

Bill No. 4890-09

No. 30-09-02

AN ORDINANCE

A Ordinance of the Council of the County of Allegheny ratifying amendments to Allegheny County Health Department Rules and Regulations pursuant to Section 12011 of the Local Health Administration Law, 16 P.S. §12001 et seq.

Whereas, Allegheny County, pursuant to the Local Health Administration Law, 16 P.S. §12001 et seq., created the Allegheny County Health Department, and the Allegheny County Board of Health; and

Whereas, the Local Health Administration Law at Section 12011 provides for the Board of Health to adopt regulations and submit such regulations to Allegheny County for approval or rejection; and

Whereas, on or about May 6, 2009, Allegheny County Board of Health adopted the attached amendments to the Allegheny County Health Department Rules and Regulations, Article XXI, Administration and Organization, Section 2102.10, "Installation Permit Application and Administration Fees;" and

Whereas, on or about May 6, 2009, the Allegheny County Board of Health adopted the attached amendments to Allegheny County Health Department Rules and Regulations, Article XXI, Administration and Organization, Section 2103.40, "Administration Fees;" and

Whereas, on or about May 6, 2009, the Allegheny County Board of Health adopted the attached amendments to Allegheny County Health Department Rules and Regulations, Article XXI, Administration and Organization, Section 2105.50, "Open Burning;" and

Whereas, on or about May 6, 2009, the Allegheny County Board of Health adopted the attached amendments to Allegheny County Health Department Rules and Regulations, Article XXI, Administration and Organization, Section 2105.51, "Abrasive Blasting;" and

Whereas, on or about May 6, 2009, the Allegheny County Board of Health adopted the attached amendments to Allegheny County Health Department Rules and Regulations, Article XXI, Administration and Organization, Section 2105.60, "Asbestos Abatement Contractor Licenses;" and

Whereas, on or about May 6, 2009, the Allegheny County Board of Health adopted the attached amendments to Allegheny County Health Department Rules and Regulations, Article XXI, Administration and Organization, Section 2105.62, "Asbestos Abatement Applicability, Federal Requirements, Notices, and Permits;" and

Whereas, on or about May 6, 2009, the Allegheny County Board of Health adopted the attached amendments to Allegheny County Health Department Rules and Regulations, Article XXI, Administration and Organization, Section 2105.63, "Asbestos Abatement Procedures;" and

Whereas, on or about May 6, 2009, the Allegheny County Board of Health adopted the attached amendments to Allegheny County Health Department Rules and Regulations, Article XXI, Administration and Organization, Section 2109.08, "Allegheny County Air Pollution Control Fund & Air Quality Fund;" and

Whereas, on or about May 6, 2009, the Allegheny County Board of Health adopted the attached amendments to Allegheny County Health Department Rules and Regulations, Article XXI, Administration and Organization, Section 2109.09, "Allegheny County Clean Air Fund;" and

Whereas, it is the desire of Council to ratify the Allegheny County Health Department regulation amendments as approved by the Board of Health.

The Council of the County of Allegheny hereby resolves as follows:

SECTION 1. Incorporation of Preamble.

The provisions set forth in the preamble to this Ordinance are incorporated by reference in their entirety herein.

SECTION 2. Ratification of Regulations

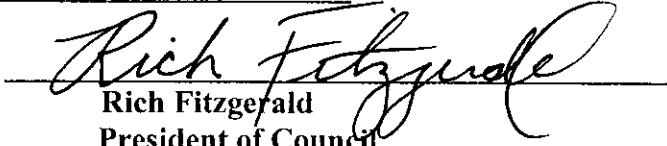
Acting pursuant to the Local Health Administration Law and the Allegheny County Home Rule Charter, County Council hereby ratifies the amendments to the Allegheny County Health Department Rules and Regulations, Article XXI, Administration and Organization, Section 2102.10, "Installation Permit Application and Administration Fees," Section 2103.40, "Administration Fees," Section 2105.50, "Open Burning," Section 2105.51, "Abrasive Blasting," Section 2105.60, "Asbestos Abatement Contractor Licenses," Section 2105.62, "Asbestos Abatement Applicability, Federal Requirements, Notices, and Permits," Section 2105.63, "Asbestos Abatement Procedures," Section 2109.08, "Allegheny County Air Pollution Control Fund & Air Quality Fund," and Section 2109.09, "Allegheny County Clean Air Fund," attached as Exhibit "A".

