CHAPTER 123. STANDARDS FOR CONTAMINANTS

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Cross References

This chapter cited in 25 Pa. Code § 77.455 (relating to air pollution control plan); 25 Pa. Code § 77.575 (relating to air resources protection); 25 Pa. Code § 87.66 (relating to air pollution control plan); 25 Pa. Code § 87.137 (relating to air resources protection); 25 Pa. Code § 88.48 (relating to air pollution control plan); 25 Pa. Code § 88.114 (relating to air resources protection); 25 Pa. Code § 88.205 (relating to air resources protection); 25 Pa. Code § 88.317 (relating to air resources protection); 25 Pa. Code § 88.492 (relating to minimum requirements for reclamation and operation

plan); 25 Pa. Code § 89.13 (relating to air pollution control plan); 25 Pa. Code § 89.64 (relating to air resources protection); 25 Pa. Code § 90.44 (relating to air pollution control plan); 25 Pa. Code § 90.149 (relating to air resources protection); 25 Pa. Code § 139.52 (relating to monitoring methods and techniques); and 25 Pa. Code § 139.101 (relating to general requirements).

FUGITIVE EMISSIONS

§ 123.1. Prohibition of certain fugitive emissions.

(a) No person may permit the emission into the outdoor atmosphere of a fugitive air contaminant from a source other than the following:

(1) Construction or demolition of buildings or structures.

(2) Grading, paving and maintenance of roads and streets.

(3) Use of roads and streets. Emissions from material in or on trucks, railroad cars and other vehicular equipment are not considered as emissions from use of roads and streets.

(4) Clearing of land.

(5) Stockpiling of materials.

(6) Open burning operations.

(7) Blasting in open pit mines. Emissions from drilling are not considered as emissions from blasting.

(8) Coke oven batteries, provided the fugitive air contaminants emitted from any coke oven battery comply with the standards for visible fugitive emissions in §§ 123.44 and 129.15 (relating to limitations of visible fugitive air contaminants from operation of any coke oven battery; and coke pushing operations).

(9) Sources and classes of sources other than those identified in paragraphs (1)—(8), for which the operator has obtained a determination from the Department that fugitive emissions from the source, after appropriate control, meet the following requirements:

(i) The emissions are of minor significance with respect to causing air pollution.

(ii) The emissions are not preventing or interfering with the attainment or maintenance of an ambient air quality standard.

(b) An application form for requesting a determination under either subsection (a)(9) or § 129.15(c) is available from the Department. In reviewing these applications, the Department may require the applicant to supply information including, but not limited to, a description of proposed control measures, charac-

teristics of emissions, quantity of emissions and ambient air quality data and analysis showing the impact of the source on ambient air quality. The applicant is required to demonstrate that the requirements of subsections (a)(9) and (c) and § 123.2 (relating to fugitive particulate matter) or of the requirements of § 129.15(c) have been satisfied. Upon such demonstration, the Department will issue a determination, in writing, either as an operating permit condition, for those sources subject to permit requirements under the act, or as an order containing appropriate conditions and limitations.

(c) A person responsible for any source specified in subsections (a)(1)—(7) or (9) shall take all reasonable actions to prevent particulate matter from becoming airborne. These actions include, but not be limited to, the following:

(1) Use, where possible, of water or chemicals for control of dust in the demolition of buildings or structures, construction operations, the grading of roads or the clearing of land.

(2) Application of asphalt, oil, water or suitable chemicals on dirt roads, material stockpiles and other surfaces which may give rise to airborne dusts.

(3) Paving and maintenance of roadways.

(4) Prompt removal of earth or other material from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosion by water, or other means.

(d) The requirements contained in subsection (a) and § 123.2 do not apply to fugitive emissions arising from the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.

Source

The provisions of this § 123.1 adopted September 10, 1971, effective September 11, 1971, 1 Pa.B. 1804; amended March 3, 1972, effective March 20, 1972, 2 Pa.B. 383; amended August 12, 1977, effective August 29, 1977, 7 Pa.B. 2251. Immediately preceding text appears at serial pages (4620) and (24610).

Notes of Decisions

Agency Authority

Although the Department of Environmental Resources under the Air Pollution Control Act (35 P. S. § 4001 et seq.) had been granted specific authority by the Legislature to regulate ''air contamination sources'' producing ''air pollution'' that includes obnoxious odors, nowhere was there any grant of authority to the Public Utility Commission, either directly or indirectly, to regulate air pollution emanating from a public utility. *Country Place Waste Treatment Co. v. Pennsylvania Public Utility Commission*, 654 A.2d 72 (Pa. Cmwlth. 1995).

Application Properly Denied

The Department was required to deny an application for reactivation of beehive coke ovens, regardless of economic consequences, when the application did not provide information which would show that the ovens would meet the limitations applicable to fugitive emissions, and constitutional rights are not violated even though there is no known method to operate beehive coke ovens in compliance with this title. *Rochez Brothers Inc. v. Department of Environmental Resources*, 334 A.2d 790 (Pa. Cmwlth. 1975).

Burden of Proof

Testimony by the environmental group's president that the air was polluted (that is, ''fuming'' resulted from the reaction process used to treat waste at the industrial processors facility) was not credible on the issues relating to the existence or cause of air quality problems as would shift the burden of proof to the Department of Environmental Resources to justify the issuance of the solid waste disposal permit. *Concerned Citizens of Yough, Inc. v. Department of Environmental Resources*, 639 A.2d 1265 (Pa. Cmwlth. 1994).

The Commonwealth need not prove that the fugitive dust emissions in question caused or contributed to a condition of air pollution because the determination that such emissions cause or contribute to a condition of air pollution had already been made at the time the section was promulgated, and the section is reasonably understandable and specific. *Department of Environmental Resources v. Locust Point Quarries, Inc.*, 396 A.2d 1205 (Pa. 1979).

Clearing of Land

Environmental Hearing Board did not err in finding asphalt plant operator's extracting soil down to bedrock to prepare area for blasting was not exempt from ''clearing of land,'' Department of Environmental Protection defined clearing of land as the removal of trees, brush and surface vegetation and not the removal of overburden down to bedrock. *Eureka Stone Quarry v. Dep't of Envtl. Protection*, 957 A.2d 337, 348 (Pa. Cmwlth. 2008).

Construction

Since § 123.2 (relating to fugitive particulate matter) applies only to the nine exemptions listed in (a)(1)—(9), the two sections do not overlap and either one can stand alone as a basis for a violation. *Medusa Corp. v. Department of Environmental Resources*, 415 A.2d 105 (Pa. Cmwlth. 1980).

Criminal Prosecution

To prove a criminal violation of this section, as modified by § 123.13 (relating to processes), scientific evidence must be introduced proving beyond a reasonable doubt that the offensive fugitive emissions exceeded the permissible maximum set forth in § 123.12 (relating to incinerators). *Department of Environmental Resources v. Locust Point Quarries Inc.*, 367 A.2d 392 (Pa. Cmwlth. 1976).

Evidence

To properly challenge the reasonableness of this section, evidence must be presented to establish that the section will not aid in reaching national ambient air quality standards and that the proscribed activity is insignificant as a cause of air pollution. *Department of Environmental Resources v. Locust Point Quarries, Inc.*, 396 A.2d 1205 (Pa. 1979).

A conviction for violation of this section cannot be sustained absent sufficient visual and/or scientific evidence to establish that the quarry dust observed by Department agents was such as to constitute air pollution as defined by the Air Pollution Control Act. *Commonwealth v. Locust Point Quarries Inc.*, 72 Pa. D. & C.2d 700 (1975).

Fugitive Emissions

A fugitive emission is an emission of an air contaminant in a specific manner and it includes particulate matter, sulfur compounds, odor and visible emissions if emitted other than through a flue. *Department of Environmental Resources v. Locust Point Quarries, Inc.*, 396 A.2d 1205 (Pa. 1979).

General Comment

This section was intended to stand alone and be construed independently of § 123.13 (relating to processes). *Department of Environmental Resources v. Locust Point Quarries, Inc.*, 396 A.2d 1205 (Pa. 1979).

Minor Significance

The comment by the Environmental Hearing Board that the operator failed to invoke the ''minor significance'' exception of (a)(9) was proper because the exception existed throughout the relevant time period of 1973 to 1976, and the procedural provisions added by a 1977 amendment were immaterial. *Medusa Corp. v. Department of Environmental Resources*, 415 A.2d 105 (Pa. Cmwlth. 1980).

A rock quarry was not a source of minor significance within the meaning of § 127.14 (relating to exemptions) if nothing in the record supported such a determination and the DER had not so determined. *Mignatti Construction Co., Inc. v. Environmental Hearing Board*, 411 A.2d 860 (Pa. Cmwlth. 1980).

Review

A request for a grace period for compliance with a temporary variance did not have a res judicata effect on a subsequent request for an exemption from emission control requirements under this provision, since there was no identity of the thing sued for. *Bethlehem Steel Corporation v. Department of Environmental Resources*, 390 A.2d 1383 (Pa. Cmwlth. 1978).

On appeal from the Department's refusal to grant applicant permission to reactivate certain coke ovens, if the appellant did not show that the oven would meet the limitations in this title, but showed only the ''dire need'' for the coke to be produced, the scope of review is limited to whether constitutional rights were violated, an error of law committed, or any necessary finding of fact was not supported by the evidence. *Rochez Brothers, Inc. v. Department of Environmental Resources*, 334 A.2d 790 (Pa. Cmwlth. 1975).

Cross References

This section cited in 25 Pa. Code § 77.108 (relating to permit for small noncoal operations); 25 Pa. Code § 121.8 (relating to compliance responsibilities); 25 Pa. Code § 123.2 (relating to fugitive particulate matter); 25 Pa. Code § 123.42 (relating to exceptions); 25 Pa. Code § 129.15 (relating to coke pushing operations); and 25 Pa. Code § 264.521 (relating to design and operating standards).

§ 123.2. Fugitive particulate matter.

A person may not permit fugitive particulate matter to be emitted into the outdoor atmosphere from a source specified in § 123.1(a)(1)—(9) (relating to prohibition of certain fugitive emissions) if the emissions are visible at the point the emissions pass outside the person's property.

Source

The provisions of this § 123.2 adopted September 10, 1971, effective September 11, 1971, 1 Pa.B. 1804; amended March 3, 1972, effective March 20, 1972, 2 Pa.B. 383; amended August 12, 1983, effective August 13, 1983, 13 Pa.B. 2478. Immediately preceding text appears at serial page (60646).

Notes of Decisions

Evidence

Visual evidence that dust emission left quarry property without witness as to the precise moment when fugitive dust escaped from the property was not proper grounds for dismissal of a violation as de minimis. *Scurfield Coal, Inc. v. Commonwealth*, 582 A.2d 694 (Pa. Cmwlth. 1990).

Facility Operations

This section which requires quarry owner to prevent emission into the atmosphere of particulate matter encompasses material stockpiled in both active and inactive operations, since the detriment to the public is the same. *Eureka Stone Quarry, Inc. v. Commonwealth*, 544 A.2d 1129 (Pa. Cmwlth. 1988).

Prevention

Quarry owner has an active duty to prevent particulate matter from visibly escaping into the atmosphere onto another's property, which includes a responsibility to provide an adequate suppression system. *Eureka Stone Quarry, Inc. v. Commonwealth*, 544 A.2d 1129 (Pa. Cmwlth. 1988).

Testimony of an air quality specialist who visited the defendant's quarry and viewed dust blowing into the air from actual stone crushing areas, conveying areas, stockpiles and haulage ways was sufficient to prove defendant caused the prohibited emissions to be emitted into the atmosphere outside of its own property. *Eureka Stone Quarry, Inc. v. Commonwealth*, 544 A.2d 1129 (Pa. Cmwlth. 1988).

This section which requires a quarry owner to prevent emission into the atmosphere of particulate matter encompasses material stockpiled in both active and inactive operations, since the detriment to the public is the same. *Eureka Stone Quarry, Inc. v. Commonwealth*, 544 A.2d 1129 (Pa. Cmwlth. 1988).

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Since this section applies only to the nine exemptions listed in § 123.1(a)(1)—(9) (relating to fugitive emissions), the two sections do not overlap and either one can stand alone as a basis for a violation. *Medusa Corp. v. Department of Environmental Resources*, 415 A.2d 105 (Pa. Cmwlth. 1980).

Cross References

This section cited in 25 Pa. Code § 77.108 (relating to permit for small noncoal operations); 25 Pa. Code § 123.1 (relating to prohibition of certain fugitive emissions); and 25 Pa. Code § 264.521 (relating to design and operating standards).

PARTICULATE MATTER EMISSIONS

§ 123.11. Combustion units.

(a) A person may not permit the emission into the outdoor atmosphere of particulate matter from a combustion unit in excess of the following:

(1) The rate of 0.4 pound per million Btu of heat input, when the heat input to the combustion unit in millions of Btus per hour is greater than 2.5 but less than 50.

(2) The rate determined by the following formula:

$$A = 3.6E^{-0.56}$$

where:

A = Allowable emissions in pounds per million Btus of heat input, and

E = Heat input to the combustion unit in millions of Btus per hour,

when E is equal to or greater than 50 but less than 600.

(3) The rate of 0.1 pound per million Btu of heat input when the heat input to the combustion unit in millions of Btus per hour is equal to or greater than 600.

(b) Allowable emissions under subsection (a) are graphically indicated in Appendix A.

Source

The provisions of this § 123.11 adopted September 10, 1971, effective September 11, 1971, 1 Pa.B. 1804; amended March 3, 1972, effective March 20, 1972, 2 Pa.B. 383.

Notes of Decisions

Impossibility

There is no constitutional prohibition against imposition of civil penalties for failure to comply with technologically impossible standards, since the use of fines to spark technological development is reasonably related to the goal of reducing pollution. *Department of Environmental Resources v. Pennsylvania Power Co.* 416 A.2d 995 (Pa. 1980).

Impossibility of performance is a defense in a contempt proceeding where an order of court ordering a power company to comply with the SO_2 regulations was impossible of performance and where, under the present state of technology, the power company's proposed use of higher smokestacks to control SO_2 emissions was as close as the company could come to compliance with the regulations. *Department of Environmental Resources v. Pennsylvania Power Company*, 316 A.2d 96 (Pa. Cmwlth. 1974).

Substantial Evidence

Substantial evidence of a violation can be supplied by the violator itself and need not be independently produced by the Department. *Department of Environmental Resources v. Pennsylvania Power Company*, 384 A.2d 273 (Pa. Cmwlth. 1978).

Cross References

This section cited in 25 Pa. Code § 121.8 (relating to compliance responsibilities); and 25 Pa. Code § 139.12 (relating to emissions of particulate matter).

§ 123.12. Incinerators.

No person may permit the emission to the outdoor atmosphere of particulate matter from any incinerator, at any time, in such a manner that the particulate matter concentration in the effluent gas exceeds 0.1 grain per dry standard cubic foot, corrected to 12% carbon dioxide.

Source

The provisions of this § 123.12 adopted September 10, 1971, effective September 11, 1971, 1 Pa.B. 1804; amended March 3, 1972, effective March 20, 1972, 2 Pa.B. 383.

Cross References

This section cited in 25 Pa. Code § 121.8 (relating to compliance responsibilities); and 25 Pa. Code § 139.12 (relating to emissions of particulate matter).

§ 123.13. Processes.

(a) Subsections (b) and (c) apply to all processes except combustion units, incinerators and pulp mill smelt dissolving tanks.

(b) No person may permit the emission into the outdoor atmosphere of particulate matter from a process listed in the following table, at any time, either in excess of the rate calculated by the formula in paragraph (2) or in a manner that the concentration of particulate matter in the effluent gas exceeds .02 grains per dry standard cubic foot, whichever is greater:

(1) *Table.*

Process	*Process Factor, F (in pounds per ton)*
Byproduct coke production: pushing operation	1 (coke pushed)
Sole heated nonrecovery coke oven	20 (coal charged/oven)
Carbon black manufacturing	500 (product)
Charcoal manufacturing	400 (product)
Paint manufacturing	.05 (pigment handled)
Phosphoric acid manufacturing	6 (P_2 O_5 produced)
Detergent drying	30 (product)
Alfalfa dehydration	30 (product)
Grain elevators (loading or unloading)	90 (grain)
Grain screening and cleaning	300 (grain)
Grain drying	200 (product)
Meat smoking	.01 (meat)
Ammonium nitrate manufacturing (granulator)	.1 (product)
Ferroalloy production furnace	.3 (product)
Primary iron and/or steel making:	
Iron production	100 (product)
Sintering—windbox	20 (dry solids feed)
Steel production	40 (product)
Scarfing	20 (product)
Primary lead production:	
Roasting	.004 (ore feed)
Sintering—windbox	.2 (sinter)
Lead reduction	.5 (product)
Primary zinc production:	
Roasting	3 (ore feed)
Sintering—windbox	2 (product)
Zinc reduction	10 (product)
Secondary aluminum production:	
Sweating	50 (aluminum product)
Melting and refining	10 (aluminum feed)
Brass and bronze production (melting and refining)	20 (product)
Iron foundry:	
Melting:	

Process	*Process Factor, F (in pounds per ton)*
Five tons per hour and less	150 (iron)
More than five tons per hour	50 (iron)
Sand handling	20 (sand)
Shake-out	20 (sand)
Secondary lead smelting	.5 (product)
Secondary magnesium smelting	.2 (product)
Secondary zinc smelting:	
Sweating	.01 (product)
Refining	.3 (product)
Asphaltic concrete production	6 (aggregate feed)
Asphalt roofing manufacturing: (felt saturation)	.6 (asphalt used)
Portland cement manufacturing:	
Clinker production	150 (dry solids feed)
Clinker cooling	50 (product)
Coal dry-cleaning	2 (product)
Lime calcining	200 (product)
Petroleum refining (catalytic cracking)	40 (liquid feed)
Pressed, blown, and spun glass; glass production melting furnaces	50 (Fill)

(2) *Formula.*

$$A = .76E^{0.42}$$

where:

A = Allowable emissions in pounds per hour.
E = Emission index = F X W pounds per hour.
F = Process factor in pounds per unit, and
W = Production or charging rate in units per hour.

The factor F shall be obtained from the table in paragraph (1). The units for F and W shall be compatible.

(3) *Allowable emissions.* Allowable emissions under this subsection are graphically indicated in Appendix B.

(c) For processes not listed in subsection (b)(1), including, but not limited to, coke oven battery waste heat stacks and autogeneous zinc coker waste heat stacks, the following apply:

(1) *Prohibited emissions.* No person may permit the emission into the outdoor atmosphere of particulate matter from a process not listed in subsection (b)(1) in a manner that the concentration of particulate matter in the effluent gas exceeds any of the following:

(i) .04 grain per dry standard cubic foot, when the effluent gas volume is less than 150,000 dry standard cubic feet per minute.

