

FINAL-FORM RULEMAKING
Annex A
TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart C. PROTECTION OF NATURAL RESOURCES
ARTICLE III. AIR RESOURCES

**CHAPTER 127. CONSTRUCTION, MODIFICATION, REACTIVATION AND
OPERATION OF SOURCES**

Subchapter I. PLAN APPROVAL AND OPERATING PERMIT FEES

§ 127.701. General provisions.

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

(b) The fees collected under this subchapter shall be made payable to the Pennsylvania Clean Air Fund and deposited into the Clean Air Fund established under section 9.2 of the act (35 P. S. § 4009.2).

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

§ 127.705. Emission fees.

(a) The owner or operator of a Title V facility including a Title V [facilities] facility located in [Allegheny County and] Philadelphia County or Allegheny County, except a facility identified in subparagraph (iv) of the definition of a Title V facility in § 121.1 (relating to definitions), shall pay an annual Title V emission fee of [\$37] \$85 per ton for each ton of a regulated pollutant actually emitted from the facility. The owner or operator will not be required to pay an emission fee for emissions of more than 4,000 tons of each regulated pollutant from the facility. [Sources] The owner or operator of a Title V facility located in Philadelphia County [and] or Allegheny County shall pay the emission fee to the county Title V program [if the county Title V program has received approval] approved by the Department under section 12 of the act (35 P. S. § 4012) and § 127.706 (relating to Philadelphia County and Allegheny County financial assistance).

(b) [From November 26, 1994, through 1999, the owner or operator of a phase I affected unit or an active substitution unit as defined by Title IV of the Clean Air Act (42 U.S.C.A. §§ 7641 and 7642) shall pay an annual emission fee of \$14 per ton for each ton of a regulated pollutant actually emitted from the unit. The owner or operator will not be required to pay an emission fee for emissions of more than 4,000 tons of each regulated pollutant from the facility. Sources located in Philadelphia County and Allegheny County shall pay the emission fee to the county program if the county Title V program has received approval under section 12 of the act (35 P. S. § 4012), and § 127.706. Beginning in the year 2000, sources covered by this subsection shall pay the fees established in subsection (a). The other provisions of this subsection notwithstanding, the owner or operator of a phase I affected unit or an active substitution unit as defined by Title IV of the Clean Air Act will not be required to pay more than \$148,000 plus the increase established by subsection (e) for each regulated pollutant emitted from a Title V facility. Substitution units identified as conditional substitution units by the owner or operator shall pay the emission fee established by subsection (a).]

[(c)] The emissions fees required by this section shall be due on or before September 1 of each year for emissions from the previous calendar year. The fees required by this section shall be paid for emissions occurring in calendar year [1994] 2013 and for each calendar year thereafter.

[(d)] (c) As used in this section, the term “regulated pollutant” means a VOC, each pollutant regulated under sections 111 and 112 of the Clean Air Act (42 U.S.C.A. §§ 7411 and 7412) and each pollutant for which a National ambient air quality standard has been promulgated, except that carbon monoxide shall be excluded from this reference.

[(e)] (d) The emission fee imposed under subsection (a) shall be increased in each calendar year after [November 26, 1994] _____ (*Editor’s Note: The blank refers to the effective date of adoption of this proposed rulemaking.*), by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the previous calendar year. For purposes of this subsection:

(1) The Consumer Price Index for a calendar year is the average of the Consumer Price Index for All-Urban Consumers, published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

(2) The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used.