SECTION 3. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Resolution which shall be in full force and effect.

SECTION 4. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Resolution.

Enacted in Council, this 7th day of July, 2009.

Council Agenda No. 4890-01


Rich Fitzgerald
President of Council

Attest: 
Allegheny County Council

Chief Executive Office July 6, 2009

Approved: 
Dan Onorato
Chief Executive

Attest: Donna Beltz
Donna Beltz
Executive Secretary

SUMMARY OF LEGISLATION

The attached legislation ratifies amendments to certain rules and regulations of the Allegheny County Board of Health.

§2101.07 ADMINISTRATION AND ORGANIZATION

{Subsection c amended May 7, 1998 effective May 15, 1998}

...

d. Right to Information.

1. All records, reports, and other information in the possession of the Allegheny County Health Department relevant to the issuance of administrative orders, the issuance, revocation, or rejection of permits, the reporting of shutdowns or breakdowns, the determination of permissible, potential, or actual emission rates, or air quality data shall be retained by the Department for at least five (5) years following its receipt or generation, or five (5) years following the expiration of any related permit, whichever is longer. All such records, reports, and other information shall be open to inspection by any person except that any such record, reports, other information, or part thereof which would disclose methods or processes protected as trade secrets under the laws of the United States shall not be disclosed to any person other than:
 - A. Officers, employees, and authorized representatives of Allegheny County, the PA DEP, or the U.S. EPA; provided that, such disclosure shall be made only upon such terms and conditions which ensure that such protected information will not be disclosed to other persons; or,
 - B. Courts of the Commonwealth or of the United States in such manner as the court may direct.
2. The Department may establish policies and procedures regarding the time, place, and manner of inspection, and may establish reasonable fees for any material furnished by the Department upon request. All such fees shall be payable to the Allegheny County Air Pollution Control Fund.

...

2102.03 PERMITS GENERALLY

...

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

...

§2102.08 EMISSION OFFSET REGISTRATION

{Paragraph a.2 & Subsection e amended September 6, 1995, effective October 20, 1995}

a. Registration.

3. The notice required by this Section shall be accompanied by the payment of a non-refundable verification fee in the amount of \$250 payable to the Allegheny County Air Pollution Control Fund. The Department may prepare a form required to be used in providing the notice required by this Section.

{Note: A change to paragraph 2102.08.a.3, above, was proposed in the set of regulation changes proposed during the public comment period, but was withdrawn per Comment 1.}