(ii) The rate determined by the following formula:

$$A = 6000\ E^{-1}$$

where:

A = Allowable emissions in grains per dry standard cubic foot, and

E = Effluent gas volume in dry standard cubic feet per minute,

when E is equal to or greater than 150,000 but less than 300,000.

(iii) .02 grain per dry standard cubic foot, when the effluent gas volume is greater than 300,000 dry standard cubic feet per minute.

(2) *Allowable emissions.* Allowable emissions under this subsection are graphically indicated in Appendix C.

(d) No person may permit the emission into the outdoor atmosphere of particulate matter from kraft and soda pulp mill smelt dissolving tanks in excess of .2 lb/ton black liquor solids—dry basis.

Authority

The provisions of this § 123.13 issued under section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20); and section 5 of the Air Pollution Control Act (35 P. S. § 4005); amended under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.13 adopted September 10, 1971, effective September 11, 1971, 1 Pa.B. 1804; amended March 3, 1972, effective March 20, 1972, 2 Pa.B. 383; amended April 26, 1974, effective May 13, 1974, 4 Pa.B. 824; amended July 25, 1975, effective August 11, 1975, 5 Pa.B. 1916; amended July 23, 1976, effective August 9, 1976, 6 Pa.B. 1730; amended August 12, 1978, effective August 29, 1978, 8 Pa.B. 2251; amended September 26, 1980, effective September 27, 1980, 10 Pa.B. 3788; amended August 12, 1983, effective August 13, 1983, 13 Pa.B. 2478; amended May 6, 1988, effective May 7, 1988, 18 Pa.B. 2102. Immediately preceding text appears at serial pages (84509) to (84511).

Notes of Decisions

Criminal Violation

To prove a criminal violation of § 123.1, as modified by this section, scientific evidence must be introduced proving beyond a reasonable doubt that the offensive fugitive emissions exceeded the permissible maximum set forth in this section. *Department of Environmental Resources v. Locust Point Quarries, Inc.*, 367 A.2d 392 (Pa. Cmwlth. 1976).

Denial of Application

The Department is required to deny an application for reactivation of beehive coke ovens, regardless of economic consequences, when the application does not provide any information which would show that the ovens would meet the limitations applicable to fugitive emissions and constitutional rights are not violated even though there is no known method to operate beehive coke ovens in compliance with the regulations. *Rochez Brothers Inc. v. Department of Environmental Resources*, 334 A.2d 790 (Pa. Cmwlth. 1975).

Failure to Appeal

Where the party is aggrieved by Department order requiring compliance with this section by a certain date, failure to appeal the order bars an attack on the order and the validity of the regulation on which it was predicated in a subsequent enforcement proceeding brought by the Department. *Department of Environmental Resources v. Wheeling-Pittsburgh Steel Corp.*, 348 A.2d 765 (Pa. Cmwlth. 1975); affirmed in part remanded in part; 357 A.2d 320 (Pa. 1977); cert. denied 98 S. Ct. 514 (Pa. 1977).

Process

A quarry operation would appear to be included among those manufacturing processes outlined in this section but this interpretation does not preclude prosecution under another regulation restricting a distinct form of air contamination even though the same sources of contamination and the same contaminant are involved. *Commonwealth v. Locust Point Quarries Inc.*, 72 Pa. D. & C.2d 700 (1975).

A steel corporation which is granted an extension of time for compliance with the standards relating to particulate matter emissions may not attack the validity of the order or the regulations on which it was predicated in a subsequent enforcement proceeding, and the corporation does not have the right to trial by jury even though it seeks declaratory relief in its answer to the enforcement petition. *Department of Environmental Resources v. Wheeling-Pittsburgh Steel Corp.*, 375 A.2d 320 (Pa. Cmwlth. 1977); 348 A.2d 765 (Pa. Cmwlth. 1975).

Scope of Review

On appeal from the Department's refusal to grant applicant permission to reactivate certain coke ovens, where the appellant does not show that the oven would meet the limitations in this title but shows only the ''dire need'' for the coke to be produced, the scope of review is limited to whether constitutional rights were violated, an error of law committed or any necessary finding of fact not supported by the evidence. *Rochez Brothers, Inc. v. Department of Environmental Resources*, 334 A.2d 790 (Pa. Cmwlth. 1975).

Cross References

This section cited in 25 Pa. Code § 121.8 (relating to compliance responsibilities); 25 Pa. Code § 129.15 (relating to coke pushing operations); and 25 Pa. Code § 139.12 (relating to emissions of particulate matter).

§ 123.14. Outdoor wood-fired boilers.

(a) *Applicability*. Beginning on October 2, 2010, this section applies to the following:

(1) A person, manufacturer, supplier or distributor who sells, offers for sale, leases or distributes an outdoor wood-fired boiler for use in this Commonwealth.

(2) A person who installs an outdoor wood-fired boiler in this Commonwealth.

(3) A person who purchases, receives, leases, owns, uses or operates an outdoor wood-fired boiler in this Commonwealth.

(b) *Exemptions.*

(1) This section does not apply to a person, manufacturer, supplier or distributor who sells, offers for sale, leases or distributes in this Commonwealth a non-Phase 2 outdoor wood-fired boiler if the person, manufacturer, supplier or distributor demonstrates the non-Phase 2 outdoor wood-fired boiler is intended for shipment and use outside of this Commonwealth.

(2) Subsections (c), (d) and (e) do not apply to a permanently installed outdoor wood-fired boiler that was installed prior to October 2, 2010, and is transferred to a new owner as a result of a real estate transaction.

(3) A person may not sell, offer for sale, distribute or lease a non-Phase 2 outdoor wood-fired boiler in this Commonwealth unless the outdoor wood-

fired boiler was manufactured, distributed, purchased or leased and received in this Commonwealth before May 31, 2011.

(i) This exemption shall remain in effect until May 31, 2011.

(ii) A non-Phase 2 outdoor wood-fired boiler purchased during the sell-through period must meet the following requirements:

(A) Be installed a minimum of 150 feet from the nearest property line.

(B) Have a permanently attached stack that meets the following requirements:

(I) Extends a minimum of 10 feet above the ground.

(II) Is installed according to the manufacturer's specifications.

(c) *Phase 2 outdoor wood-fired boiler.* Except as provided under subsection (b):

(1) A person may not sell, offer for sale, distribute or install an outdoor wood-fired boiler for use in this Commonwealth unless it is a Phase 2 outdoor wood-fired boiler.

(2) A person may not purchase, lease or receive an outdoor wood-fired boiler for use in this Commonwealth unless it is a Phase 2 outdoor wood-fired boiler.

(d) *Setback requirements for new Phase 2 outdoor wood-fired boilers.* A person may not install a new Phase 2 outdoor wood-fired boiler in this Commonwealth unless the boiler is installed a minimum of 50 feet from the nearest property line.

(e) *Stack height requirements for new Phase 2 outdoor wood-fired boilers.* A person may not install, use or operate a new Phase 2 outdoor wood-fired boiler in this Commonwealth unless the boiler has a permanently attached stack. The stack must meet both of the following requirements:

(1) Extend a minimum of 10 feet above the ground.

(2) Be installed according to the manufacturer's specifications.

(f) *Allowed fuels.* A person that owns, leases, uses or operates an outdoor wood-fired boiler in this Commonwealth shall use only one or more of the following fuels:

(1) Clean wood.

(2) Wood pellets made from clean wood.

(3) Home heating oil, natural gas or propane that:

(i) Complies with all applicable sulfur limits.

(ii) Is used as a starter or supplemental fuel for dual-fired outdoor wood-fired boilers.

(4) Other types of fuel approved in writing by the Department upon receipt of a written request.

(g) *Prohibited fuels.* A person who owns, leases, uses or operates an outdoor wood-fired boiler in this Commonwealth may not burn a fuel or material in that outdoor wood-fired boiler other than those fuels listed under subsection (f).

(h) *Applicable laws and regulatory requirements.* A person may not use or operate an outdoor wood-fired boiler in this Commonwealth unless it complies with applicable Commonwealth, county and local laws and regulations adopted thereunder.

Authority

The provisions of this § 123.14 issued under section 5(a)(1) of the Air Pollution Control Act (35 P.S. § 4005(a)(1).

Source

The provisions of this § 123.14 adopted October 1, 2010, effective October 2, 2010, 40 Pa.B. 5571.

Cross References

This section cited in 25 Pa. Code § 121.1 (relating to definitions).

SULFUR COMPOUND EMISSIONS

§ 123.21. General.

(a) This section applies to sources except those subject to other provisions of this article, with respect to the control of sulfur compound emissions.

(b) No person may permit the emission into the outdoor atmosphere of sulfur oxides from a source in a manner that the concentration of the sulfur oxides, expressed as SO_2, in the effluent gas exceeds 500 parts per million, by volume, dry basis.

Source

The provisions of this § 123.21 adopted September 10, 1971, effective September 11, 1971, 1 Pa.B. 1804; amended March 3, 1972, effective March 20, 1972, 2 Pa.B. 383.

§ 123.22. Combustion units.

(a) *Nonair basin areas*. Combustion units in nonair basin areas must conform with the following:

(1) *General provision*. A person may not permit the emission into the outdoor atmosphere of sulfur oxides, expressed as SO_2, from a combustion unit in excess of the rate of 4 pounds per million Btu of heat input over a 1-hour period, except as provided in paragraph (4).

(2) *Commercial fuel oil.*

(i) Except as specified in subparagraphs (ii) and (iii), a person may not offer for sale, deliver for use, exchange in trade or permit the use of commercial fuel oil in nonair basin areas if the commercial fuel oil contains sulfur in excess of the applicable maximum allowable sulfur content set forth in the following table:

Maximum Allowable Sulfur Content Expressed as Parts per Million (ppm) by Weight or Percentage by Weight

Grades Commercial Fuel Oil (Consistent with ASTM D396)	*Through August 31, 2020*	*Beginning September 1, 2020*
No. 2 and lighter oil	500 ppm (0.05%)	15 ppm (0.0015%)
No. 4 oil	2,500 ppm 0.25%)	2,500 ppm (0.25%)
No. 5, No. 6 and heavier oil	5,000 ppm (0.5%)	5,000 ppm (0.5%)

(ii) Commercial fuel oil that was stored in this Commonwealth by the ultimate consumer prior to September 1, 2020, which met the applicable maximum allowable sulfur content for commercial fuel oil through August 31, 2020, in subparagraph (i) at the time it was stored, may be used by the ultimate consumer in this Commonwealth on and after September 1, 2020.

(iii) The Department may temporarily suspend or increase the applicable maximum allowable sulfur content for a commercial fuel oil set forth in subparagraph (i) if the following occur:

(A) The Department receives a written request at the address specified in subsection (h) for a suspension or increase on the basis that compliant commercial fuel oil is not reasonably available in a nonair basin area. The request must include the following:

(I) The nonair basin county or counties for which the suspension or increase is requested.

(II) The reason compliant commercial fuel oil is not reasonably available.

(III) The duration of time for which the suspension or increase is requested and the justification for the requested duration.

(B) The Department determines that an insufficient quantity of compliant commercial fuel oil is reasonably available in the nonair basin area and that the circumstances leading to the insufficiency are due to events that could not have been reasonably foreseen or prevented and are not due to lack of prudent planning on the part of the transferor of the commercial fuel oil into or within the specified nonair basin area.

(C) The Department approves the request, in writing, prior to the transferor distributing the noncompliant commercial fuel oil into or within the specified nonair basin area.

(iv) The Department will limit a suspension or increase in the applicable maximum allowable sulfur content granted under subparagraph (iii) to the shortest duration in which adequate supplies of compliant commercial fuel

oil can be made reasonably available, but in no case longer than 60 days from the date the Department grants the suspension or increase.

(3) *Equivalency provision.* Paragraph (2) does not apply to a person who uses equipment or a process, or to the owner or operator of an installation where equipment or a process is used, to reduce the sulfur emissions from the burning of a fuel with a higher sulfur content than that specified in paragraph (2). The emissions may not exceed those which would result from the use of commercial fuel oil that meets the applicable maximum allowable sulfur content specified in paragraph (2).

(4) *Solid fossil fuel fired combustion units.* Solid fossil fuel fired combustion units shall conform with the following:

(i) This paragraph applies to solid fossil fuel fired combustion units with a rated capacity greater than or equal to 250 million Btus of heat input per hour.

(ii) The owner of a solid fossil fuel fired combustion unit with a rated capacity of less than 250 million Btu heat input per hour may petition the Department for application of the limitations in this paragraph in lieu of the limitations in paragraph (1). Upon demonstration of installation of continuous monitoring equipment which complies with Chapter 139 (relating to sampling and testing) the Department will grant the petition.

(iii) No person subject to this paragraph may permit the emission into the outdoor atmosphere of sulfur oxides, expressed as SO_2 from a combustion unit in excess of the rates set forth in the following table:

	Allowable Pounds SO_2 per 10^6 Btu Heat Input
Thirty-day running average not to be exceeded at any time	3.7
Daily average not to be exceeded more than 2 days in any running 30-day period	4.0
Daily average maximum not to be exceeded at any time	4.8

(iv) A combustion unit which does not meet the requirements of § 123.25 (relating to monitoring requirements) for installation and operation of continuous SO_2 emission monitoring equipment shall be subject to the provisions of paragraph (1).

(b) *Erie; Harrisburg; York; Lancaster; and Scranton, Wilkes-Barre air basins*. Combustion units in these subject air basins must conform with the following:

(1) *General provision*. A person may not permit the emission into the outdoor atmosphere of sulfur oxides, expressed as SO_2, from a combustion unit in excess of the rate of 4 pounds per million Btu of heat input over a 1-hour period, except as provided in paragraph (4).

(2) *Commercial fuel oil*.

(i) Except as specified in subparagraphs (ii) and (iii), a person may not offer for sale, deliver for use, exchange in trade or permit the use of commercial fuel oil in the subject air basins if the commercial fuel oil contains sulfur in excess of the applicable maximum allowable sulfur content set forth in the following table:

Maximum Allowable Sulfur Content Expressed as Parts per Million (ppm) by Weight or Percentage by Weight

Grades Commercial Fuel Oil (Consistent with ASTM D396)	*Through August 31, 2020*	*Beginning September 1, 2020*
No. 2 and lighter oil	500 ppm (0.05%)	15 ppm (0.0015%)
No. 4 oil	2,500 ppm (0.25%)	2,500 ppm (0.25%)
No. 5, No. 6 and heavier oil	5,000 ppm (0.5%)	5,000 ppm (0.5%)

(ii) Commercial fuel oil that was stored in this Commonwealth by the ultimate consumer prior to September 1, 2020, which met the applicable maximum allowable sulfur content for commercial fuel oil through August 31, 2020, in subparagraph (i) at the time it was stored, may be used by the ultimate consumer in this Commonwealth on and after September 1, 2020.

(iii) The Department may temporarily suspend or increase the applicable maximum allowable sulfur content for a commercial fuel oil set forth in subparagraph (i) if the following occur:

(A) The Department receives a written request at the address specified in subsection (h) for a suspension or increase on the basis that compliant commercial fuel oil is not reasonably available in a subject air basin. The request must include the following:

(I) The subject air basin for which the suspension or increase is requested.

(II) The reason compliant commercial fuel oil is not reasonably available.

(III) The duration of time for which the suspension or increase is requested and the justification for the requested duration.

(B) The Department determines that an insufficient quantity of compliant commercial fuel oil is reasonably available in the air basin and that the circumstances leading to the insufficiency are due to events that could not have been reasonably foreseen or prevented and are not due to lack of prudent planning on the part of the transferor of the commercial fuel oil into or within the air basin.

(C) The Department approves the request, in writing, prior to the transferor distributing the noncompliant commercial fuel oil into or within the air basin.

(iv) The Department will limit a suspension or increase in the applicable maximum allowable sulfur content granted under subparagraph (iii) to the shortest duration in which adequate supplies of compliant commercial fuel oil can be made reasonably available, but in no case longer than 60 days from the date the Department grants the suspension or increase.

(3) *Equivalency provision.* Paragraph (2) does not apply to a person who uses equipment or a process, or to the owner or operator of an installation where equipment or a process is used, to reduce the sulfur emissions from the burning of a fuel with a higher sulfur content than that specified in paragraph (2). The emissions may not exceed those which would result from the use of commercial fuel oil that meets the applicable maximum allowable sulfur content specified in paragraph (2).

(4) *Solid fossil fuel fired combustion units.* Solid fossil fuel fired combustion units shall conform with the following:

(i) This paragraph applies to solid fossil fuel fired combustion units with a rated capacity greater than or equal to 250 million Btus of heat input per hour and to a solid fossil fuel fired combustion unit upon petition to and acceptance by the Department.

(ii) The owner of any solid fossil fuel fired combustion unit with a rated capacity of less than 250 million Btu heat input per hour may petition the Department for application of the limitations in this paragraph in lieu of the limitations in paragraph (1). Upon demonstration of installation of continuous monitoring equipment which complies with Chapter 139, the Department will grant the petition.

(iii) No person may permit the emission into the outdoor atmosphere of sulfur oxides, expressed as SO_2, from a combustion unit, at any time, in excess of the rates set forth in the following table:

	Allowable Pounds SO_2 per 10^6 Btu Heat Input
Thirty-day running average not to be exceeded at any time	3.7
Daily average not to be exceeded more than 2 days in any running 30-day period	4.0
Daily average maximum not to be exceeded at any time	4.8

(iv) A combustion unit which does not meet the requirements of § 123.25 for installation and operation of continuous SO_2 emission monitoring equipment is subject to the provisions of paragraph (1).

(c) *Allentown, Bethlehem, Easton; Reading; Upper Beaver Valley; and Johnstown air basins*. Combustion units in these subject air basins must conform with the following:

(1) *General provision*. A person may not permit the emission into the outdoor atmosphere of sulfur oxides, expressed as SO_2, from a combustion unit in excess of the rate of 3 pounds per million Btu of heat input over a 1-hour period, except as provided in paragraph (4).

(2) *Commercial fuel oil*.

(i) Except as specified in subparagraphs (ii) and (iii), a person may not offer for sale, deliver for use, exchange in trade or permit the use of commercial fuel oil in the subject air basins if the commercial fuel oil contains sulfur in excess of the applicable maximum allowable sulfur content set forth in the following table:

Maximum Allowable Sulfur Content Expressed as Parts per Million (ppm) by Weight or Percentage by Weight

Grades Commercial Fuel Oil (Consistent with ASTM D396)	*Through August 31, 2020*	*Beginning September 1, 2020*
No. 2 and lighter oil	500 ppm (0.05%)	15 ppm (0.0015%)
No. 4 oil	2,500 ppm (0.25%)	2,500 ppm (0.25%)
No. 5, No. 6 and heavier oil	5,000 ppm (0.5%)	5,000 ppm (0.5%)

(ii) Commercial fuel oil that was stored in this Commonwealth by the ultimate consumer prior to September 1, 2020, which met the applicable maximum allowable sulfur content for commercial fuel oil through August 31, 2020, in subparagraph (i) at the time it was stored, may be used by the ultimate consumer in this Commonwealth on and after September 1, 2020.

