fifty dollars for applications filed during the 1995--1999 calendar years.
- (2) Eight hundred fifty dollars for applications filed during the 2000--2004 calendar years.
- (3) One thousand dollars for applications filed for the calendar years beginning in 2005.

(c) A source requiring approval under Subchapter E (relating to new source review) shall pay a fee equal to:

- (1) Three thousand five hundred dollars for applications filed during the 1995--1999 calendar years.
- (2) Four thousand three hundred dollars for applications filed during the 2000--2004 calendar years.
- (3) Five thousand three hundred dollars for applications filed beginning in 2005.

(d) A source subject to standards adopted under Chapter 122 (relating to national standards of performance for new stationary sources) or to standards adopted under Chapter 124 (relating to national emission standards for hazardous air pollutants) shall pay a fee equal to:

- (1) One thousand two hundred dollars for applications filed during the 1995--1999 calendar years.
- (2) One thousand four hundred dollars for applications filed during the 2000--2004 calendar years.
- (3) One thousand seven hundred dollars for applications filed beginning in 2005.

(e) A source subject to § 127.35(c), (d) or (h) (relating to maximum achievable control technology standards for hazardous air pollutants) shall pay a fee equal to:

- (1) Five thousand five hundred dollars for applications filed during the 1995--1999 calendar years.
- (2) Six thousand seven hundred dollars for applications filed during the 2000--2004 calendar years.
- (3) Eight thousand dollars for applications filed beginning in 2005.

(f) A source requiring approval under Subchapter D (relating to prevention of significant deterioration of air quality) shall pay a fee equal to:

(1) Fifteen thousand dollars for applications filed during the 1995--1999 calendar years.

(2) Eighteen thousand five hundred dollars for applications filed during the 2000--2004 calendar years.

(3) Twenty-two thousand seven hundred dollars for applications filed beginning in 2005.

(g) Except as provided in subsection (h), the source proposing a minor modification of a plan approval, extension of a plan approval, and transfer of a plan approval due to a change of ownership, shall pay a fee equal to:

(1) Two hundred dollars for applications filed during the 1995--1999 calendar years.

(2) Two hundred thirty dollars for applications filed during the 2000--2004 calendar years.

(3) Three hundred dollars for applications filed beginning in 2005.

(h) The modification of a plan approval that includes the reassessment of a control technology determination or of the ambient impacts of the source will not be considered a minor modification of the plan approval.

(i) The Department may establish application fees for general plan approvals and plan approvals for sources operating at multiple temporary locations which will not be greater than the fees established by subsection (b). These fees shall be established at the time the plan approval is issued and will be published in the Pennsylvania Bulletin as provided in §§127.612 and 127.632 (relating to public notice; and review period).

§127.703. Operating permit fees under Subchapter F.

(a) Each applicant for an operating permit, which is not a Title V facility, shall, as part of the operating permit application and as required on an annual basis, submit the fees required by this section to the Department. These fees apply to the extension, modification, revision, renewal and reissuance of each operating permit or part thereof.

(b) The fee for processing an application for an operating permit is:

(1) Two hundred fifty dollars for applications filed during the 1995--1999 calendar years.

(2) Three hundred dollars for applications filed during the 2000--2004 calendar years.

(3) Three hundred seventy-five dollars for applications filed for the calendar years beginning in 2005.

(c) The annual operating permit administration fee is:

(1) Two hundred fifty dollars for applications filed during the 1995--1999 calendar years.

(2) Three hundred dollars for applications filed during the 2000--2004 calendar years.

(3) Three hundred seventy-five dollars for applications filed during the years beginning in 2005.

(d) The Department may establish application fees for general operating permits and operating permits for sources operating at multiple temporary locations which will not be greater than the fees established by this section. These fees shall be established at the time the operating permit is issued and will be published in the Pennsylvania Bulletin as provided in §§127.612 and 127.632 (relating to public notice; and review period).

§127.707. Failure to pay fee.

An air contamination source that fails to pay the fees within the time frame established by the act or by this chapter shall pay a penalty of 50% of the fee amount, plus interest on the fee amount computed in accordance with 26 U.S.C.A. § 6621(a)(2) (relating to determination of rate of interest) from the date the fee was required to be paid. In addition, the source may have its operating permit terminated or suspended. The fee, penalty and interest may be collected following the process for assessment and collection of a civil penalty contained in section 9.1 of the act (35 P.S. § 4009.1).