§2102.10 INSTALLATION PERMIT APPLICATION AND ADMINISTRATION FEES

{Paragraphs b & d amended August 12, 1999, effective September 1, 1999}

- a. **Installation Permit Application Fee.** On the date that an application for an Installation Permit is submitted under this Part the owner or operator of such source shall submit to the Department, in addition to all other applicable emission and administration fees, an Installation Permit Application Fee in an amount determined under, and in accordance with, the requirements of this Section.
- b. **Amount of Application Fees.** A schedule of the amounts of the application fees required by this Part for Installation Permit Application fees shall be set by the Board of Health. Consideration shall be given to the degree of technical and regulatory difficulty in establishing fees for the following categories of installation permits:
 1. For any source requiring a Prevention of Significant Deterioration (PSD) permit under this Article, ~~shall be \$15,000 for calendar years 1995–1999, \$18,500 for calendar years 2000–2004, and \$22,700 after the year 2004.~~
 2. For any source requiring an Installation Permit under this Section which requires the Department to establish a MACT standard for such source, but not subject to Paragraph 1 above, ~~shall be \$5,500 for calendar years 1995–1999, \$6,700 for calendar years 2000–2004, and \$8,000 after the year 2004.~~
 3. For any source requiring an Installation Permit under this Section and subject to §2102.06 above involving new major sources and major modifications locating in or impacting a non-attainment area, but not subject to Paragraph 1 or 2 above, ~~shall be \$3,500 for calendar years 1995–1999, \$4,300 for calendar years 2000–2004, and \$5,300 after the year 2004.~~
 4. For any source requiring an Installation Permit under this Section and subject to an existing NSPS, NESHAP, or MACT standard, ~~but not subject to Paragraph 1, 2, or 3 above, shall be \$1,200 for calendar years 1995–1999, \$1,400 for calendar years 2000–2004, and \$1,700 after the year 2004.~~
 5. For any source requiring an Installation Permit under this Section but not subject to either Paragraph 1, 2, 3, or 4 above, and for all applications to use general installation permits, ~~shall be \$750 for calendar years 1995–1999 years, \$850 for calendar years 2000–2004, and \$1,000 after the year 2004.~~
- c. **Annual Installation Permit Administration Fee.** No later than 30 days after the date that an application for an Installation Permit is approved under this Part, and on or before the last day of the month in which such permit application was approved in each year thereafter, during the term of such permit until a subsequent corresponding Operating Permit or amended Operating Permit is properly applied for, the

owner or operator of such source shall pay to the Department, in addition to all other applicable emission and administration fees, an Annual Installation Permit Administration Fee in an amount equal to \$750 set by the Board of Health.

d. **Minor Modifications of an Installation Permit.** Modifications to Installation Permits may be applied for but only upon submission of an application with a fee paid and where:

1. No reassessment of any control technology determination is required; and
2. No reassessment of any ambient air quality impact is required.

~~The fee shall be \$200 for calendar years 1995—1999, \$230 for calendar years 2000—2004, and \$300 after the year 2004. The fee amount shall be set by the Board of Health.~~

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

f. **Any fees approved by the Board of Health under the terms of this section shall not become effective until approved by Allegheny County Council.**

2103.13 b. **Renewals.**

1. The owner or operator of a source permitted under this Part shall submit to the Department an application for permit renewal at least six (6) months prior to the date of permit expiration, but no earlier than 18 months prior to the date of permit expiration.
2. Permits being renewed are subject to the same fees, standards, and requirements that apply to an initial permit issuance.

2103.13. d. **Existing Source Reactivations.** During the term of a permit under this Part, a permittee shall not reactivate any source under the permit that has been out of operation or production for a period of one year or more unless the permittee has submitted a reactivation plan request to, and received a written reactivation plan approval from, the Department.

1. A reactivation plan request may only be submitted during the term of the applicable operating permit and must be either:
 - A. If the source is reactivated within five (5) years after deactivation, accompanied by the submission to the Department of a Reactivation Plan Request fee in the amount of 25% of the annual application/permit administration fees required for said permit by this Part, but not less than \$50 per permit; or
 - B. If the source is reactivated more than five (5) years after deactivation, accompanied by the submission to the Department of the applicable Installation Permit application fee required by §2102.10.b of this Article; or
 - C. Submitted as part of another application for the same source under Part B or Part C of this Article.

2103.14. b. Administrative Permit Amendment Procedures.

...

3. Applications for administrative permit amendments must be accompanied by the submission to the Department of Administrative Permit Amendment application fees in the amount of 25% of the annual application/permit administration fees required for said permits by this Part, but not less than \$50 per permit.

...

§2103.23 EXPIRATION, RENEWALS

{Subsection b amended September 6, 1995, effective October 20, 1995}

- a. **Renewals.** Permits being renewed are subject to the same fees and procedural requirements, including those for public participation and affected State and EPA review, that apply to initial permit issuance.

...

§2103.31 ALTERNATIVE EMISSION REDUCTION PLANS

- ...
- h. The application fee shall be in the amount of 150% of the sum of all the annual Operating Permit application/permit administration fees for each source affected by the proposed alternative emission reduction plan pursuant to Subpart 4 of this Part. Such fee shall be payable to the Allegheny County Air Pollution Control Fund.