(iii) The Department may temporarily suspend or increase the applicable maximum allowable sulfur content for a commercial fuel oil set forth in subparagraph (i) if the following occur:

(A) The Department receives a written request at the address specified in subsection (h) for a suspension or increase on the basis that compliant commercial fuel oil is not reasonably available in a subject air basin. The request must include the following:

(I) The subject air basin for which the suspension or increase is requested.

(II) The reason compliant commercial fuel oil is not reasonably available.

(III) The duration of time for which the suspension or increase is requested and the justification for the requested duration.

(B) The Department determines that an insufficient quantity of compliant commercial fuel oil is reasonably available in the air basin and that the circumstances leading to the insufficiency are due to events that could not have been reasonably foreseen or prevented and are not due to lack of prudent planning on the part of the transferor of the commercial fuel oil into or within the air basin.

(C) The Department approves the request, in writing, prior to the transferor distributing the noncompliant commercial fuel oil into or within the air basin.

(iv) The Department will limit a suspension or increase in the applicable maximum allowable sulfur content granted under subparagraph (iii) to the shortest duration in which adequate supplies of compliant commercial fuel oil can be made reasonably available, but in no case longer than 60 days from the date the Department grants the suspension or increase.

(3) *Equivalency provision.* Paragraph (2) does not apply to a person who uses equipment or a process, or to the owner or operator of an installation where equipment or a process is used, to reduce the sulfur emissions from the burning of a fuel with a higher sulfur content than that specified in paragraph (2). The emissions may not exceed those which would result from the use of commercial fuel oil that meets the applicable maximum allowable sulfur content specified in paragraph (2).

(4) *Solid fossil fuel fired combustion units.* Solid fuel fired combustion units shall conform with the following:

(i) This paragraph applies to all solid fossil fuel fired combustion units with a rated capacity greater than or equal to 250 million Btus of heat input per hour and to any solid fossil fuel fired combustion unit upon petition to and acceptance by the Department.

(ii) The owner of a solid fossil fuel fired combustion unit with a rated capacity of less than 250 million Btu heat input per hour may petition the Department for application of the limitations in this paragraph in lieu of the limitations in paragraph (1). Upon demonstration of installation of continuous monitoring equipment which complies with Chapter 139 the Department will grant such petition.

(iii) No person may permit the emission into the outdoor atmosphere of sulfur oxides, expressed as SO_2, from any combustion unit in excess of the rates set forth in the following table:

	Allowable Pounds SO_2 per 10^6 Btu Heat Input
Thirty-day running average not to be exceeded at any time	2.8
Daily average not to be exceeded more than 2 days in any running 30-day period	3.0
Daily average maximum not to be exceeded at any time	3.6

(iv) A combustion unit not meeting the requirements of § 123.25 for installation and operation of continuous SO_2 emission monitoring equipment is subject to the provisions of paragraph (1).

(d) *Allegheny County; Lower Beaver Valley; and Monongahela Valley air basins*. Combustion units in these subject air basins must conform with the following:

(1) *General provision*. A person may not permit the emission into the outdoor atmosphere of sulfur oxides, expressed as SO_2, from a combustion unit in excess of one or more of the following:

(i) The rate of 1 pound per million Btu of heat input, when the heat input to the combustion unit in millions of Btus per hour is greater than 2.5 but less than 50.

(ii) The rate determined by the following formula: $A = 1.7E^{-0.14}$, where: A = Allowable emissions in pounds per million Btu of heat input, and E = Heat input to the combustion unit in millions of Btus per hours when E is equal to or greater than 50 but less than 2,000.

(iii) The rate of 0.6 pounds per million Btu of heat input when the heat input to the combustion unit in millions of Btus per hour is equal to or greater than 2,000.

(2) *Commercial fuel oil*.

(i) Except as specified in subparagraphs (ii) and (iii), a person may not offer for sale, deliver for use, exchange in trade or permit the use of commercial fuel oil in the subject air basins, if the commercial fuel oil contains sulfur in excess of the applicable maximum allowable sulfur content set forth in the following table:

Maximum Allowable Sulfur Content Expressed as Parts per Million (ppm) by Weight or Percentage by Weight

Grades Commercial Fuel Oil (Consistent with ASTM D396)	*Through August 31, 2020*	*Beginning September 1, 2020*
No. 2 and lighter oil	500 ppm (0.05%)	15 ppm (0.0015%)
No. 4 oil	2,500 ppm (0.25%)	2,500 ppm (0.25%)
No. 5, No. 6 and heavier oil	5,000 ppm (0.5%)	5,000 ppm (0.5%)

(ii) Commercial fuel oil that was stored in this Commonwealth by the ultimate consumer prior to September 1, 2020, which met the applicable maximum allowable sulfur content through August 31, 2020, at the time it was stored, may be used by the ultimate consumer in this Commonwealth on and after September 1, 2020.

(iii) The Department may temporarily suspend or increase the applicable maximum allowable sulfur content for a commercial fuel oil set forth in subparagraph (i) if the following occur:

(A) The Department receives a written request at the address specified in subsection (h) for a suspension or increase on the basis that compliant commercial fuel oil is not reasonably available in a subject air basin. The request must include the following:

(I) The subject air basin for which the suspension or increase is requested.

(II) The reason compliant commercial fuel oil is not reasonably available.

(III) The duration of time for which the suspension or increase is requested and the justification for the requested duration.

(B) The Department determines that an insufficient quantity of compliant commercial fuel oil is reasonably available in the air basin and that the circumstances leading to the insufficiency are due to events that could not have been reasonably foreseen or prevented and are not due to lack of prudent planning on the part of the transferor of the commercial fuel oil into or within the air basin.

(C) The Department approves the request, in writing, prior to the transferor distributing the noncompliant commercial fuel oil into or within the air basin.

(iv) The Department will limit a suspension or increase in the applicable maximum allowable sulfur content granted under subparagraph (iii) to the shortest duration in which adequate supplies of compliant commercial fuel oil can be made reasonably available, but in no case longer than 60 days from the date the Department grants the suspension or increase.

(3) *Equivalency provision.* Paragraph (2) does not apply to a person who uses equipment or a process, or to the owner or operator of an installation where equipment or a process is used, to reduce the sulfur emissions from the

burning of a fuel with a higher sulfur content than that specified in paragraph (2). The emissions may not exceed those which would result from the use of commercial fuel oil that meets the applicable maximum allowable sulfur content specified in paragraph (2).

(e) *Southeast Pennsylvania air basin*. Combustion units in the Southeast Pennsylvania air basin must conform with the following:

(1) *General provision*. A person may not permit the emission into the outdoor atmosphere of sulfur oxides, expressed as SO_2, from a combustion unit except as provided in paragraph (3) or (5), in excess of the applicable rate in pounds per million Btu of heat input specified in the following table:

Rated Capacity of Units in 10^6 Btus per hour	*Inner Zone*	*Outer Zone*
Less than 250	1.0	1.2
Greater than or equal to 250	0.6	1.2

(2) *Commercial fuel oil*.

(i) Except as specified in subparagraphs (ii) and (iii), a person may not offer for sale, deliver for use, exchange in trade or permit the use of commercial fuel oil in a combustion unit in the Southeast Pennsylvania air basin if the commercial fuel oil contains sulfur in excess of the applicable maximum allowable sulfur content set forth in the following table:

Maximum Allowable Sulfur Content Expressed as Parts per Million (ppm) by Weight or Percentage by Weight

Grades Commercial Fuel Oil (Consistent with ASTM D396)	*Through August 31, 2020*	*Beginning September 1, 2020*
No. 2 and lighter oil	500 ppm (0.05%)	15 ppm (0.0015%)
No. 4 oil	2,500 ppm (0.25%)	2,500 ppm (0.25%)
No. 5, No. 6 and heavier oil	5,000 ppm (0.5%)	5,000 ppm (0.5%)

(ii) Commercial fuel oil that was stored in this Commonwealth by the ultimate consumer prior to September 1, 2020, which met the applicable maximum allowable sulfur content for commercial fuel oil through August 31, 2020, in subparagraph (i) at the time it was stored, may be used by the ultimate consumer in this Commonwealth on and after September 1, 2020.

(iii) The Department may temporarily suspend or increase the applicable maximum allowable sulfur content for a commercial fuel oil set forth in subparagraph (i) if the following occur:

(A) The Department receives a written request at the address specified in subsection (h) for a suspension or increase on the basis that compliant commercial fuel oil is not reasonably available in the subject air basin. The request must include both of the following:

(I) The reason compliant commercial fuel oil is not reasonably available.

(II) The duration of time for which the suspension or increase is requested and the justification for the requested duration.

(B) The Department determines that an insufficient quantity of compliant commercial fuel oil is reasonably available in the air basin and that the circumstances leading to the insufficiency are due to events that could not have been reasonably foreseen or prevented and are not due to lack of prudent planning on the part of the transferor of the commercial fuel oil into or within the air basin.

(C) The Department approves the request, in writing, prior to the transferor distributing the noncompliant commercial fuel oil into or within the air basin.

(iv) The Department will limit a suspension or increase in the applicable maximum allowable sulfur content granted under subparagraph (iii) to the shortest duration in which adequate supplies of compliant commercial fuel oil can be made reasonably available, but in no case longer than 60 days from the date the Department grants the suspension or increase.

(3) *Noncommercial fuels.* A person may not permit the emission into the outdoor atmosphere of sulfur oxides, expressed as SO_2, from a combustion unit using a noncommercial fuel, in excess of the rate of 0.6 pound per million Btu of heat input in the inner zone or 1.2 pounds per million Btu of heat input in the outer zone.

(4) *Equivalency provision.* Paragraph (2) does not apply to a person who uses equipment or a process, or to the owner or operator of an installation where equipment or a process is used, to reduce the sulfur emissions from the burning of a fuel with a higher sulfur content than that specified in paragraph (2). The emissions may not exceed those which would result from the use of commercial fuel oil that meets the applicable maximum allowable sulfur content specified in paragraph (2).

(5) *Solid fossil fuel fired combustion units.* Solid fossil fuel fired combustion units shall conform with the following:

(i) This paragraph applies to all solid fossil fuel fired combustion units with a rated capacity greater than or equal to 250 million Btus of heat input per hour and to any solid fossil fuel fired combustion unit upon petition to and acceptance by the Department.

(ii) The owner of any solid fossil fuel fired combustion unit with a rated capacity of less than 250 million Btu heat input per hour may petition the Department for application of the limitations in this paragraph in lieu of the limitations in paragraph (1). Upon demonstration of installation of continuous monitoring equipment which complies with Chapter 139, the Department will grant the petition.

(iii) No person may permit the emission into the outdoor atmosphere of sulfur oxides, expressed as SO_2, from any combustion unit in excess of the applicable rate in pounds per million Btu of heat input specified in the following table:

	Rated Capacity of Unit in 10^6 Btus per Hour	
	Less than 250	*Greater than or equal to 250*
Thirty-day running average not to be exceeded at any time		
Inner Zone	0.75	0.45
Outer Zone	0.90	0.90
Daily average not to be exceeded more than 2 days in any running 30-day period		
Inner Zone	1.00	0.60
Outer Zone	1.20	1.20
Daily average maximum not to be exceeded at any time		
Inner Zone	1.20	0.72
Outer Zone	1.44	1.44

(iv) A combustion unit not meeting the requirements of § 123.25 for installation and operation of continuous SO_2 emission monitoring equipment is subject to the provisions of paragraph (1).

(f) *Sampling and testing*.

(1) For the purpose of determining compliance with the requirements of this section, the actual sulfur content of commercial fuel oil shall be determined by one of the following:

(i) In accordance with the sample collection, test methods and procedures specified under § 139.16 (relating to sulfur in fuel oil).

(ii) Other methods developed or approved by the Department or the Administrator of the EPA, or both.

(2) A refinery owner or operator who produces commercial fuel oil intended for use or used in this Commonwealth is required to sample, test and calculate the actual sulfur content of each batch of the commercial fuel oil as specified in paragraph (1).

(3) Prior to offering for sale, delivering for use, exchanging in trade or permitting the use of commercial fuel oil in this Commonwealth, a person other than the ultimate consumer that accepts a shipment of commercial fuel oil from a refinery or other transferor, shall sample, test and calculate the actual sulfur content of the commercial fuel oil in accordance with paragraph (1) if the shipment lacks the record required under subsection (g)(1) that enables the transferee to determine if the sulfur content of the shipment of commercial fuel oil meets the applicable maximum allowable sulfur content.

(g) *Recordkeeping and reporting*.

(1) Beginning with the refinery owner or operator who sells or transfers commercial fuel oil into or within this Commonwealth for use in this Commonwealth and ending with the ultimate consumer, each time the physical custody of, or title to, a shipment of commercial fuel oil changes hands, the transferor shall provide to the transferee an electronic or paper record described in this paragraph. This record must legibly and conspicuously contain the following information:

(i) The date of the sale or transfer.

(ii) The name and address of the transferor.

(iii) The name and address of the transferee.

(iv) The volume of commercial fuel oil being sold or transferred.

(v) The identification of the sulfur content of the shipment of commercial fuel oil, determined using the sampling and testing methods specified in subsection (f)(1), expressed as one of the following statements:

(A) For a shipment of No. 2 and lighter commercial fuel oil:

(I) Prior to September 1, 2020—''The sulfur content of this shipment is 500 ppm or below.''

(II) On and after September 1, 2020—''The sulfur content of this shipment is 15 ppm or below.''

(B) For a shipment of No. 4 commercial fuel oil, ''The sulfur content of this shipment is 2,500 ppm or below.''

(C) For a shipment of No. 5, No. 6 and heavier commercial fuel oil, ''The sulfur content of this shipment is 5,000 ppm or below.''

(vi) The location of the commercial fuel oil at the time of transfer.

(vii) Except for a transfer to a truck carrier, an owner or operator of a retail outlet or an ultimate consumer, the transferor may substitute the information required under subparagraphs (i)—(vi) with the use of a product code if the following are met:

(A) The product code includes the information required under subparagraphs (i)—(vi).

(B) The product code is standardized throughout the distribution system in which it is used.

(C) Each downstream party is given sufficient information to know the full meaning of the product code.

(2) The refinery owner or operator shall do both of the following:

(i) Maintain, in electronic or paper format, the records developed under subsection (f)(2) to determine the actual sulfur content of each batch of the commercial fuel oil.

(ii) Provide electronic or written copies of the records developed under subsection (f)(2) of the actual sulfur content of each batch of the commercial fuel oil to the Department upon request.

(3) The terminal owner or operator shall do both of the following:

(i) Maintain, in electronic or paper format, the applicable records developed under subsection (f)(3) or (g)(1), or both, to establish the maximum sulfur content of the shipment of commercial fuel oil.

(ii) Provide electronic or written copies of the records establishing the maximum sulfur content of the shipment of commercial fuel oil to the Department upon request.

(4) A person subject to this section shall do both of the following:

(i) Maintain the applicable records required under paragraphs (1)—(3) in electronic or paper format for 2 years unless a longer period is required under § 127.511(b)(2) (relating to monitoring and related recordkeeping and reporting requirements).

(ii) Provide an electronic or written copy of the applicable record to the Department upon request.

(5) The ultimate consumer shall maintain in electronic or paper format the record containing the information listed in paragraph (1), except in either of the following situations:

(i) The transfer or use of the commercial fuel oil occurs at a private residence.

(ii) The ultimate consumer is an owner of an apartment or condominium building housing private residents and the transfer or use of the commercial fuel oil occurs for use at the building.

(h) *Written request.* The written request for suspension of or increase in the sulfur content limit on the basis that compliant commercial fuel oil is not reasonably available shall be addressed to the Department of Environmental Protection, Bureau of Air Quality, Chief of the Division of Compliance and Enforcement, P. O. Box 8468, Harrisburg, Pennsylvania 17105-8468.

Authority

The provisions of this § 123.22 issued under section 5 of the Air Pollution Control Act (35 P.S. § 4005); amended under section 5(a)(1) and (8) of the Air Pollution Control Act (35 P.S. § 4005(a)(1) and (8)).

Source

The provisions of this § 123.22 adopted September 10, 1971, effective September 11, 1971, 1 Pa.B. 1804; amended March 3, 1972, effective March 20, 1972, 2 Pa.B. 383; amended August 4, 1978, effective October 1, 1978, 8 Pa.B. 2163; amended April 27, 1979, effective August 1, 1979, 9 Pa.B. 1447; corrected May 11, 1979, effective August 1, 1979, 9 Pa.B. 1534; amended November 7,

1980, effective January 1, 1981, 10 Pa.B. 4296; amended August 20, 1982, effective August 21, 1982, 12 Pa.B. 2787; amended February 8, 2013, effective February 9, 2013, 43 Pa.B. 806; corrected April 19, 2013, effective May 9, 1987, 43 Pa.B. 2140; amended July 24, 2020, effective July 25, 2020, 50 Pa.B. 3714. Immediately preceding text appears at serial pages (365513) to (365520) and (366317 to (366318).

Notes of Decisions

Impossibility

There is no constitutional prohibition against imposition of civil penalties for failure to comply with technologically impossible standards, since the use of fines to spark technological development is reasonably related to the goal of reducing pollution. *Department of Environmental Resources v. Pennsylvania Power Co.*, 416 A.2d 995 (Pa. 1980).

Impossibility of performance is a defense in a contempt proceeding where an order of court ordering a power company to comply with the SO_2 regulations was impossible of performance and where, under the present state of technology, the power company's proposed use of higher smokestacks to control SO_2 emissions was as close as the company could come to compliance with the regulations. *Department of Environmental Resources v. Pennsylvania Power Co.*, 316 A.2d 96 (Pa. Cmwlth. 1974).

Cross References

This section cited in 25 Pa. Code § 121.1 (relating to definitions); 25 Pa. Code § 123.25 (relating to monitoring requirements); 25 Pa. Code § 127.14 (relating to exemptions); 25 Pa. Code § 127.449 (relating to de minimis emission increases); and 25 Pa. Code § 139.16 (relating to sulfur in fuel oil).

§ 123.23. Byproduct coke oven gas.

(a) No person may permit the emission of byproduct coke oven gas into the outdoor atmosphere unless the gas is first burned.

(b) No person may permit the flaring or combustion of a coke oven byproduct gas which contains sulfur compounds, expressed as equivalent hydrogen sulfide, in concentrations greater than 50 grains per 100 dry standard cubic feet. The sulfur compounds, expressed as equivalent hydrogen sulfide, emitted into the outdoor atmosphere from any tail gas sulfur recovery equipment utilized in a coke oven gas desulfurization system approved by the Department shall be included in the determination of these concentrations.

(c) Subsections (a) and (b) do not apply to emissions of coke oven gas from:

(1) An oven which is dampered off:

(i) Prior to and during the pushing operation of the oven.

