

(b) For purposes of the permit program authorized under subsection (a) of this section, the definitions in sections 402 and 501 of the Clean Air Act are incorporated herein by reference.

(c) The owner or operator or the designated representative of each source affected under section 405 of the Clean Air Act shall submit a permit application and compliance plan for the affected source to the department no later than January 1, 1996. In the case of affected sources for which application and plans are timely received, the permit application and the compliance plan, including amendments thereto, shall be binding on the owner or operator or the designated representative of the owners or operators and shall be enforceable as a permit for purposes of this section until a permit is issued by the department. Any permit issued by the department shall require the source to achieve compliance as soon as possible but no later than the date required by this act, the Clean Air Act or the regulations promulgated under either this act or the Clean Air Act for the source.

(d) At any time after the submission of a permit application and compliance plan, the applicant may submit a revised application and compliance plan. In considering any permit application and compliance plan under this section, the department shall coordinate with the Pennsylvania Public Utility Commission consistent with requirements that may be established by the administrator.

(e) In addition to other provisions, permits issued by the department shall prohibit all of the following:

(1) Annual emissions of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide that the owner or operator or designated representative hold for the unit.

(2) Exceedances of applicable emissions rates or standards, including ambient air quality standards.

(3) The use of any allowance prior to the year for which it is allocated.

(4) Contravention of any other provision of the permit.

Section 6.6. Hazardous Air Pollutants.--(a) The regulations establishing performance or emission standards promulgated under section 112 of the Clean Air Act are incorporated by reference into the department's permitting program. After the effective date of the performance or emission standard, new, reconstructed, modified and existing sources shall comply with the performance or emission standards pursuant to the compliance schedule established under section 112 of the Clean Air Act and the regulations promulgated under the Clean Air Act. The Environmental Quality Board may not establish a more stringent performance or emission standard for hazardous air pollutant emissions from existing sources, except as provided in subsection (d). This section shall not apply to rules and regulations adopted as final prior to the effective date of this act and shall not be construed to weaken standards for individual sources or facilities in effect prior to the effective date of this act. The board may establish performance or emission standards for sources or categories of sources which are not included on the list of source categories established under section 112(c) of the Clean Air Act. For purposes of this section, the term "performance standard" includes design, equipment, work practice or operational standards or any combination thereof.

(b) In the event the administrator has not promulgated a standard to control the emissions of hazardous air pollutants for a category or subcategory of major sources under section 112 of the Clean Air Act, pursuant to a schedule established pursuant to section 112(c) of the Clean Air Act, the department shall have the authority to establish a performance or emission standard on a case-by-case basis for individual sources or a category of sources. The department shall have the authority to make the determinations required by section 112(g)(2) of the Clean Air Act regarding the construction, reconstruction and modification of sources. Any person challenging the performance or emission standards established by the

department shall have the burden to demonstrate that the performance or emission standard does not meet the requirements of section 112 of the Clean Air Act. The department shall incorporate the standard to control the emissions of hazardous air pollutants into the plan approval or operating permit of any source within the category or subcategory. The performance or emission standard established on a case-by-case basis by the department shall be equivalent to the limitation that would apply to the source if a performance or emission standard had been promulgated by the administrator under section 112 of the Clean Air Act.

(c) The department is authorized to require that new sources demonstrate in the plan approval application that the source will reduce or control emissions of air pollutants, including hazardous air pollutants, by using the best available technology.

(d) (1) When needed to protect public health, welfare and the environment from emissions of hazardous air pollutants from new and existing sources, the department may impose health risk-based emission standards or operating practice requirements. In developing such health risk-based emission standards or operating practice requirements, the department shall provide an explanation and rationale for such standards or requirements and provide for public review and comments on plan approvals, operating permits, guidelines and regulations which contain health risk-based emission standards or operating practice requirements. Standards or requirements adopted pursuant to this subsection shall be developed using an analysis which, among other factors, considers, where appropriate for a source or source category, the criteria set forth in section 112(f)(1) of the Clean Air Act in assessing the proposed risk to the public health, welfare and the environment from the source.

(2) In the case of coke oven batteries, the department may not impose health risk-based emission standards more stringent than Federal requirements until eight (8) years after promulgation of maximum achievable control technology (MACT) standards and not until the year 2020 for coke oven batteries which satisfy the requirements of section 112(i)(8)(A) of the Clean Air Act.

(3) Notwithstanding the limitation in clause (2), where the operation of a coke oven battery would result in serious, substantial and demonstrable harm to public health, welfare and the environment, the department may impose health risk-based emission standards by regulation which utilize proven, commercially available and economically available methods of technology.

(i) The department shall not impose health risk-based emission standards until after January 1, 1998, for those coke oven batteries which satisfy the applicable MACT or lowest achievable emission rate (LAER) standards.

(ii) After January 1, 1998, the department shall only impose health risk-based emission standards adopted pursuant to section 112(f) of the Clean Air Act, and, if no such emission standards are adopted pursuant to section 112(f) of the Clean Air Act, the department may adopt such emission standards, provided that such standards are consistent with the criteria and the factors set forth in clause (1) and section 112(f) of the Clean Air Act and until such time as health risk-based standards are enacted by the Federal Government pursuant to section 112(f) of the Clean Air Act.

(e) The department shall have the authority to require, in the plan approval and operating permit, reasonable monitoring, recordkeeping and reporting requirements for sources which emit hazardous air pollutants.

(f) Nothing in this section shall preclude the department from taking an emergency action where there is an immediate or potential threat to public health, welfare and the environment from an air pollutant, including a hazardous air pollutant.

(g) The early emissions reduction program authorized under section 112(i)(5) of the Clean Air Act is incorporated by reference in the department's permitting program.