SUBPART 4 - OPERATING PERMIT FEES

§2103.40 ADMINISTRATION FEES

{Paragraph b amended August 12, 1999, effective September 1, 1999}

- a. **Annual Operating Permit Application/Permit Administration Fee.** On the date that an application for an Operating Permit is submitted under this Part, including applications for revisions, transfers, amendments, and modifications, and on or before the last day of the month in which such submission is made in each year thereafter, while such application is being reviewed and then during the term of any permit subsequently issued, the owner or operator of such source shall submit to the Department, in addition to any other applicable administration and emissions fees, an Annual Operating Permit Application/Permit Administration Fee.
- b. **Amount of Fees.** A schedule of the amounts of the annual operating permit application/permit administration fees required by this Section shall be set by the Board of Health. Consideration shall be given to the degree of technical and regulatory difficulty in establishing fees for minor, synthetic minor and major sources.
 - 1. For any source subject to Subpart 1, but not subject to Subpart 2, of this Part, and for all applications to use general operating permits, shall be \$200 for calendar years 1995 - 1999, \$300 for calendar years 2000 - 2004, and \$375 after the year 2004; and
 - 2. For any source subject to Subpart 2 of this Part, shall be \$600 for calendar years 1995 - 1999, \$615 for calendar years 2000 - 2004, and \$750 after the year 2004.
- c. **Annual Major Source Hazardous Air Pollutant Permit Application/Permit Administration Fee.** On the date that an application for an operating permit for a major source with the potential to emit any hazardous air pollutant is submitted under this Part, including applications for revisions, transfers, amendments, and modifications, and on or before the last day of the month in which such submission is made in each year thereafter, while such application is being reviewed and then during the term of any permit subsequently issued, the owner or operator of such source shall submit to the Department, in addition to all other applicable administration and emission fees, an Annual Hazardous Air Pollutant Permit

Application/Permit Administration Fee in the amount of 50% of the amount of the annual operating permit application/permit administration fee required for said permit by this Part.

- d. **Annual Acid Rain Deposition Control Permit Application/Permit Administration Fee.** On the date that an application, or portion of an application, for the acid rain deposition control portion of an operating permit for affected sources is submitted under this Part, including applications for revisions, transfers, amendments, and modifications, and on or before the last day of the month in which such submission is made in each year thereafter, while such application is being reviewed and then during the term of any permit subsequently issued, the owner or operator of such source shall submit to the Department, in addition to all other applicable administration and emission fees, an Annual Acid Deposition Control Permit Application/Permit Administration Fee in the amount of 50% of the amount of the annual operating permit application/permit administration fee required for said permit by this Part.
- e. **Annual Operating Permit Application/Permit Non-Compliance Administration Fee.** On the date that an application for an Operating Permit is submitted under this Part, including applications for revisions, transfers, amendments, and modifications, involving a source of which any part is not in full compliance with this Article, and on or before the last day of the month in which such submission is made in each year thereafter, while such application is being reviewed and then during the term of any permit subsequently issued until such source has achieved and demonstrated full compliance with the requirements of this Article, the owner or operator of such source shall submit to the Department, in addition to all other applicable administration and emission fees, an Annual Operating Permit Application/Permit Non-Compliance Administration Fee in the amount of 50% of the total amount of the annual application/permit administration fee and any annual acid rain deposition control and hazardous air pollutant permit application/administration fees required for said permit by this Part. No portion of this fee is refundable upon achieving compliance.
- f. **Payment of Fees.** The payment of the required fees under this Section shall be made by check or money order payable to the "Allegheny County Air Pollution Control Fund."
- g. **Any fees approved by the Board of Health under the terms of this section shall not become effective until approved by Allegheny County Council.**

§2103.41 EMISSIONS FEES

*{Subsections a & c & Paragraph b.2 amended, and Paragraph b.1 added September 6, 1995, effective October 20, 1995;
Subsections a & b amended May 7, 1998, effective May 15, 1998}*

a. Annual Major Source Emissions Fee Requirements.