(ii) Because of some malfunction associated with the oven.

(2) Unavoidable oven leakage occurring during the coking cycle.

(d) Sections 129.12 and 129.13 (relating to sulfuric acid plants; and sulfur recovery plants) may not be applicable to processes operated in conjunction with the desulfurization of byproduct coke oven gas, provided that the standards in this section have been complied with.

Source

The provisions of this § 123.23 adopted September 10, 1971, effective September 11, 1971, 1 Pa.B. 1804; amended March 3, 1972, effective March 20, 1972, 2 Pa.B. 383; amended October 25, 1974, effective November 11, 1974, 4 Pa.B. 2283; amended April 27, 1979, effective August 1, 1979, 9 Pa.B. 1534. Immediately preceding text appears at serial page (38907).

Notes of Decisions

There is no violation of procedural due process where an order to make certain changes in coke oven operations does not place new or increased legal duties on the operator but only redefines and mitigates what had been an immediate, current legal duty under the regulations and a compliance schedule is specified and no variance request is made. *Commonwealth v. Crucible Inc.*, 65 Pa. D. & C.2d 151 (1973).

§ 123.24. Primary zinc smelters.

(a) No person may permit the emission into the outdoor atmosphere of sulfur oxides from any zinc roasting operation in such a manner that the concentration of sulfur oxides, expressed as SO_2, in the effluent gas exceeds 500 parts per million by volume, dry basis, calculated as a 2-hour moving average.

(b) No person may permit the emission into the outdoor atmosphere of sulfur oxides from any zinc sintering operation in excess of the rate calculated by the following formula:

$Y = 0.054X$,

Where:

X = Calcine feed rate to the sinter plant (lbs/hr); and

Y = Allowable sulfur oxide emissions (lbs/hr).

Source

The provisions of this § 123.24 adopted July 25, 1975, effective August 11, 1975, 5 Pa.B. 1916.

§ 123.25. Monitoring requirements.

(a) This section applies to the following:

(1) Combustion units specified in § 123.22(a)(4), (b)(4), (c)(4) or (e)(5) (relating to combustion units).

(2) Fossil fuel—fired steam generators of greater than 250 million Btus per hour of heat input which has installed sulfur dioxide pollutant control equipment.

(3) Sulfuric acid plants of greater than 300 tons per day production capacity, the production being expressed as 100% acid.

(b) A source subject to this section shall install, operate and maintain continuous SO_2 monitoring systems in compliance with Chapter 139 Subchapter C (relating to requirements for continuous in-stack monitoring for stationary sources). Results of emission monitoring shall be submitted to the Department on a regular basis in compliance with Chapter 139 Subchapter C.

(c) Continuous SO_2 monitoring systems installed under this section shall meet the minimum data availability requirements in Chapter 139 Subchapter C.

(d) The following are alternative monitoring systems:

(1) The Department will allow sources specified in subsection (a)(1) to utilize sulfur-in-fuel sampling programs in lieu of the requirements of subsection (b). These programs shall meet the requirements of Chapter 139 Subchapter C.

(2) The Department may exempt a source from the requirements of subsection (b) if the Department determines that the installation of a continuous emission monitoring system would not provide accurate determination of emissions or that installation of a continuous emission monitoring system cannot be implemented by a source due to physical plant limitations or to extreme economic reasons. The Department will require an exempted source to fulfill alternative emission monitoring and reporting requirements.

(e) The Department may use the data from the SO_2 monitoring devices or from the alternative monitoring systems required by this section to enforce the emission limitations for SO_2 defined in this article.

(f) Compliance with this section shall be obtained no later than 18 months after the effective date of the listing of any source identified in subsection (a). The Department may grant orders providing reasonable extension of time for sources that have made good faith efforts to install, operate and maintain continuous monitoring devices, but that have been unable to complete the operations within the time period provided.

(g) The Department may use the data from the SO_2 monitoring systems or from the alternative monitoring systems required by this section to determine compliance with the applicable emission limitations for SO_2 established in this article.

Authority

The provisions of this § 123.25 issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Source

The provisions of this § 123.25 adopted April 27, 1979, effective August 1, 1979, 9 Pa.B. 1447; amended April 27, 1979, effective August 1, 1979, 9 Pa.B. 1534; amended June 19, 1981, effective June 20, 1981, 11 Pa.B. 2132; amended October 26, 1990, effective October 27, 1990, 20 Pa.B. 5416. Immediately preceding text appears at serial pages (136379) to (136380).

Cross References

This section cited in 25 Pa. Code § 123.22 (relating to combustion units); and 25 Pa. Code § 139.104 (relating to sulfur dioxide and nitrogen oxides monitoring requirements for combustion sources).

ODOR EMISSIONS

§ 123.31. Limitations.

(a) Limitations are as follows:

(1) If control of malodorous air contaminants is required under subsection (b), emissions shall be incinerated at a minimum of 1200°F for at least 0.3 second prior to their emission into the outdoor atmosphere.

(2) Techniques other than incineration may be used to control malodorous air contaminants if such techniques are equivalent to or better than the required incineration in terms of control of the odor emissions and are approved in writing by the Department.

(b) A person may not permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source, in such a manner that the malodors are detectable outside the property of the person on whose land the source is being operated.

(c) The prohibition in subsection (b) does not apply to odor emissions arising from the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.

Source

The provisions of this § 123.31 adopted September 10, 1971, effective September 11, 1971, 1 Pa.B. 1804; amended March 3, 1972, effective March 20, 1972, 2 Pa.B. 383; amended August 12, 1977, effective August 29, 1977, 7 Pa.B. 2251; amended August 12, 1983, effective August 13, 1983, 13 Pa.B. 2478. Immediately preceding text appears at serial page (75541).

Notes of Decisions

Compliance

The Department of Environmental Resources was required to deny an application for reactivation of beehive coke ovens, regardless of economic consequences, when the application did not provide any information which would show that the ovens would meet the limitations applicable to fugitive emissions and constitutional rights were not violated even though there was no known method to operate beehive coke ovens in compliance with this title. *Rochez Brothers, Inc. v. Department of Environmental Resources*, 334 A.2d 790 (Pa. Cmwlth. 1975).

Review

On appeal from the Department of Environmental Resources' refusal to grant an applicant permission to reactivate certain coke ovens, where the appellant did not show that the oven would meet the limitations in this title, but showed only the ''dire need'' for the coke to be produced, the scope of review was limited to whether constitutional rights were violated, an error of law committed or any necessary finding of fact not supported by the evidence. *Rochez Brothers, Inc. v. Department of Environmental Resources*, 334 A.2d. 790 (Pa. Cmwlth. 1975).

Cross References

This section cited in 25 Pa. Code § 271.902 (relating to permits and direct enforceability).

VISIBLE EMISSIONS

§ 123.41. Limitations.

A person may not permit the emission into the outdoor atmosphere of visible air contaminants in such a manner that the opacity of the emission is either of the following:

(1) Equal to or greater than 20% for a period or periods aggregating more than 3 minutes in any 1 hour.

(2) Equal to or greater than 60% at any time.

Source

The provisions of this § 123.41 adopted September 10, 1971, effective September 11, 1971, 1 Pa.B. 1804; amended March 3, 1972, effective March 20, 1972, 2 Pa.B. 383.

Notes of Decisions

Denial of Application

On appeal from the Department's refusal to grant applicant permission to reactivate certain coke ovens, where the appellant does not show that the oven would meet the limitations in this title, but shows only the ''dire need'' for the coke to be produced, the scope of review is limited to whether constitutional rights were violated, an error of law committed or any necessary finding of fact not supported by the evidence. *Rochez Brothers, Inc. v. Department of Environmental Resources*, 334 A.2d 790 (Pa. Cmwlth. 1975).

The Department is required to deny an application for reactivation of beehive coke ovens, regardless of economic consequences, when the application does not provide any information which would show that the ovens would meet the limitations applicable to fugitive emissions, and constitutional rights are not violated even though there is no known method to operate beehive coke ovens in compliance with the regulations. *Rochez Brothers, Inc. v. Department of Environmental Resources*, 334 A.2d 790 (Pa. Cmwlth. 1975).

Due Process

There is no violation of procedural due process where an order to make certain changes in coke oven operations does not place new or increased legal duties on the operator but only redefines and mitigates what had been an immediate, current legal duty under the regulations and a compliance schedule is specified and no variance request is made. *Commonwealth v. Crucible, Inc.*, 65 Pa. D. & C.2d 151 (1973).

Failure to Appeal

Where the party is aggrieved by the Department order requiring compliance with 25 Pa. Code § 123.41 (relating to limitations), by a certain date, failure to appeal such order bars an attack on the order and the validity of the regulation on which it was predicated, in a subsequent enforcement proceeding brought by the Department. *Department of Environmental Resources v. Wheeling-Pittsburgh Steel Corporation*, 348 A.2d 765 (Pa. Cmwlth. 1975); affirmed in part remanded in part; 357 A.2d 320 (Pa. 1977); cert. denied 98 S. Ct. 514 (Pa. 1977).

Validity of Order

A steel corporation which is granted an extension of time for compliance with the standards relating to particulate matter emissions may not attack the validity of the order or the regulations on which it was predicated in a subsequent enforcement proceeding, and the corporation does not have the right to trial by jury even though it seeks declaratory relief in its answer to the enforcement petition. *Department of Environmental Resources v. Wheeling-Pittsburgh Steel Corporation*, 348 A.2d 765 (Pa. Cmwlth. 1975).

Cross References

This section cited in 25 Pa. Code § 121.8 (relating to compliance responsibilities); 25 Pa. Code § 123.42 (relating to exceptions); 25 Pa. Code § 123.45 (relating to alternative opacity limitations); and 25 Pa. Code § 264.345 (relating to operating requirements).

§ 123.42. Exceptions.

The limitations of § 123.41 (relating to limitations) shall not apply to a visible emission in any of the following instances:

(1) When the presence of uncombined water is the only reason for failure of the emission to meet the limitations.

(2) When the emission results from the operation of equipment used solely to train and test persons in observing the opacity of visible emissions.

(3) When the emission results from sources specified in § 123.1 (a)(1)—(9) (relating to prohibition of certain fugitive emissions).

(4) When arising from the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.

Source

The provisions of this § 123.42 adopted September 10, 1971, effective September 11, 1971, 1 Pa.B. 1804; amended March 3, 1972, effective March 20, 1972, 2 Pa.B. 383; amended August 12, 1977, effective August 29, 1977, 7 Pa.B. 2251. Immediately preceding text appears at serial page (30967).

§ 123.43. Measuring techniques.

Visible emissions may be measured using either of the following:

(1) A device approved by the Department and maintained to provide accurate opacity measurements.

(2) Observers, trained and qualified to measure plume opacity with the naked eye or with the aid of devices approved by the Department.

Cross References

This section cited in 25 Pa. Code § 264.345 (relating to operating requirements).

§ 123.44. Limitations of visible fugitive air contaminants from operation of any coke oven battery.

(a) A person may not permit the operation of a coke oven battery in a manner that visible fugitive air contaminants are emitted in excess of the emissions allowed by the following limitations:

(1) The following open charging limitation applies to existing batteries listed in § 121.1 (relating to definitions). The following closed charging limitation applies to any existing battery on which a closed charging system is installed:

(i) *Open charging.* At no time may the aggregated times of visible open charging emissions during any four consecutive charges equal more than 75 seconds.

(ii) *Closed charging.* At no time may there be closed charging emissions during more than one charge out of any ten consecutive charges.

(2) At no time may door area emissions from any coke oven exceed 40% opacity 15 minutes or longer after the last charge to that oven.

(3) At no time may there be any visible door area emissions from more than 10% of the door area of operating coke ovens, excluding the two-door area representing the last oven charged on any battery and any door areas obstructed from view.

(4) At no time may there be visible topside emissions from more than 2.0% of the charging port seals on operating coke ovens in any battery, excluding visible emissions from no more than three ovens which may be dampered off.

(5) At no time may there be topside emissions from more than 5.0% of the offtake piping on operating coke ovens in any battery, excluding visible emissions from open standpipe caps on no more than three ovens which may be dampered off.

(6) At no time may there be topside emissions from any point on the topside other than allowed emissions from charging port seals and offtake piping under paragraphs (4) and (5).

(7) At no time may there be visible emissions from the coke oven gas collector main.

(b) The following techniques shall be used for measuring and recording visible fugitive air contaminants from a coke oven battery:

(1) Observations of open and closed charging emissions shall be made from any point or points on the topside of a coke oven battery from which an observer can obtain an unobstructed view of the charging operation. The observer shall determine and record the total number of seconds that charging emissions are visible during the charging of coal to the coke oven. The observer shall time the visible charging emissions with a stopwatch while observing the charging operation. Simultaneous emissions from more than one emission point shall be timed and recorded as one emission and may not be added individually to the total time. Open charging emissions may not include any emissions observed after all the charging port covers have been firmly seated following the removal of the larry car, such as emissions occurring when a cover is temporarily removed to permit the sweep-in of spilled coal. The total number of seconds of visible emissions observed, clock time for the initiation and completion of the charging operation, battery identification, and oven number for each charge shall be recorded by the observer. In the event that observations of emissions from a charge are interrupted due to events beyond the control of observer, the data from that charge shall be invalidated and the observer shall note on his observation sheet the reason for invalidating the data.

The observer shall then resume observation of the next consecutive charge or charges, and continue until he has obtained a set of four charges for comparison with the emission standard. Compliance with subsection (a)(1) shall be determined by summing the seconds of charging emissions observed during each of the four charges.

(2) Observations of door area emissions for the purpose of determining compliance with subsection (a)(2) shall be made at a point above the top of the door but below the battery top, or at the top of any local door area emission control hood. The observer shall place himself no less than 25 feet from the face of the door in a location where his view of the door area is unobstructed.

(3) Observations of door area emissions for determining compliance with subsection (a)(3) shall be made from a minimum distance of 25 feet from each door. Each door area shall be observed in sequence for only that period necessary to determine whether or not, at the time, there are visible emissions from any point on the door area while the observer walks along the side of the battery. If the observer's view of a door area is more than momentarily obstructed, for example, by door machinery, pushing machinery, coke guide, luter truck or opaque steam plumes, he shall record the door area obstructed and the nature of the obstruction and continue the observations with the next door area in sequence which is not obstructed. The observer shall continue this procedure along the entire length of the battery for both sides and shall record the battery identification, battery side and oven door identification number of each door area exhibiting visible emissions. Before completing the observation of door area emissions, the observer shall attempt to reobserve the obstructed doors. Compliance with subsection (a)(3) shall be calculated by application of the following formula, which excludes two door areas representing the last oven charged from the numerator and obstructed door areas from the denominator:

$$\frac{\text{(No. of door areas with visible emissions)} - 2}{\text{(No. of door areas on operating ovens in the battery)} - \text{(No. of door areas obstructed from view)}} \times (100) = 10\% \text{ or less.}$$

(4) Observations of visible emissions from a coke oven topside, other than emissions from the topside defined as open or closed charging emissions or pushing emissions, shall be made and recorded during the time an observer walks the topside of a battery from one end to the other, positioning himself near the center line. During the traverse, the observer may stray from near the center line of the battery and walk as close to the offtake piping as is necessary to determine whether an observed emission is emanating from the offtake piping. Each oven shall be observed in sequence. The observer shall record the

battery identification, the points of topside emission from each oven, the oven number and whether an oven was dampered off. Compliance with subsection (a)(4) shall be determined by application of the following formula:

$$\frac{\text{(No. of charging ports with visible emissions)} - \text{(No. of charging ports with visible emissions on dampered off ovens, not to exceed three ovens)}}{\text{(No. of charging ports on operating ovens)} - \text{(No. of charging ports on dampered off ovens, not to exceed three ovens)}} \times (100) = 2\% \text{ or less.}$$

Compliance with subsection (a)(5) shall be determined by application of the following formula:

$$\frac{\text{(No. of off-take piping with visible emissions)} - \text{(No. of off-take piping with visible emissions on dampered off ovens, not to exceed 3 ovens)}}{\text{(No. of off-take piping on operating ovens)} - \text{(No. of off-take piping on dampered off ovens, not to exceed 3 ovens)}} \times (100) = 5\% \text{ or less.}$$

Authority

The provisions of this § 123.44 issued under section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20); and section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.44 adopted August 12, 1977, effective December 31, 1977, 7 Pa.B. 2251; corrected November 4, 1977, effective December 31, 1977, 7 Pa.B. 3260; amended August 12, 1983, effective August 13, 1983, 13 Pa.B. 2478; amended December 26, 1997, effective December 27, 1997, 27 Pa.B. 6804. Immediately preceding text appears at serial pages (215785) to (215788).

Cross References

This section cited in 25 Pa. Code § 123.1 (relating to prohibition of certain fugitive emissions); and 25 Pa. Code § 129.16 (relating to door maintenance, adjustment and replacement practices).

§ 123.45. Alternative opacity limitations.

(a) *Coverage.* Coverage shall comply with the following:

(1) This section applies to a source:

(i) That is covered under § 123.41 (relating to limitations) and is also covered by an emission limitation in the form of a mass rate or a stack gas concentration or a fuel requirement.

(ii) That is not a fugitive air contaminant.

(iii) For which the mass rate or concentration can be determined:

(A) Using techniques specified in §§ 139.11—139.16.

(B) By any other method approved by the Department that is consistent with accepted air pollution testing practices and with obtaining accurate results that are representative of the conditions evaluated.

(2) Appendix D presents the applicability of this section for various emission limitation formats.

(b) *Procedure for application.* The procedure for application shall comply with the following:

(1) The owner or operator of a source may request the Department to determine the opacity of emissions from the source during a demonstration of compliance with the applicable mass rate standard or stack gas concentration standard or fuel requirement. The request must be made in the form of a plan approval application under Chapter 127 Subchapter A (relating to general).

(2) The owner or operator shall provide for any test the Department deems necessary for determining compliance with the applicable emission limitation.

(3) The owner or operator shall provide sufficient notification to the Department so that the proposed test methods may be reviewed and approved by the Department. No test will be considered by the Department for the purpose of establishing an alternative opacity limitation unless the test methods have been first approved by the Department and a trained and qualified observer is present during the test.

(c) *Eligibility.* A source shall be eligible for an alternative opacity limitation (AOL) if the following conditions are met:

(1) The Department finds that the source is in compliance with this article except § 123.41. The Department will specify the method of demonstrating compliance.

(2) During the time the determination of compliance and AOL is conducted, the source fails to meet any applicable opacity limitation.

(3) The Department finds:

(i) That the source has not discontinued measures to minimize opacity of emissions, within the bounds of good engineering and good economic practice.

(ii) That the source and associated air pollution control equipment are operated and maintained in a manner to minimize the opacity of emissions, within the bounds of good engineering and good economic practice.

(4) The demonstration of compliance and the alternative opacity tests are performed under the conditions established by the Department.

(5) The Department determines that the AOL would not create or contribute to a public nuisance nor cause air pollution as defined under the act.

(d) *Level of the alternative standard.* The Department will set the AOL at the opacity levels measured during the performance test, even if the emissions were substantially less than those allowed under the regulations or permit conditions of the Department. The Department will enter the AOL as a condition of the operating permit of the source.

(e) *Operating conditions.* The Department will specify the operating conditions under which the determination of compliance and AOL will be made. The conditions must be based on technical knowledge of the process concerning normal operation and the effects of deviations from normal operations.

(f) *Timing of test.* The Department will specify the day, time of day and time of year for conducting the determination of compliance and AOL where these factors may substantially affect the determination of source opacity. Where the source exhibits high opacity only under certain specified conditions or during certain times, the Department may limit the applicability of the AOL to operation during those conditions or times. These conditions or times must be specified in the permit.

(g) *Continuous monitoring.* Continuous monitoring shall consist of the following:

(1) A source that requests an AOL must install, operate and maintain a continuous opacity monitor before the determination of compliance and AOL is made.

(2) The Department will use the data from the monitor during the determination of compliance and AOL to set the AOL. After the AOL is entered on the operating permit of the source, the Department will use the data from the monitor to enforce the AOL.

(3) The Department may exempt a source from the requirement of paragraph (1) if the Department determines that the monitor would not give representative opacity readings for that source. The Department may require an exempted source to:

(i) Use trained and qualified observers to measure the opacity.

(ii) Monitor and report operating parameters of the process and of air pollution control equipment.

(iii) Perform such activities on a specified schedule maintaining relevant records for inspection by the Department.

(h) *Granting and quantifying the AOL.* Granting and quantifying the AOL include the following:

(1) The Department will issue a permit establishing the AOL for the source or will deny the application for plan approval if the Department determines that the source is not eligible for, or entitled to, an AOL.

(2) The Department will use the procedure of §§ 139.17 and 139.18 (relating to general requirements; and calculation of alternative opacity limitations) to quantify the AOL.

(i) *Special situations.* Special situations include the following:

(1) For sources that make several products of varying opacity-producing capabilities, the Department may establish an overall AOL independent of the product. The Department may, however, establish a separate AOL for each product where the Department determines that the opacities from the products

differ to such an extent that enforcement of the mass rate standard or stack gas concentration standard or fuel requirement may be hampered with only one AOL.

(2) For cases in which several processes vent to a single stack, the Department will set an AOL at the opacity level produced after each process is determined to be in compliance with the appropriate mass rate standard or stack gas concentration standard or fuel requirement.

(j) *Revocation of AOL.* Revocation of AOL shall be as follows:

(1) The Department may revoke a source's AOL if the Department determines that:

(i) The source is not in compliance with this article.

(ii) The source has discontinued measures to minimize opacity of emissions, within the bounds of good engineering and good economic practice.

(iii) The plume opacity of the source creates or contributes to a public nuisance or causes air pollution as defined under the act.

(2) If the Department revokes a source's AOL, the opacity of the source will be regulated by § 123.41. The Department may reinstate a revoked AOL if it determines that the conditions which caused the revocation no longer exist.

(k) *Maintenance of continuous monitor; reestablishment of AOL.* Reestablishment of an AOL shall be as follows:

(1) The Department may require the owner or operator of a source with an approved AOL and a continuous opacity monitor to do any or all of the following if a trained observer of the Department determines that the source is violating an AOL:

(i) Adjust or replace the continuous opacity monitor.

(ii) Retest opacity with monitor and trained and qualified observer.

(iii) Perform a test to determine compliance with the appropriate mass rate standard or stack gas concentration standard or fuel requirement.

(2) For a source with an AOL established by use of a continuous opacity monitor, the Department may establish a new AOL based on opacity readings by a trained and qualified observer if:

(i) The Department determines that the source complies with the applicable mass rate standard or stack gas concentration standard or fuel requirement.

(ii) The trained and qualified observer of the Department notifies the source that it does not comply with the existing AOL.

(iii) The data from the continuous opacity monitor indicate that the source complies with the existing AOL.

Authority

The provisions of this § 123.45 issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Source

The provisions of this § 123.45 adopted June 19, 1981, effective June 20, 1981, 11 Pa.B. 2132.

Cross References

This section cited in 25 Pa. Code § 139.17 (relating to general requirements); and 25 Pa. Code § 139.18 (relating to calculation of alternative opacity limitations).

§ 123.46. Monitoring requirements.

(a) The following sources are subject to this section:

(1) Fossil fuel-fired steam generators with an annual average capacity factor of greater than 30%, as demonstrated to the Department by the owner or operator, and of greater than 250 million Btu per hour heat input except where:

(i) Natural gas is the only fuel burned.

(ii) Oil or a mixture of gas and oil are the fuels burned and the source is able to comply with the applicable particulate matter and opacity regulations without utilization of particulate matter collection equipment and the source has not been found, within the 5 years previous to the applicability of this section, through any administrative or judicial proceedings to be in violation of any visible emissions standard.

(2) Catalyst regenerators for fluid bed catalytic cracking units at petroleum refineries, if the unit is of greater than 20,000 barrels per day fresh feed capacity.

(b) All sources subject to the provisions of this section shall install, operate and maintain continuous opacity monitoring devices in compliance with Chapter 139, Subchapter C (relating to requirements for continuous in-stack monitoring for stationary sources). Results of opacity monitoring shall be submitted to the Department on a regular basis in compliance with the requirements of Chapter 139, Subchapter C.

(c) The Department may exempt a source from the requirements of subsection (b) if the Department determines that the installation of a continuous emission monitoring system would not provide accurate determination of emissions or that installation of a continuous emission monitoring system may not be implemented by a source due to physical plant limitations or to extreme economic reasons. The Department will require such an exempted source to fulfill alternative emission monitoring and reporting requirements.

(d) The Department may use the data from the monitoring devices or from the alternative monitoring systems required by this section to enforce the visible emission limitations defined in this article.

(e) Compliance with this section shall be obtained no later than 18 months after the effective date of the listing of any source identified in subsection (a). The Department may grant orders providing reasonable extension of time for sources that have made good faith efforts to install, operate and maintain continuous monitoring devices but have been unable to complete such operations within the time period provided.

Authority

The provisions of this § 123.46 issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Source

The provisions of this § 123.46 adopted June 19, 1981, effective June 20, 1981, 11 Pa.B. 2132; corrected June 26, 1981, effective June 20, 1981, 11 Pa.B. 2225.

NITROGEN COMPOUND EMISSIONS

§ 123.51. Monitoring requirements.

(a) This section applies to combustion units with a rated heat input of 250 million Btus per hour or greater and with an annual average capacity factor of greater than 30%.

(b) Sources subject to this section shall install, operate and maintain continuous nitrogen oxides monitoring systems and other monitoring systems to convert data to required reporting units in compliance with Chapter 139, Subchapter C (relating to requirements for continuous in-stack monitoring for stationary sources).

(c) Sources subject to this section shall submit results on a regular schedule and in a format acceptable to the Department and in compliance with Chapter 139, Subchapter C.

(d) Continuous nitrogen oxides monitoring systems installed under the requirements of this section shall meet the minimum data availability requirements in Chapter 139, Subchapter C.

(e) The Department may exempt a source from the requirements of subsection (b) if the Department determines that the installation of a continuous emission monitoring system would not provide accurate determination of emissions or that installation of a continuous emission monitoring system cannot be implemented by a source due to physical plant limitations or to extreme economic reasons. A source exempted from the requirements of subsection (b) shall satisfy alternative emission monitoring and reporting requirements proposed by the source and approved by the Department which provide oxides emission data that is representative of actual emissions of the source.

(f) Sources subject to this section shall comply by October 20, 1993, unless the source becomes subject to the requirements later than October 20, 1990. For sources which become subject to the requirements after October 20, 1990, the source has 36 months from the date the source becomes subject to this section. The Department may issue orders providing a reasonable extension of time for sources that have made good faith efforts to install, operate and maintain continuous monitoring devices, but that have been unable to complete the operations within the time period provided.

Authority

The provisions of this § 123.51 issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Source

The provisions of this § 123.51 adopted October 19, 1990, effective October 20, 1990, 20 Pa.B. 5291.

Cross References

This section cited in 25 Pa. Code § 129.91 (relating to control of major sources of NO_x and VOCs).

NO_x ALLOWANCE REQUIREMENTS

§ 123.101. Purpose.

Sections 123.102—123.120 and this section establish a NO_x budget and a NO_x allowance trading program for NO_x affected sources for the purpose of achieving the health based ozone ambient air quality standard.

Source

The provisions of this § 123.101 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet service compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source record-keeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.102. Source NO_x allowance requirements and NO_x allowance control period.

(a) The owner or operator or each NO_x affected source shall, by December 31 of each calendar year, hold a quantity of NO_x allowances meeting the requirements of § 123.110(a) (relating to source compliance requirements) in the source's current year NATS account that is equal to or greater than the total NO_x emitted from the source during that year's NO_x allowance control period.

(b) The initial NO_x allowance control period begins on May 1, 1999.

Source

The provisions of this § 123.102 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.103. General NO_x allowance provisions.

(a) NO_x allowances shall be allocated, transferred or used as whole NO_x allowances. To determine the number of whole NO_x allowances, the number of NO_x allowances shall be rounded down for decimals less than 0.50 and rounded up for decimals of 0.50 or greater.

(b) A NO_x allowance does not constitute a security or other form of property.

(c) Allowances may not be used to meet the requirements of this subchapter prior to the year for which they are allocated.

(d) For the purposes of account reconciliation, NO_x allowances allocated for the NO_x allowance control period shall be deducted first, and remaining allowances if not otherwise designated by the source shall be deducted on a first-in, first-out basis.

(e) NO_x allowances may only be used to comply with §§ 123.101, 123.102, 123.104—123.120 and this section.

Source

The provisions of this § 123.103 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.104. Source authorized account representative requirements.

(a) The owner or operator of a NO_x affected source shall designate for each source account, one authorized account representative and one alternate. Initial designations shall be submitted to the Department by December 1, 1997. An

authorized account representative may be replaced or, for a new NO_x affected source, designated with the submittal of a new ''Account Certificate of Representation.''

(b) The ''Account Certificate of Representation'' shall be signed by the authorized account representative for the NO_x affected source and contain, at a minimum, the following:

(1) Identification of the NO_x affected source by plant name, state and fossil fired indirect heat transfer combustion unit number for which the certification of representation is submitted.

(2) The name, address, telephone and facsimile number of the authorized account representative and the alternate.

(3) A list of owners and operators of the NO_x affected source.

(4) The verbatim statement, ''I certify that I, _____ , was selected as the Authorized Account Representative (name) by an agreement binding on the owners and operators of the NO_x affected source legally designated as _____ .'' (name of facility)

(c) The alternate authorized account representative shall have the same authority as the authorized account representative. Correspondence from the NO_x budget administrator shall be directed to the authorized account representative.

(d) Only an authorized account representative or the designated alternate may request transfers of NO_x allowances in a NATS account. The authorized account representative shall be responsible for all transactions and reports submitted to the NATS.

(e) Authorized account representative designation or changes become effective upon the logged date of receipt of a complete application by the NO_x budget administrator from the Department. The NO_x budget administrator will acknowledge receipt and the effective date of the changes by written correspondence to the authorized account representative.

Source

The provisions of this § 123.104 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.105. NATS provisions.

(a) The NATS account records shall constitute a NO_x affected source's NO_x allowance holdings.

(b) The transfer, use and deduction of NO_x allowances become effective only after entry in the tracking system account records.

(c) Any person may hold an account in the NATS.

Source

The provisions of this § 123.105 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.106. NO_x allowance transfer protocol.

(a) NO_x allowances may be transferred at any time between January 31 and December 31 in accordance with § 123.107 (relating to NO_x allowance transfer procedures).

(b) NO_x allowances shall be held by the originating account at the time of the transfer request.

(c) A transfer request shall be filed jointly with the NO_x budget administrator and the Department by the person named as the authorized account representative for the originating account.

(d) The transfer is effective as of the date the NO_x budget administrator posts the transfer of the allowances on the NATS.

Source

The provisions of this § 123.106 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provi-

sions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.107. NO_x allowance transfer procedures.

NO_x allowances may be transferred under the following conditions:

(1) The transfer request shall be documented on a form, or electronic media, approved by the Department. The following information, at a minimum, shall be provided:

(i) The account number identifying both the originating account and the acquiring account.

(ii) The name and address associated with the owners of the originating account and the acquiring account.

(iii) The identification of the serial numbers for each NO_x allowance being transferred.

(2) The transfer request shall be authorized and certified by the authorized account representative for the originating account. To be considered correctly submitted, the request for transfer shall include the following statement of certification:

> ''I am authorized to make this submission on behalf of the owners and operators of the NO_x affected source and I hereby certify under the penalty provisions contained in the Air Pollution Control Act, that I have personally examined the foregoing and am familiar with the information contained in this document, and all attachments, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment.''

The authorized account representative for the originating account shall provide a copy of the transfer request to each owner or operator of the NO_x affected source.

Source

The provisions of this § 123.107 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.106 (relating to NO_x allowance transfer protocol); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.110 (relating to source compliance requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping require-

ments); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.108. Source emissions monitoring requirements.

The owner and operator of each NO_x affected source shall comply with the following requirements:

(1) NO_x emissions from each NO_x affected source shall be monitored as specified by this section and in accordance with the procedures contained in the document titled, ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program.''

(2) The owner or operator of each NO_x affected source shall submit to the Department and the NO_x budget administrator a monitoring plan in accordance with the procedures outlined in the document titled, ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program.''

(3) New and existing unit emission monitoring systems, as required and specified by this section, shall be installed and be operational and shall have met all of the certification testing requirements in accordance with the procedures and deadlines specified in the document titled, ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program'' in a manner consistent with Chapter 139 (relating to sampling and testing).

(4) Monitoring systems are subject to initial performance testing and periodic calibration, accuracy testing and quality assurance/quality control testing as specified in the document titled ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program.'' Notwithstanding this provision, Non-Part 75 Sources which have Department approved NO_x CEMS reporting in accordance with § 139.101 (relating to gen-eral requirements) in units of pounds of NO_x per hour shall complete the periodic self-audits listed in the quality assurance section of § 139.102(3) (relating to references) at least annually and no sooner than 6 months following the previous periodic self-audit. If practicable, the audit shall be conducted between April 1 and May 31.

(5) During a period when valid data is not being recorded by devices approved for use to demonstrate compliance with this subchapter, missing or invalid data shall be replaced with representative default data in accordance with 40 CFR Part 75 (relating to continuous emission monitoring) and the document titled, ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program.'' Notwithstanding this provision, Non-Part 75 Sources which have Department approved NO_x CEMS reporting in accordance with § 139.101 in units of pounds of NO_x per hour shall report this data to the NETS and shall continue report submissions as required under Chapter 139 to the Department.

(6) Sources subject to 40 CFR Part 75 shall demonstrate compliance with this section with a certified Part 75 monitoring system.

(i) If the source has a flow monitor certified under Part 75, NO_x in pounds per hour shall be determined using the Part 75 NO_x CEMS and the flow monitor. The NO_x emission rate in pounds per million Btu shall be determined using the procedure in 40 CFR Part 75 Appendix F, Section 3 (relating to procedures for NO_x emission rate). The hourly heat input shall be determined by using the procedures in 40 CFR Part 75 Appendix F, Section 5 (relating to procedures for heat input). NO_x in pounds per hour shall be determined by multiplying the NO_x per million Btu by the Btus per hour.

(ii) If a Part 75 source does not have a certified flow monitor, but does have a certified NO_x CEMS, NO_x emissions in pounds per hour emissions shall be determined by using the NO_x CEMS to determine the NO_x emission rate in pounds per million Btu and the heat input shall be determined by using the procedures in 40 CFR Part 75 Appendix D (relating to optional SO_2 emissions data protocol for gas-fired and oil-fired units). NO_x in pounds per hour shall be determined by multiplying the NO_x per million Btu and Btus per hour.

(iii) If the owner or operator of a source uses the procedures in 40 CFR Part 75, Appendix E (relating to optional NO_x emissions estimation protocol for gas-fired peaking units and oil-fired peaking units) to determine the NO_x emission rate, NO_x emissions in pounds per hour shall be determined by multiplying the NO_x emission rate determined by using the Appendix E procedures times the heat input determined using the procedures in 40 CFR Part 75, Appendix D.

(iv) If the owner or operator of a source uses the procedures in 40 CFR Part 75, Subpart E (relating to alternative monitoring systems) to determine NO_x emission rate, NO_x emissions in pounds per hour shall be determined using the alternative monitoring method approved under 40 CFR Part 75 Subpart E and the procedures contained in the document titled, ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program.''

(v) If the source emits to common or multiple stacks, or both, the source shall monitor emissions according to the procedures contained in the document titled, ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program.''

(7) Sources not subject to 40 CFR Part 75 and not meeting the requirements of paragraph (11) shall meet the monitoring requirements of this section by:

(i) Preparing and obtaining approval of a monitoring plan as specified in the document titled, ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program.''

(ii) Determining NO_x emission rate and heat input using a methodology specified in paragraphs (8) and (9) respectively or determining NO_x concentration and flow using a methodology specified in paragraphs (8) and (9) respectively.

(iii) Calculating NO_x emissions in pounds per hour using the procedure described in paragraph (10).

(8) The owner or operator of a NO_x affected source which is not subject to 40 CFR Part 75, may implement an alternative emission rate monitoring method. The NO_x emission rate in pounds per million Btu or NO_x concentration in ppm shall be determined using one of the following methods:

(i) The owner or operator of a NO_x affected source that has a maximum rated heat input capacity of 250 MMBtu/hr or greater which is not a peaking unit as defined in 40 CFR 72.2 (relating to definitions), which combusts any solid fuel or is required to or has installed a NO_x continuous emissions monitoring system (NO_x CEMS) for the purposes of meeting either the requirements of 40 CFR Part 60 (relating to standards of performance for new stationary sources) or another Department or Federal requirement, shall use that NO_x CEMS to meet the requirements of this section. If the owner or operator of the unit monitors flow according to paragraph (9), the owner or operator may use the NO_x CEMS to measure NO_x in ppm, otherwise the NO_x CEMS shall be used to measure the emission rate in lb/MMBtu. The owner or operator shall install, certify, operate and maintain this monitor in accordance with the ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program.'' When a NO_x CEMS cannot be used to report data for this program because it does not meet the requirements of the ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program,'' missing data shall be substituted using the procedures in that document. In addition, the NO_x CEMS shall meet the initial certification requirements contained in the ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program.''

(ii) The owner or operator of a source that is not required to have a NO_x CEMS, may request approval from the Department to use any of the following appropriate methodologies to determine the NO_x emission rate:

(A) Boilers or turbines may use the procedures contained in 40 CFR Part 75 Appendix E to measure NO_x emission rate in pounds/MMBtu, consistent with the ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program.''