- 1. Except as otherwise provided herein, the owner or operator of a source that requires a major Operating Permit pursuant to §2103.20 of this Article shall pay an Annual Major Source Emission Fee of \$37 per ton for each ton of a regulated pollutant actually emitted from the source. Provided, however, that the owner or operator shall not be required to pay an emission fee for emissions of more than 4,000 tons of each regulated pollutant from the source.
- 2. From the effective date of this Section 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. Secs. 7661--7661f) shall pay an annual emission fee of \$14 per ton for each ton of regulated pollutant actually emitted from the unit. Provided, however, that the owner or operator shall not be required to pay an emission fee for emissions of more than 4,000 tons of each regulated pollutant from the source. Beginning in the year 2000, sources covered by this Paragraph shall pay the fees established in Paragraph a.1 above. The other provisions of this Paragraph 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 (42 U.S.C.A. Secs. 7661-7661f) shall not be required to pay more than \$148,000 plus the increase established by Paragraph 4 below for each regulated pollutant emitted from a major source. Substitution units identified as conditional substitution units by the owner or operator shall pay the emission fee established by Paragraph a.1 above.

3. 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. Secs. 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.
4. The emission fee imposed under Paragraph a.1 above shall be increased in each year after 1995 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 Paragraph:
 - A. 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.
 - B. The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

b. **Annual Emissions Fee Deadline.** In addition to any other administration fees required under this Article, the owners or operators of all sources subject to Subpart 2 of this Part shall pay annual emissions fees as set forth under Subsection (a) above for the previous calendar year actual emissions. Except as provided under Subsection (c) below, all such fees shall be paid into the "Allegheny County Air Quality Fund" for the major operating permit program as set forth under this Article. All such fees shall be paid by no later than September 1 of each year, beginning with September 1, 1998.

c. **Annual Phase I Affected Source and Active Substitution Unit Emissions Fees.** All annual emissions fees paid under Paragraph a.2 above shall be paid into the "Allegheny County Air Pollution Control Fund."

§2105.50 OPEN BURNING *{Subsection f amended May 8, 2007, effective, August 17, 2007.}*

...

f. Permits.

1. The Department may issue a permit for open burning during a period specified by the Department, but only where the open burning is solely for:
 - A. The abatement of a fire or public health hazard or the annual disposal of Christmas trees when the burning is conducted under the supervision of a public officer;
 - B. The instruction of personnel in fire fighting;
 - C. The fostering of agriculture;
 - D. The conducting of a ceremony; or,
 - E. Any other purpose contributing a negligible amount of air contaminants; or
- F. Clearing and grubbing wastes subject to, at a minimum, the following requirements:
 - i. Air curtain incineration units shall be used at all times when burning clearing and grubbing wastes.
 - ii. The use of air curtain incineration units shall not be permitted unless approved by the Department in writing with respect to equipment arrangement, design, and existing environmental conditions prior to commencement of burning.
 - iii. Approval for use of an air curtain incineration unit at one site may be granted for a specified period not to exceed three months, but may be extended for additional limited periods upon further written approval by the Department.

- iv. The application for said permit must be accompanied by a non-refundable permit application fee, by check or money order payable to the "Allegheny County Air Pollution Control Fund," ~~in the amount of \$300~~ to cover the costs associated with processing, reviewing, and acting upon the application. **The amount of the fee shall be set by the Board of Health.**
- v. If operated at commercial, industrial, or institutional facilities, the air curtain incinerator may also be subject to the NSPS requirements of 40 CFR 60 Subpart CCCC or EEEE.

G. Any fees approved by the Board of Health under the terms of this section shall not become effective until approved by Allegheny County Council.