(B) Owners and operators of combustion turbines that are subject to this section and §§ 123.101—123.107 and 123.109—123.120 may also meet the monitoring requirements of this section and §§ 123.101—123.107 and 123.109—123.120 by using default emission factors to determine NO_x emissions in pounds per hour as follows:

(I) For gas-fired turbines, the default emission factor is 0.7 pounds NO_x per MMBtu.

(II) For oil-fired turbines, the default factor is 1.2 pounds NO_x per MMBtu.

(III) Owners and operators of gas turbines or oil-fired turbines may perform testing, consistent with ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program,'' to determine unit specific maximum potential NO_x emission rates.

(C) Owners and operators of boilers that are subject to this section and §§ 123.101—123.107 and 123.109—123.120 may meet the monitoring requirements of this section and §§ 123.101—123.107 and 123.109—123.120 by using a default emission factor of 2.0 pounds per MMBtu if they burn oil and 1.5 lb/MMBtu if they burn natural gas to determine NO_x emissions in pounds per hour, or may perform testing consistent with the ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program,'' to determine a unit specific maximum potential emission rate.

(9) The owner or operator of a source which is not subject to 40 CFR Part 75, and not meeting the requirements of paragraph (11), shall determine heat input in MMBtu or flow in standard cubic feet per hour using one of the following methods:

(i) The owner or operator of a source may install and operate a flow monitor according to 40 CFR Part 75.

(A) The owner or operator may either use the flow CEMS to monitor stack flow in standard cubic feet per hour and a NO_x CEMS to monitor NO_x in ppm.

(B) In the alternative, the owner or operator may use the flow CEMS and a diluent CEMS to determine heat input in MMBtu and a NO_x CEMS to monitor NO_x in lbs/MMBtu.

(ii) The owner or operator of a source that does not have a flow CEMS may request approval from the Department to use any of the following methodologies to determine their heat input rate:

(A) The owner or operator of a source may determine heat input using a flow monitor and a diluent monitor meeting 40 CFR Part 75 and the procedures in 40 CFR Part 75, Appendix F Section 5.

(B) The owner or operator of a source that combusts only oil or natural gas may determine heat input using a fuel flow monitor meeting 40 CFR Part 75 Appendix D and the procedures of 40 CFR Part 75, Appendix F Section 5.

(C) The owner or operator of a source that combusts only oil or natural gas which uses a unit specific or generic default NO_x emission rate, may determine heat input by measuring the fuel usage for a specified frequency of longer than an hour. This fuel usage shall then be reported on

an hourly basis by apportioning the fuel based on electrical load in accordance with the following formula:

$$\text{Hourly fuel usage} = \frac{\text{Hourly electrical load x total fuel usage}}{\text{Total electrical load}}$$

(D) The owner or operator of a source that combusts any fuel other than oil or natural gas, may request permission from the Department to use an alternative method of determining heat input. Alternative methods include:

(I) Conducting fuel sampling and analysis and monitoring fuel usage.

(II) Using boiler efficiency curves and other monitored information such as boiler steam output.

(III) Other methods approved by the Department and which meet the requirements in the ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program.''

(E) Alternative methods for determining heat input are subject to both initial and periodic relative accuracy, and quality assurance testing as prescribed by ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program.''

(10) If the owner or operator determines NO_x emission rate in pounds per million Btu in accordance with paragraph (6)(iii) and heat input rate in MMBtu per hour in accordance with paragraph (7), the two values shall be multiplied to result in NO_x emissions in pounds per hour. If the owner or operator determines NO_x emissions in ppm and flow in standard cubic feet per hour, the procedures in ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program'' may be used to determine NO_x emissions of this rule in pounds per hour. This value shall be reported to the NETS.

(11) Non-Part 75 sources which have Department approved NO_x CEMS reporting in accordance with § 139.101 in units of pounds of NO_x per hour may meet the monitoring requirements of paragraph (7); or shall comply with the following:

(i) Calibration standards used shall be in accordance with both 40 CFR Part 75, Appendix A, Section 5.2 (relating to concentrations) and with § 139.102(3).

(ii) Testing listed in 40 CFR Part 75, Appendix A, Section 6.4 (relating to cycle time/response time test) not already conducted as part of the response time testing in § 139.102(3) shall be conducted.

(iii) Bias testing of the relative accuracy test data in accordance with 40 CFR Part 75, Appendix A, Section 6.5 (relating to relative accuracy and bias

tests) shall be conducted. Data from previously conducted relative accuracy testing may be used to meet this requirement.

(iv) Adjustment of data due to failure of bias test (in accordance with 40 CFR Part 75, Appendix A, Section 7.6.5 (relating to bias adjustment) and Appendix B, Section 2.3.3 (relating to bias adjustment factor)) or relative accuracy greater than 10% but less than or equal to 20% (by multiplying the NO_x emissions rate by 1.1), or both, shall be conducted only for reporting to the NO_x budget administrator for purposes of this section.

(v) A Data Acquisition Handling System verification demonstrating that both the missing data procedures and formulas as applicable to this section shall be conducted.

Source

The provisions of this § 123.108 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.110 (relating to source compliance requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.109. Source emissions reporting requirements.

(a) The authorized account representative for each NO_x affected source shall submit to the NO_x budget administrator, electronically in a format which meets the requirements of the EPA's Electronic Data Reporting convention, emissions and operations information for each calendar quarter of each year in accordance with the document titled, ''Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program.''

(b) Upon permanent shutdown, NO_x affected sources may be exempted from this section after receiving written Department approval of a request filed by the authorized account representative for the NO_x affected source which identifies the source and date of shutdown.

Source

The provisions of this § 123.109 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.110. Source compliance requirements.

(a) Each year from November 1 through December 31, inclusive, the authorized account representative shall request the NO_x budget administrator to deduct, consistent with § 123.107 (relating to NO_x allowance transfer procedures) a designated amount of NO_x allowances by serial number, from the NO_x affected source's compliance account in an amount equivalent to the NO_x emitted from the NO_x affected source during that year's NO_x allowance control period in accordance with the following:

(1) Allowances allocated for the current NO_x control period may be used without restriction.

(2) Allowances allocated for future NO_x control periods may not be used.

(3) NO_x allowances which were allocated for any preceding NO_x allowance control period which were not used (banked) may be used in the current control period even if this may result in an unlimited exceedance of the NO_x budget. Banked allowances shall be deducted against emissions in accordance with a ratio of NO_x allowances to emissions as specified by the NO_x budget administrator as follows:

(i) If the total NO_x allowances remaining in the NATS for all sources for preceding NO_x allowance control periods are less than or equal to 10% of the total NO_x allowances allocated for that NO_x allowance control period, the ratio is 1:1.

(ii) If the total NO_x allowances remaining in the NATS for all sources for preceding NO_x allowance control periods are greater than 10% of the NO_x allowances allocated for that NO_x allowance control period, the ratio is 2:1 for the portion of banked allowances used for compliance from an account which are in excess of the amount calculated by multiplying the total allowances banked in the account times the PFC (progressive flow control).

where

$$PFC = \frac{0.1 \times NO_x \text{ allowances allocated for the control period}}{\text{total amount of banked allowances in the NATS}}$$

(b) If, by the December 31 compliance deadline, the authorized account representative either makes no NO_x allowance deduction request, or a NO_x allowance deduction request insufficient to meet the requirements of subsection (a), the NO_x budget administrator may deduct the necessary number of NO_x allowances from the NO_x affected source's compliance account. The NO_x budget administrator shall provide written notice to the authorized account representative that NO_x allowances were deducted from the source's account. If the necessary number of NO_x allowances is available, the source will be in compliance after the NO_x allowance deduction is completed. If there is an insufficient number of NO_x allowances available for NO_x allowance deduction, § 123.111 (relating to failure to meet source compliance requirements) applies.

(c) For each NO_x allowance control period, the authorized account representative for the NO_x affected source shall submit an annual compliance certification to the Department.

(d) The compliance certification shall be submitted no later than the NO_x allowance transfer deadline (December 31) of each year.

(e) The compliance certification shall contain, at a minimum, the following:

(1) An identification of the NO_x affected source, including the name, address, the name of the authorized account representative and the NATS account number.

(2) A statement indicating whether or not emissions data has been submitted to the NETS in accordance with § 123.108 (relating to source emissions monitoring requirements).

(3) A statement indicating whether or not the NO_x affected source held sufficient NO_x allowances, as determined in subsection (a), in its compliance account for the NO_x allowance control period, as of the NO_x allowance transfer deadline, to equal or exceed the NO_x affected source's actual emissions and the emissions reported to the NETS for the NO_x allowance control period.

(4) A statement indicating whether or not the monitoring plan which governs the NO_x affected source was followed when monitoring the actual operation of the NO_x affected source.

(5) A statement indicating that all emissions from the NO_x affected source were accounted for, either through the applicable monitoring or through application of the appropriate missing data procedures.

(6) A statement indicating whether there were any changes in the method of operation of the NO_x affected source or the method of monitoring of the NO_x affected source during the current year.

(f) The Department may verify compliance by whatever means necessary, including one or more of the following:

(1) Inspection of facility operating records.

(2) Obtaining information on NO_x allowance deduction and transfers from the NATS.

(3) Obtaining information on emissions from the NETS.

(4) Testing emission monitoring devices.

(5) Requiring the NO_x affected source to conduct emissions testing in accordance with Chapter 139 (relating to sampling and testing).

Source

The provisions of this § 123.110 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.102 (relating to source NO_x allowance requirements and NO_x allowance control period); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.111. Failure to meet source compliance requirements.

(a) Failure by the NO_x affected source to hold in its compliance account, for a NO_x allowance control period, as of the NO_x allowance transfer deadline, sufficient NO_x allowances equal to or exceeding actual emissions for the NO_x allowance control period as specified under § 123.102 (relating to source allowance requirements and NO_x allowance control period) shall result in NO_x allowance deduction from the NO_x affected source's compliance account at the rate of 3 NO_x allowances for every 1 ton of excess emissions. If sufficient allowances meeting the requirements of § 123.110(a) (relating to source compliance requirements) are not available, the source shall provide other sufficient allowances which shall be deducted prior to the beginning of the next NO_x allowance control period, otherwise the source may not operate during subsequent control periods.

(b) In addition to the NO_x allowance deduction required by subsection (a), the Department may enforce the provisions of this section and §§ 123.101—123.110 and 123.112—123.120 under the act and the Clean Air Act.

(1) For purposes of determining the number of days of violation, any excess emissions for the NO_x allowance control period shall presume that each day in the NO_x allowance control period constitutes a day in violation (153

days) unless the NO_x affected source can demonstrate, to the satisfaction of the Department, that a lesser number of days should be considered.

(2) Each ton of excess emissions is a separate violation.

Source

The provisions of this § 123.111 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.110 (relating to source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.112. Source operating permit provision requirements.

The operating permit required under Chapter 127 (relating to construction, modification, reactivation and operations of sources) shall include a condition requiring compliance with §§ 123.101—123.111, 123.113—123.120 and this section (relating to NO_x allowance requirements). The NATS compliance account number and the authorized account representative shall be listed on the permit.

Source

The provisions of this § 123.112 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.113. Source recordkeeping requirements.

The owner or operator of a NO_x affected source shall maintain for each NO_x affected source and for 5 years, or any other period consistent with the terms of

the NO_x affected source's operating permit, the measurements, data, reports and other information required by §§ 123.101—123.112, 123.114—123.120 and this section.

Source

The provisions of this § 123.113 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.114. General NO_x allocation provisions.

(a) NO_x allocations to NO_x affected sources may only be made by the Department.

(b) Except as provided in § 123.116 (relating to source opt-in provisions), for NO_x affected sources identified in Appendix A which shutdown or curtail operations, the source account will continue to receive NO_x allowances for each NO_x allowance control period.

Source

The provisions of this § 123.114 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.115. Initial NO_x allowance NO_x allocations.

(a) The sources contained in Appendix E are subject to the requirements of §§ 123.101—123.114, 123.116—123.120 and this section. These sources are allocated NO_x allowances for the 1999-2002 NO_x allowance control periods as listed in Appendix E.

(b) The Department may allocate allowances to Duquesne Light Company's Phillips and Brunot Island facilities. The allowances allocated to these facilities are limited as follows:

(1) The facility shall be fully operational.

(2) The allowances allocated to the facility may only be used by the baseline sources located at that facility, and may not be banked or transferred.

(3) The allocation to Brunot Island source identification numbers 001—012 may not exceed an aggregate 246 allowances for the period May 1—September 30.

(4) The allocation to Phillips Station boilers 1—6 may not exceed an aggregate 1,686 allowances for the period May 1—September 30.

Authority

The provisions of this § 123.115 amended under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)).

Source

The provisions of this § 123.115 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683; amended March 10, 2000, effective March 11, 2000, 30 Pa.B. 1370; amended September 22, 2000, effective September 23, 2000, 30 Pa.B. 4899. Immediately preceding text appears at serial pages (263985) to (263986).

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.116. Source opt-in provisions.

(a) A person who owns, operates, leases or controls a non-NO_x affected source located in this Commonwealth may apply to the Department to opt-in that source to become a NO_x affected source. For replacement sources, all sources to which production may be shifted to shall be opted-in together.

(b) A source which began operations without emission reduction credits transferred from a NO_x affected source may become a NO_x affected source under the following conditions:

(1) Submission of an opt-in application to the Department, including:

(i) Documentation of baseline NO_x allowance control period emissions which shall be the average of the actual emissions for the preceding two consecutive NO_x allowance control periods. The Department may approve selection of an alternative two consecutive NO_x allowance control periods within the 5 years preceding the opt-in application if the preceding two con-

trol periods are not representative of normal operations. The baseline may not exceed applicable emission limits.

(ii) Evidence that the requirements of §§ 123.101—123.115, 123.117—123.120 and this section (relating to NO_x allowance requirements) can be complied with, including, submission of an emission monitoring plan, designation of an authorized account representative, and that the source is not on the compliance docket established under section 7.1 of the act (35 P. S. § 4005).

(2) Submission of NO_x allowances established under paragraph (1)(i) or subsection (c) by the Department to the NO_x budget administrator.

(c) A source which began operations with emission reduction credits from a NO_x affected source may become a NO_x affected source by complying with subsection (b)(1). To operate the source, NO_x allowances shall be acquired by the owner or operator from those available in the NATS.

(d) Opt-in sources which opted-in under subsection (b) and which shutdown or curtail operations during any NO_x allowance control period within the 5-calendar years after opting-in shall, prior to January 31 following the shutdown or curtailment, surrender to the Department NO_x allowances for the current NO_x allowance control period equivalent to the difference resulting from the reduction in utilization from the source's baseline operations as established in subsection (b)(1)(i) between the NO_x allowance control period allowance allocation and the emissions reported in accordance with § 123.109 (relating to source emissions reporting requirements). NO_x allocations for future NO_x allocation control periods shall also be surrendered. NO_x allowances which were allocated for any preceding NO_x allowance control period which were not used (banked) may not be surrendered. Surrendered NO_x allowances shall be retired from the NATS and NO_x budget except that upon request by the source owner or operator, the Department may reallocate the NO_x allowances to a qualifying replacement source.

(e) Opt-in sources which remain in operation for 5- calendar years from the date of opt-in shall have a new baseline and allowance allocation set in accordance with the procedure in subsection (b)(1)(i). This baseline may not exceed the opt-in baseline. Thereafter, the source is not subject to this section.

(f) Once electing to opt-in, a source may not revert to a non-NO_x affected source unless it is shut down.

Source

The provisions of this § 123.117 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25

Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.114 (relating to general NO_x allocation provisions); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.117. New NO_x affected source provisions.

(a) NO_x allowances may not be created for new NO_x affected sources. New NO_x affected sources are sources which are not listed in § 123.115 (relating to initial NO_x allowance NO_x allocations). The owner or operator of a new NO_x affected source shall establish a compliance account prior to the commencement of operations and is responsible to acquire any required NO_x allowances from those available in the NATS.

(b) Newly discovered NO_x affected sources not included in Appendix A which operated at any time between May 1 and September 30, 1990, shall comply with §§ 123.101—123.116, 123.118—123.120 and this section (relating to NO_x allowance requirements) within 1-calendar year from the date of discovery. For those sources which notify the Department by April 1, 1998, the Department will petition the OTC to include the emissions in the NO_x MOU Budget and provide NO_x allowances to the source using the historical May 1 to September 30, 1990, emissions reduced as specified in § 123.119(a)(4)(ii) (relating to bonus NO_x allowance awards).

Source

The provisions of this § 123.117 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.118. Emission reduction credit provisions.

(a) NO_x affected sources may create, transfer and use emission reduction credits in accordance with Chapter 127 (relating to construction, modification, reactivation and operation of sources) and this section. ERCs may not be used to satisfy NO_x allowance requirements.

(b) Emission reductions made through overcontrol, curtailment or shutdown for which allowances are banked are not surplus and may not be used to create ERCs.

(c) A NO_x affected source may transfer NO_x ERCs to an NO_x affected source if the new or modified NO_x affected source's ozone season (May 1—September 30) allowable emissions do not exceed the ozone season portion of the baseline emissions which were used to generate the NO_x ERCs.

(d) A NO_x affected source may transfer NO_x ERCs to a non-NO_x affected source under the following conditions:

(1) The non-NO_x affected source's ozone season (May 1—September 30) allowable emissions may not exceed the ozone season portion of the baseline emissions which were used to generate the NO_x ERCs.

(2) The NATS account for NO_x affected sources which generated ERCs transferred to non-NO_x affected sources, including prior to the date of publication in the *Pennsylvania Bulletin*, shall have a corresponding number of allowances retired that reflect the transfer of emissions regulated under §§ 123.101—123.117, 123.119—123.120 and this section (relating to NO_x allowance requirements) to the NO_x nonaffected sources. The amount of annual NO_x allowances deducted shall be equivalent to that portion of the nonaffected source's NO_x control period allowable emissions which were provided for by the NO_x ERCs from the affected source.

(3) Allocations for NO_x allowance control periods following 2002 to the NO_x ERC generating source may not include the allowances identified in paragraph (2).

Source

The provisions of this § 123.118 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.120 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.119. Bonus NO_x allowance awards.

(a) The Department will, upon receipt of a complete application by November 1, 1998, award a NO_x affected source with bonus NO_x allowances for certain creditable emission reductions made during the 1997 and 1998 ozone seasons (May 1—September 30) under the following conditions:

(1) Creditable reductions shall be in excess of the OTC MOU reduction requirements and any applicable emission limits including RACT and maximum achievable control technology.

(2) Bonus allowances shall be calculated separately for the 1997 and 1998 ozone seasons (May 1—September 30).

(3) The actual average ozone season (May 1—September 30) heat input used to calculate the emission reduction may not exceed the average 1995 and 1996 ozone season actual heat input, or if the Department finds that it is more representative of normal operations, the average ozone season (May 1—September 30) actual heat input which occurred during another consecutive 2 years between and including 1991 and 1995.

(4) Bonus NO_x allowances shall be calculated by multiplying the actual 1997 or 1998, as applicable, average ozone season (May 1—September 30) heat input, times the difference between the following:

(i) The after-control emission rate calculated using the average rate occurring during the 1997 or 1998 NO_x allowance control.

(ii) The lower of the source's applicable emission rate for NO_x expressed in pounds of NO_x per MMBtu, or the baseline emission rate established in Appendix A after applying the following reduction, as applicable. The reduction for sources located in the outer zone is 55% or 0.2 lbs/MMBtu whichever is less stringent, and for sources located in the inner zone, 65%, or 0.2 lbs/MMBtu whichever is less stringent. The inner zone includes Berks, Bucks, Chester, Delaware, Montgomery and Philadelphia counties, and the outer zone includes the remaining counties within this Commonwealth.

(5) Applications shall include the information necessary to determine that the reductions meet the requirements of this section.

(b) On or before May 1, 1999, the Department will publish a report in the *Pennsylvania Bulletin* which documents the number of bonus NO_x allowances awarded.

Source

The provisions of this § 123.119 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); and 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); 25 Pa. Code § 123.20 (relating to audit); 25 Pa. Code § 123.121 (relating to NO_x Allowance Program transition); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.120. Audit.

(a) The Department will complete an audit of the program established by §§ 123.101—123.119 and this section (relating to NO_x allowance requirements) prior to May 1, 2002, and at a minimum every 3 years thereafter. The audit shall include the following:

(1) The resulting geographic distribution of emissions as well as the hourly, daily and running average emission totals shall be examined in the context of ozone control requirements. This analysis shall be used in making a determination as to whether the zonal, seasonal and interseasonal trading and banking provisions of the rule require modification to ensure the reductions are as effective as daily emission limits on all sources would be at reducing ozone.

(2) Confirmation of emissions reporting accuracy through validation of NO_x allowance CEMS and data acquisition systems at the NO_x affected source.

(3) If emissions in excess of the NO_x allowances allocated occurred in any NO_x allowance control period, as a result of banking provisions, a determination whether or not the NO_x allowance banking provisions require modification or deletion.

(4) NO_x allowance banking privileges will be examined to determine whether they adversely influenced market availability and price of NO_x allowances or created unfair competitive advantages and if so, recommend amendments to rectify these problems.

(5) An assessment of whether the program is providing the level of emission reductions included in the current SIP.

(b) In addition to the Department audit, the Department may seek a third party audit of the program. The third party audit can be implemented on a state by state basis or can be performed on a region-wide basis under the supervision of the Ozone Transport Commission.

(c) The Department will propose regulation revisions consistent with the audit results within 6 months of the completion of the audit.

Source

The provisions of this § 123.120 adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683.

Cross References

This section cited in 25 Pa. Code § 123.101 (relating to purpose); 25 Pa. Code § 123.103 (relating to general NO_x allowance provisions); 25 Pa. Code § 123.108 (relating to source emissions monitoring requirements); 25 Pa. Code § 123.111 (relating to failure to meet source compliance requirements); 25 Pa. Code § 123.112 (relating to source operating permit provision requirements); 25 Pa. Code § 123.113 (relating to source recordkeeping requirements); 25 Pa. Code § 123.115 (relating to initial NO_x allowance NO_x allocations); 25 Pa. Code § 123.116 (relating to source opt-in provisions); 25 Pa. Code § 123.117 (relating to new NO_x affected source provisions); 25 Pa. Code § 123.118 (relating to emission reduction credit provisions); and 25 Pa. Code § 145.43 (relating to compliance supplement pool).

§ 123.121. NO_x Allowance Program transition.

(a) NO_x allocations for the NO_x allowance control periods starting May 1, 2003, will be distributed in accordance with Chapter 145 (relating to interstate pollution transport reduction).

(b) The emission limitations and monitoring requirements established in §§ 123.101—123.120 are replaced by the requirements in Chapter 145 beginning with the May 1, 2003, control period. If a source has failed to demonstrate compliance with § 123.111 (relating to failure to meet source compliance requirements), the provisions in § 145.54(d) (relating to compliance) shall be used to withhold NO_x allowances in calendar year 2003 and beyond. If no NO_x allowances are provided to the source under § 145.42 (relating to NO_x allowance allocations), the source will be obligated to acquire and retire a number of NO_x allowances as specified in § 145.54.

Source

The provisions of this § 123.121 adopted September 22, 2000, effective September 23, 2000, 30 Pa.B. 4899.

APPENDIX A

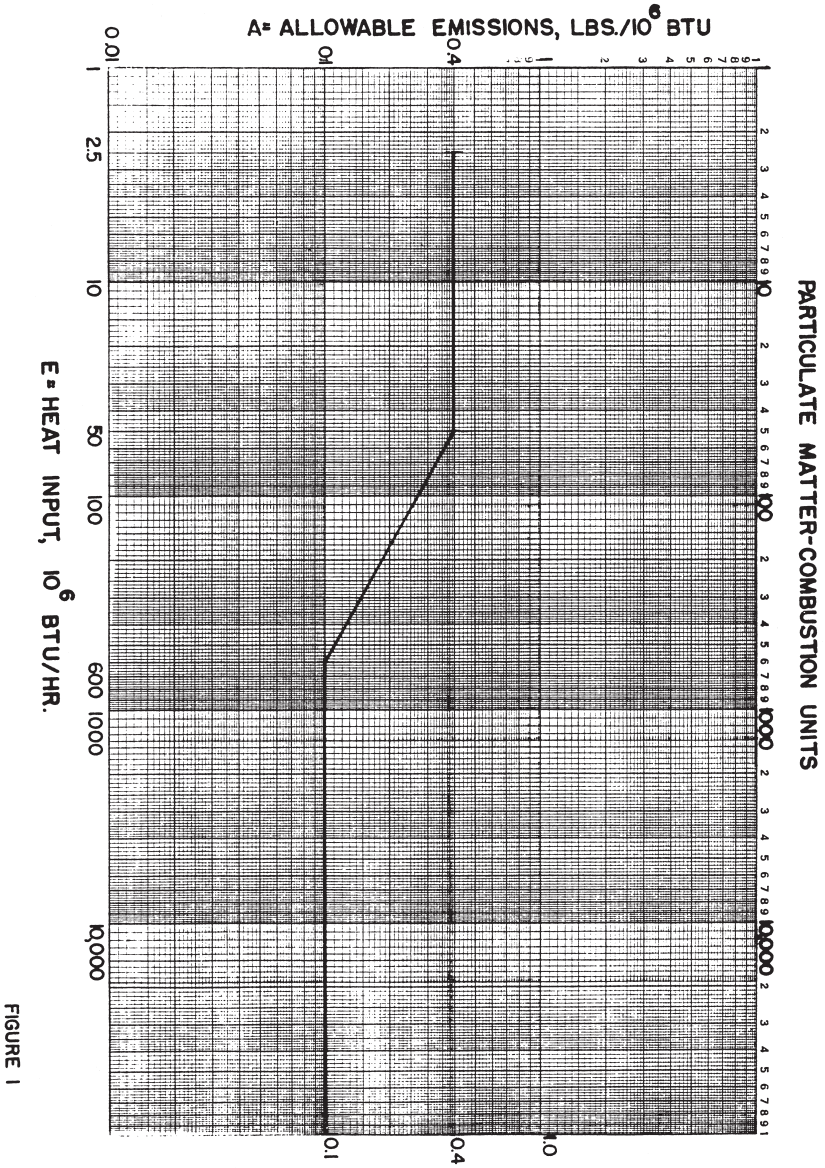

FIGURE 1

Cross References

This appendix cited in 25 Pa. Code § 123.11 (relating to combustion units).

APPENDIX B

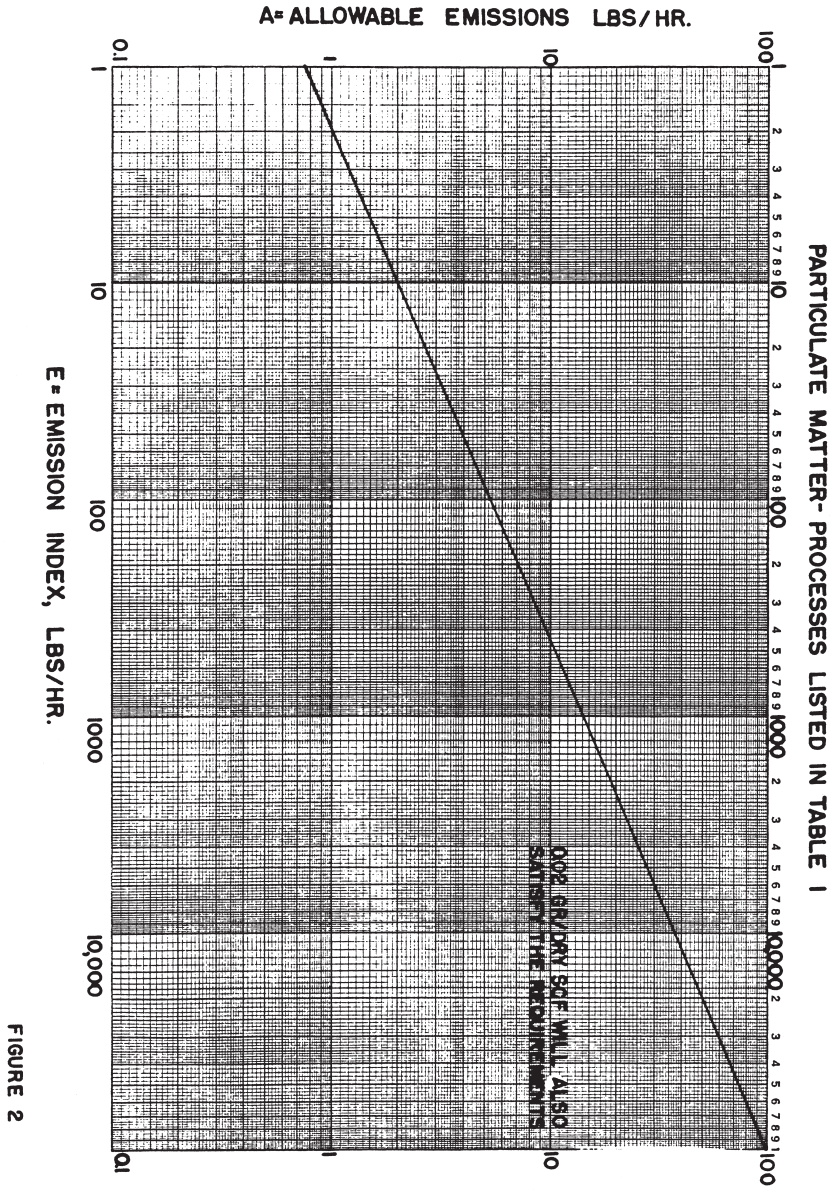

FIGURE 2

Cross References

This appendix cited in 25 Pa. Code § 123.13 (relating to processes).

APPENDIX C

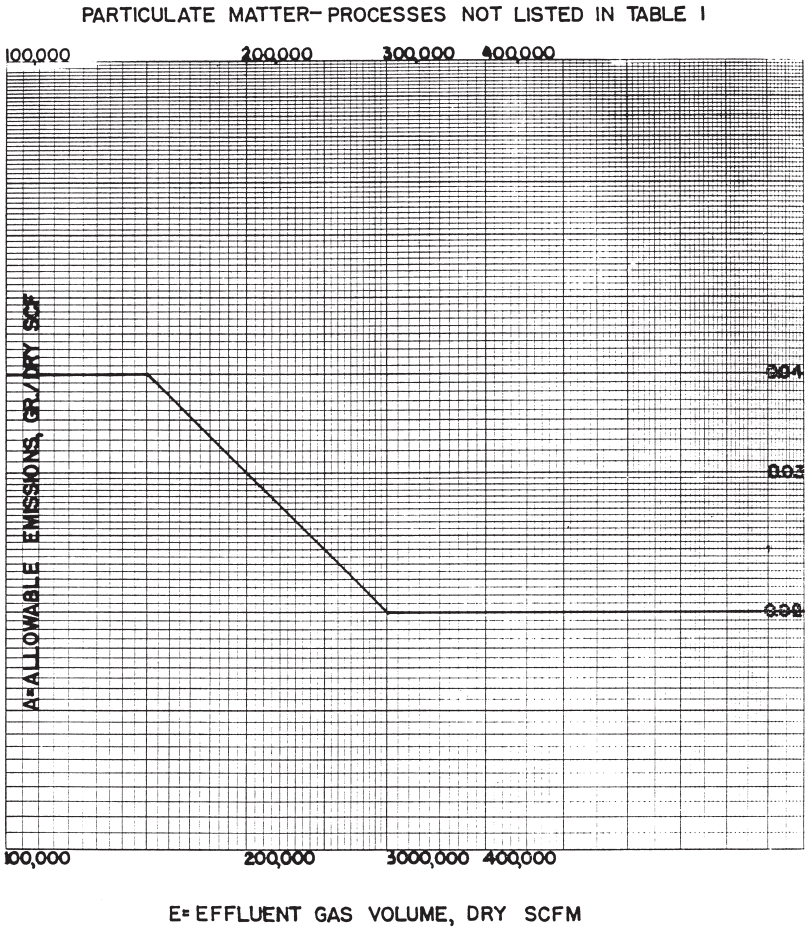

FIGURE 3

Cross References

This appendix cited in 25 Pa. Code § 123.13 (relating to processes).

APPENDIX D
ALTERNATIVE OPACITY LIMITATION—APPLICATION

Applicable Regulation	*Opacity/Mass Limitation*	*Procedure*
A. Sources subject to EPA NSPS	Opacity limit specified in NSPS	EPA procedure for AOL applies
	Opacity limit not specified in NSPS	DER procedure will be used to establish AOL at the NSPS level for mass emissions
B. Sources subject to nonattainment area provisions (LAER applies)	Emission limitation will be specified in permit	DER procedure will be used to establish AOL at the maximum mass emissions rate specified as LAER
C. Sources subject to permit requirements (e.g., BACT)	Mass emission rate specific in PAA or permit	DER procedure will be used to establish AOL at BACT mass emission rate
	No mass emission rate specified in PAA or permit (e.g., equipment specification), 2 cases	
	1. No opacity limit specified in PAA or permit	Not eligible for AOL
	2. No opacity limit specified in PAA or permit (mass emission rate and opacity limits under DER regulation are assumed to apply)	DER procedure will be used to establish AOL at the regulatory emission rate
D. Sources subject only to DER regulations (RACT)—no permit conditions apply	Mass emission limitation specified in DER regulation	DER procedure will be used to establish AOL at the regulatory emission rate
	No mass emission limitation specified in DER regulation	Not eligible for AOL

NOTE: Sources incapable of a stack test are ineligible for an AOL

Abbreviations: AOL—alternative opacity limitation
NSPS—New source performance standards
PAA—plan approval application
BACT—best available control technology
LAER—lowest achievable emission rate
RACT—reasonably available control technology
PSD—prevention of significant deterioration

Cross References

This appendix cited in 25 Pa. Code § 123.45 (relating to alternative opacity limitations).

Source

The provisions of this Appendix D adopted June 19, 1981, effective June 20, 1981, 11 Pa.B. 1447; corrected June 26, 1981, effective June 20, 1981, 11 Pa.B. 2225.

APPENDIX E

County	*Facility*	*Combustion Source Name*	*Point ID*	*Allowance*	*BONUS ALLOWANCE Baseline NOx lb/MMBtu*
Adams	Met Edison Hamilton		031	4	0.59
Adams	Met Edison Ortanna		031	3	0.59
Adams	Metropolitan Edison Company	G. E. N Frame Turbine #1	031	17	0.45
Adams	Metropolitan Edison Company	G. E. N Frame Turbine #2	032	6	0.45
Adams	Metropolitan Edison Company	G. E. N Frame Turbine #3	033	14	0.45
Allegheny	Duquesne Light Company, Cheswick	Boiler	001	2,500	0.73
Armstrong	Penelec—Keystone	Boiler No. 1	031	4,334	0.80
Armstrong	Penelec—Keystone	Boiler No. 2	032	3,439	0.79
Armstrong	West Penn Power Co.	Foster Wheeler	031	1,137	0.95
Armstrong	West Penn Power Co.	Foster Wheeler	032	1,063	1.02
Beaver	AES Beaver Valley Partners, Inc.	Babcock and Wilcox	032	301	0.83
Beaver	AES Beaver Valley Partners, Inc.	Babcock and Wilcox	033	247	0.83
Beaver	AES Beaver Valley Partners, Inc.	Babcock and Wilcox	034	286	0.83
Beaver	AES Beaver Valley Partners, Inc.	Babcock and Wilcox	035	154	0.81

County	*Facility*	*Combustion Source Name*	*Point ID*	*Allowance*	*BONUS ALLOWANCE Baseline NOx lb/MMBtu*
Beaver	Penn Power Co.—Bruce Mansfield	Boiler Unit 1	031	2,987	0.90
Beaver	Penn Power Co.—Bruce Mansfield	Foster Wheeler Unit No. 2	032	3,857	0.90
Beaver	Penn Power Co.—Bruce Mansfield	Foster Wheeler Unit 3	033	3,497	0.70
Beaver	Zinc Corporation Of America	Coal Boiler 1	034	240	0.80
Beaver	Zinc Corporation Of America	Coal Boiler 2	035	203	0.80
Berks	Metropolitan Edison Co.—Titus	Unit 1	031	202	0.65
Berks	Metropolitan Edison Co.—Titus	Unit 2	032	186	0.68
Berks	Metropolitan Edison Co.—Titus	Unit 3	033	201	0.66
Berks	Metropolitan Edison Co.—Titus	No. 4 Combustion Turbine	034	2	0.44
Berks	Metropolitan Edison Co.—Titus	No. 5 Combustion Turbine	035	2	0.44
Blair	Penelec—Williamsburg	No. 11 Boiler—Rily	031	38	0.87
Bucks	PECO Energy—Falls	Unit 1		7	0.67
Bucks	PECO Energy—Falls	Unit 2		7	0.67

County	*Facility*	*Combustion Source Name*	*Point ID*	*Allowance*	*BONUS ALLOWANCE Baseline NOx lb/MMBtu*
Bucks	PECO Energy—Falls	Unit 3		6	0.67
Bucks	PECO Energy—Croyden	Croyden—Turbine #11	031	11	0.70
Bucks	PECO Energy—Croyden	Croyden—Turbine #12	032	7	0.70
Bucks	PECO Energy—Croyden	Croyden—Turbine #21	033	44	0.70
Bucks	PECO Energy—Croyden	Croyden—Turbine #22	034	20	0.70
Bucks	PECO Energy—Croyden	Croyden—Turbine #31	035	11	0.70
Bucks	PECO Energy—Croyden	Croyden—Turbine #32	036	14	0.70
Bucks	PECO Energy—Croyden	Croyden—Turbine #41	037	8	0.70
Bucks	PECO Energy—Croyden	Croyden—Turbine #42	038	38	0.70
Bucks	PECO Energy—Fairless Hills	Power House Boiler No. 3	043	63	0.26
Bucks	PECO Energy—Fairless Hills	Power House Boiler No. 4	044	14	0.27
Bucks	PECO Energy—Fairless Hills	Power House Boiler No. 5	045	73	0.26
Bucks	PECO Energy—Fairless Hills	Power House Boiler No. 6	046	84	0.26
Cambria	Cambria CoGen Company	A Boiler	031	199	0.24
Cambria	Cambria CoGen Company	B Boiler	032	210	0.23
Cambria	Colver Power Project			409	0.20
Cambria	Ebensburg Power Company	CFB Boiler		205	0.08
Carbon	Panther Creek Energy Facility	Boiler 1		119	0.12

County	*Facility*	*Combustion Source Name*	*Point ID*	*Allowance*	*BONUS ALLOWANCE Baseline NOx lb/MMBtu*
Carbon	Panther Creek Energy Facility	Boiler 2		116	0.12
Chester	PECO Energy—Cromby	Boiler No 1	031	246	0.82
Chester	PECO Energy—Cromby	Boiler No 2	032	186	0.28
Clarion	Piney Creek Project	CFB Boiler		121	0.18
Clearfield	Penelec—Shawville	Babcock Wilcox Boiler	031	979	1.22
Clearfield	Penelec—Shawville	Babcock Wilcox Boiler	032	945	1.21
Clearfield	Penelec—Shawville	Combustion Engineering	033	850	0.86
Clearfield	Penelec—Shawville	Combustion Engineering	034	692	0.87
Clinton	International Paper Co.	1 Riley Stoker Vo-Sp	033	145	0.55
Clinton	International Paper Co.	2 Riley Stoker Vo-Sp	034	145	0.55
Clinton	PP&L—Lock Haven	CT 1		3	0.49
Columbia	Penelec—Benton		002	1	2.33
Columbia	Penelec—Benton		003	1	2.93
Cumberland	Metropolitan Edison Company	G.E. N Frame Turbine	031	9	0.45
Cumberland	Metropolitan Edison Company	G.E. N Frame Turbine	032	11	0.45
Cumberland	PP&L—West Shore	CT 1		3	0.49
Cumberland	PP&L—West Shore	CT 2		3	0.49
Dauphin	PP&L—Harrisburg	CT 1		3	0.49
Dauphin	PP&L—Harrisburg	CT 2		4	0.49
Dauphin	PP&L—Harrisburg	CT 3		4	0.49

County	*Facility*	*Combustion Source Name*	*Point ID*	*Allowance*	*BONUS ALLOWANCE Baseline NOx lb/MMBtu*
Dauphin	PP&L—Harrisburg	CT 4		4	0.49
Delaware	Tosco Refinery	7 Boiler	032	33	0.37
Delaware	Tosco Refinery	8 Boiler	033	54	0.48
Delaware	Tosco Refinery	Platformer Heater	038	180	0.55
Delaware	Tosco Refinery	543 Crude Heater	044	101	0.55
Delaware	Tosco Refinery	544 Crude Heater	045	115	0.55
Delaware	PECO Energy— Eddystone	No. 1 Boiler	031	660	0.54
Delaware	PECO Energy— Eddystone	No. 2 Boiler	032	430	0.55
Delaware	PECO Energy— Eddystone	No. 3 Boiler	033	255	0.28
Delaware	PECO Energy— Eddystone	No. 30 Gas Turbine	039	2	0.48
Delaware	PECO Energy— Eddystone	No. 40 Gas Turbine	040	1	0.49
Delaware	PECO Energy— Eddystone	No. 4 Boiler	041	248	0.28
Delaware	Kimberly—Clark	Boiler No. 9	034	12	0.52
Delaware	Kimberly—Clark	10 Culm Cogen. Fbc Plant	035	84	0.08
Delaware	Sun Refining & Marketing		089	86	0.09
Delaware	FPL Energy		090	145	0.08
Erie	General Electric Co.	B & W Boiler No. 2	032	26	1.01
Erie	International Paper Company	Coal Fired Boiler No. 21	037	68	0.58
Erie	Norcon Power Partners	Turbine 1	001	50	0.07
Erie	Norcon Power Partners	Turbine 2	002	50	0.07
Erie	Penelec—Front Street	Erie City Iron Works No. 7	031	5	0.92
Erie	Penelec—Front Street	Erie City Iron Works No. 8	032	5	0.90
Erie	Penelec—Front Street	Comb. Eng. Boiler No. 9	033	133	0.57

County	*Facility*	*Combustion Source Name*	*Point ID*	*Allowance*	*BONUS ALLOWANCE Baseline NOx lb/MMBtu*
Erie	Penelec—Front Street	Comb. Eng. Boiler No. 10	034	133	0.57
Greene	West Penn Power—Hatfield's Ferry	Babcock & Wilcox	031	3,969	1.04
Greene	West Penn Power—Hatfield's Ferry	Babcock & Wilcox	032	3,694	1.04
Greene	West Penn Power—Hatfield's Ferry	Babcock & Wilcox	033	2,154	1.04
Indiana	Penelec—Conemaugh	Boiler No. 1	031	3,288	0.76
Indiana	Penelec—Conemaugh	Boiler No. 2	032	4,187	0.76
Indiana	Penelec—Homer City	Boiler No. 1-Foster Whelr	031	3,160	1.20
Indiana	Penelec—Homer City	Boiler No. 2-Foster Whelr	032	3,978	1.20
Indiana	Penelec—Homer City	Boiler No. 3-B.& W.	033	2,924	0.62
Indiana	Penelec—Seward	Boiler No. 12 (B&W)	032	144	0.84
Indiana	Penelec—Seward	Boiler No. 14 (B&W)	033	146	0.83
Indiana	Penelec—Seward	Boiler No. 15 (Comb.Eng.)	931	672	0.75
Lackawanna	Archbald Power Corporation	Cogen		81	0.05
Lancaster	PP&L—Holtwood	Unit 17 Foster Wheeler	934	806	1.20
Lawrence	Penn Power Co.—New Castle	Foster Wheeler	031	108	0.91
Lawrence	Penn Power Co.—New Castle	B.W. Boiler	032	97	0.91
Lawrence	Penn Power Co.—New Castle	Babcock And Wilcox	033	185	0.91

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County	*Facility*	*Combustion Source Name*	*Point ID*	*Allowance*	*BONUS ALLOWANCE Baseline NOx lb/MMBtu*
Lawrence	Penn Power Co.—New Castle	Babcock And Wilcox	034	339	0.91
Lawrence	Penn Power Co.—New Castle	Babcock And Wilcox	035	620	0.91
Lehigh	PP&L—Allentown	CT 1		2	0.49
Lehigh	PP&L—Allentown	CT 2		3	0.49
Lehigh	PP&L—Allentown	CT 3		3	0.49
Lehigh	PP&L—Allentown	CT 4		3	0.49
Lycoming	PP&L—Williamsport	CT 1		3	0.49
Lycoming	PP&L—Williamsport	CT 2		3	0.49
Luzerne	Continental Energy Associates	Turbine		267	0.13
Luzerne	Continental Energy Associates	HRSG		128	0.20
Luzerne	UGI Corp.—Hunlock Power	Foster Wheeler	031	374	0.95
Luzerne	PP&L—Jenkins	CT 1		3	0.49
Luzerne	PP&L—Jenkins	CT 2		2	0.49
Luzerne	PP&L—Harwood	CT 1		3	0.49
Luzerne	PP&L—Harwood	CT 2		3	0.49
Monroe	Met Edison Shawnee		031	3	0.59
Montgomery	Merck Sharp & Dohme	Cogen II Gas Turbine	039	79	0.16
Montgomery	PECO Energy—Moser	Unit 1		7	0.67
Montgomery	PECO Energy—Moser	Unit 2		7	0.67

County	*Facility*	*Combustion Source Name*	*Point ID*	*Allowance*	*BONUS ALLOWANCE Baseline NOx lb/MMBtu*
Montgomery	PECO Energy—Moser	Unit 3		6	0.67
Montour	PP&L—Montour	Montour No. 1	031	3,568	0.85
Montour	PP&L—Montour	Montour No. 2	032	4,696	1.07
Montour	PP&L—Montour	Aux.Start-Up Boiler No. 1	033	9	0.17
Montour	PP&L—Montour	Aux.Start-Up Boiler No. 2	034	7	0.17
Northampton	Bethlehem Steel Corp.	Boiler 1 Boiler House 2	041	91	0.23
Northampton	Bethlehem Steel Corp.	Boiler 2 Boiler House 2	042	91	0.23
Northampton	Bethlehem Steel Corp.	Boiler 3 Boiler House 2	067	92	0.23
Northampton	Met Edison Co.—Portland	Unit No. 1	031	462	0.59
Northampton	Met Edison Co.—Portland	Unit No. 2	032	657	0.66
Northampton	Met Edison Co.—Portland	Combustion Turbine No. 3	033	1	0.53
Northampton	Met Edison Co.—Portland	Combustion Turbine No. 4	034	6	0.53
Northampton	Northampton Generating Company	Boiler	001	209	0.10
Northampton	PP&L—Martins Creek	Foster-Wheeler Unit No. 1	031	492	1.01
Northampton	PP&L—Martins Creek	Foster-Wheeler Unit No. 2	032	459	0.91
Northampton	PP&L—Martins Creek	C-E Unit No. 3	033	835	0.51
Northampton	PP&L—Martins Creek	C-E Unit No. 4	034	739	0.51
Northampton	PP&L—Martins Creek	No. 4b Auxiliary Boiler	036	0	0.17
Northampton	PP&L—Martins Creek	Combustion Turbine No. 1	037	3	0.02
Northampton	PP&L—Martins Creek	Combustion Turbine No. 2	038	3	0.02
Northampton	PP&L—Martins Creek	Combustion Turbine No. 3	039	3	0.02
Northampton	PP&L—Martins Creek	Combustion Turbine No. 4	040	3	0.02

County	*Facility*	*Combustion Source Name*	*Point ID*	*Allowance*	*BONUS ALLOWANCE Baseline NOx lb/MMBtu*
Northumberland	Foster Wheeler Mt. Carmel Cogen	Cogen	031	195	0.10
Philadelphia	Allied Signal		052	54	0.46
Philadelphia	PECO Energy—Richmond	Unit 91	037	28	0.60
Philadelphia	PECO Energy—Richmond	Unit 92	038	37	0.60
Philadelphia	PECO Energy—Delaware	No. 71 Boiler	013	112	0.45
Philadelphia	PECO Energy—Delaware	No. 81 Boiler	014	130	0.45
Philadelphia	PECO Energy—Delaware	No. 9 Gas Turbine	018	2	0.67
Philadelphia	PECO Energy—Schuylkill	No. 1 Boiler	003	175	0.28
Philadelphia	PECO Energy—Schuylkill	No. 11 Gas Turbine	008	0	0.67
Philadelphia	Trigen Energy Co— Sansom		001	31	0.45
Philadelphia	Trigen Energy Co— Sansom		002	27	0.45
Philadelphia	Trigen Energy Co— Sansom		003	12	0.45
Philadelphia	Trigen Energy Co— Sansom		004	15	0.45
Philadelphia	Trigen Energy Co—Schuylkill		001	0	0.28
Philadelphia	Trigen Energy Co—Schuylkill		002	0	0.28
Philadelphia	Trigen Energy Co—Schuylkill		005	0	0.45
Philadelphia	U. S. Naval Base		098	1	0.14
Philadelphia	U. S. Naval Base		099	1	0.14
Philadelphia	Sun Oil—Girard Point	GP Boiler 37	02-2,3	87	0.33

County	*Facility*	*Combustion Source Name*	*Point ID*	*Allowance*	*BONUS ALLOWANCE Baseline NOx lb/MMBtu*
Philadelphia	Sun Oil—Girard Point	GP Boiler 38	02-4,5	87	0.33
Philadelphia	Sun Oil—Girard Point	GP Boiler 39	02-6,7	87	0.33
Philadelphia	Sun Oil—Girard Point	GP Boiler 40	02-8,9	116	0.33
Philadelphia	Sun Oil—Girard Point	GP F-1	002-2, 3,4	91	0.27
Philadelphia	Sun Oil—Point Breeze	PB 3H-1	19/20	43	0.15
Philadelphia	Grays Ferry Project	Combustion Turbine		125	
Philadelphia	Grays Ferry Project	Heat Recovery Steam Gen		21	
Philadelphia	Grays Ferry Project	Boiler 25		80	
Schuylkill	Gilberton Power Company	Boiler		333	0.17
Schuylkill	Northeastern Power Company	CFB Boiler		201	0.06
Schuylkill	Schuylkill Energy Resources	Boiler	031	348	0.20
Schuylkill	Westwood Energy Properties	Boiler		134	0.17
Schuylkill	Wheelabrator Frackville Energy Co	Boiler		203	0.14
Schuylkill	PP&L—Fishback	CT 1		2	0.49
Schuylkill	PP&L—Fishback	CT 2		2	0.49
Snyder	PP&L—Sunbury	Sunbury SES Unit 1a	031	294	0.98
Snyder	PP&L—Sunbury	Sunbury SES Unit 1b	032	294	0.98
Snyder	PP&L—Sunbury	Sunbury SES Unit 2a	033	294	0.83
Snyder	PP&L—Sunbury	Sunbury SES Boiler 2b	034	294	0.83
Snyder	PP&L—Sunbury	Sunbury SES Unit No. 3	035	679	0.93

County	*Facility*	*Combustion Source Name*	*Point ID*	*Allowance*	*BONUS ALLOWANCE Baseline NOx lb/MMBtu*
Snyder	PP&L—Sunbury	Sunbury SES Unit No. 4	036	821	0.99
Snyder	PP&L—Sunbury	Combustion Turbine 1	039	3	0.49
Snyder	PP&L—Sunbury	Combustion Turbine 2	040	3	0.49
Tioga	Penelec—Tioga		031	3	0.48
Venango	Scrubgrass Power Plant	Unit 1	031	181	0.14
Venango	Scrubgrass Power Plant	Unit 2	032	178	0.15
Warren	Penelec—Warren	Boiler No. 1	031	76	0.62
Warren	Penelec—Warren	Boiler No. 2	032	73	0.64
Warren	Penelec—Warren	Boiler No. 3	033	77	0.61
Warren	Penelec—Warren	Boiler No. 4	034	80	0.61
Warren	Penelec—Warren		001	10	0.69
Washington	Duquesne Light Co.—Elrama	No. 1 Boiler	031	333	0.87
Washington	Duquesne Light Co.—Elrama	No. 2 Boiler	032	332	0.90
Washington	Duquesne Light Co.—Elrama	No. 3 Boiler	033	445	0.87
Washington	Duquesne Light Co.—Elrama	No. 4 Boiler	034	1,013	0.89
Washington	West Penn Power Co.—Mitchell	Combustion Eng Coal Unit	034	929	0.72
Wayne	Penelec—Wayne		031	11	0.84

County	*Facility*	*Combustion Source Name*	*Point ID*	*Allowance*	*BONUS ALLOWANCE Baseline NOx lb/MMBtu*
Wyoming	Procter & Gamble Paper Products Co.	Westinghouse 251B10	035	245	0.68
York	Glatfelter, P.H. Co.	Number 4 Power Boiler	034	127	0.80
York	Glatfelter, P.H. Co.	Number 1 Power Boiler	035	85	0.80
York	Glatfelter, P.H. Co.	Number 5 Power Boiler	036	237	0.29
York	Met Edison Tolna		031	4	0.59
York	Met Edison Tolna		032	4	0.59
York	PP&L—Brunner Island	Brunner Island 2	032	1,470	0.69
York	PP&L—Brunner Island	Brunner Island Unit 1	931	1,290	0.67
York	PP&L—Brunner Island	Brunner Island Unit 3	933	2,906	0.78

Source

The provisions of this Appendix E adopted October 31, 1997, effective November 1, 1997, 27 Pa.B. 5683; amended March 10, 2000, effective March 11, 2000, 30 Pa.B. 1370. Immediately preceding text appears at serial pages (237287) to (237300).

STANDARDS FOR CONTAMINANTS MERCURY EMISSIONS

Editor's Note: In *PPL Generation, LLC v. Com., Department of Environmental Protection*, 986 A.2d 48 (Supreme 2009), the Pennsylvania Supreme Court declared 25 Pa. Code §§ 123.201—123.215 (the "PA Mercury Rule") invalid.

§ 123.201. [Reserved].

Authority

The provisions of this § 123.201 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.201 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial page (347963).

§ 123.202. [Reserved].

Authority

The provisions of this § 123.202 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.202 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial pages (347963) to (347964) and (326271) to (326274).

§ 123.203. [Reserved].

Authority

The provisions of this § 123.203 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.203 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial page (326275).

§ 123.204. [Reserved].

Authority

The provisions of this § 123.204 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.204 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial pages (326275) to (326276).

§ 123.205. [Reserved].

Authority

The provisions of this § 123.205 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.205 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial pages (326276) to (326278).

§ 123.206. [Reserved].

Authority

The provisions of this § 123.206 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.206 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial pages (326278) to (326281).

§ 123.207. [Reserved].

Authority

The provisions of this § 123.207 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.207 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial pages (326281) to (326286).

§ 123.208. [Reserved].

Authority

The provisions of this § 123.208 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.208 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial pages (326286) to (326287).

§ 123.209. [Reserved].

Authority

The provisions of this § 123.209 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.209 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial pages (326287) to (326289).

§ 123.210. [Reserved].

Authority

The provisions of this § 123.210 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.210 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial pages (326289) to (326293).

§ 123.211. [Reserved].

Authority

The provisions of this § 123.211 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.211 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial pages (326293) to (326295).

§ 123.212. [Reserved].

Authority

The provisions of this § 123.212 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.212 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial pages (326295) to (326296).

§ 123.213. [Reserved].

Authority

The provisions of this § 123.213 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.213 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial pages (326296) to (326297).

§ 123.214. [Reserved].

Authority

The provisions of this § 123.214 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.214 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial pages (326297) to (326298).

§ 123.215. [Reserved].

Authority

The provisions of this § 123.215 issued under section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)); reserved under section 5 of the Air Pollution Control Act (35 P. S. § 4005).

Source

The provisions of this § 123.215 adopted February 16, 2007, effective February 17, 2007, 37 Pa.B. 883; reserved November 12, 2010, effective November 13, 2010, 40 Pa.B. 6517. Immediately preceding text appears at serial pages (326298) to (326299).

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