§2105.51 ABRASIVE BLASTING

...

d. **Permit Application Fees.**

- 1. For each permit application required under this Section, other than for annual permits, the owner of the subject surface shall submit to the Department a project permit application fee, payable to the Allegheny County Air Pollution Control Fund, ~~in the amount of \$400~~ for the proposed abrasive blasting. **The amount of the fee shall be set by the Board of Health.**
- 2. For each annual permit application required under this Section, the owner of the subject surfaces shall submit to the Department an annual permit application fee in the amount of \$600, payable to the Allegheny County Air Pollution Control Fund, for the proposed abrasive blasting.

3. Any fees approved by the Board of Health under the terms of this section shall not become effective until approved by Allegheny County Council.

§2105.60 ASBESTOS ABATEMENT CONTRACTOR LICENSES

...

c. **License Application Fees.** For each initial and annual renewal License application required under this Section, the applicant shall submit to the Department a License application fee ~~in the amount of \$150~~ payable to the Allegheny County Air Pollution Control Fund. **The amount of the fee shall be set by the Board of Health. Any fees approved by the Board of Health under the terms of this section shall not become effective until approved by Allegheny County Council.**

§2105.62 ASBESTOS ABATEMENT APPLICABILITY, FEDERAL REQUIREMENTS, NOTICES, AND PERMITS

...

h. **Permits.**

...

4. **Application Fees.** For all permit and Operating & Maintenance (O&M) Plan applications required under this Subpart, by the deadline for the submittal of such applications, the owner of

the facility requiring such application shall submit to the Department an Asbestos Permit application fee, payable to the Allegheny County Air Pollution Control Fund, in an amount to be set by the Board of Health Any fees approved by the Board of Health under the terms of this section shall not become effective until approved by Allegheny County Council, in the amount of:

- A. \$150 Where the proposed asbestos abatement project involves the removal, encasement, or encapsulation of ACM on 260 linear feet or more of pipe or a total of 160 square feet or more, but less than 300 square feet of ACM, or less than 160 square feet if a permit is required by the Department under Subparagraph 1.A.ii of this Subsection;
- B. \$350 Where the proposed asbestos abatement project involves the removal, encasement, or encapsulation of a total of 300 square feet or more, but less than 1,000 square feet, of ACM; or
- C. \$650 Where the proposed asbestos abatement project involves the removal, encasement, or encapsulation of a total of 1,000 square feet or more of ACM, and for all proposed O&M Plans.

...

7. **Term of Permits - Permit Extensions.**

...

- C. No fee is required for a timely application submitted in compliance with Subparagraph B above, and the amended permit, if approved by the Department, shall be effective on the date of application.

...

8. **Permit Amendments - Other than Solely for Permit Extensions.**

- A. No person shall remove, encase, or encapsulate, or cause to be removed, encased, or encapsulated, any ACM during asbestos abatement activities conducted under a permit under this Section other than the ACM identified, by type, amount, and specific location within the facility, in the application and permit, unless for such additional ACM:

 - i. Where all of the additional ACM is located within the existing containment barriers under the current permit:

 - (a). The owner of the facility has submitted to the Department a properly completed Asbestos Permit Amendment application including:

 - (1). A detailed description of the types, amounts, and specific locations within the facility of all additional ACM to be removed, encased, or encapsulated, including maps, blueprints and sketches where necessary; and
 - (2). The appropriate fee, under this Section, in the amount of either the difference between the amount of the fee for the total amount of the ACM to be abated under the current permit plus the additional ACM to be removed, encased, or encapsulated, less the amount of the fee previously paid for the current permit, or \$150, whichever is more;
 - (b). Such permit amendment has been issued; and

(c). Such abatement is conducted in compliance with this Article and such amended permit; or

ii. Where the additional ACM is located within the same facility under the current permit, but any portion of the additional ACM is located outside the existing containment barriers under the current permit:

(a). The owner of the facility has submitted to the Department a separate properly completed new Asbestos Permit application including:

(1). All requirements for a permit application under this Section except;

(2). The appropriate fee, under this Section, in the amount of either the difference between the amount of the fee for the total amount of the ACM to be abated under the current permit plus the additional ACM to be removed, encased, or encapsulated, less the amount of the fee previously paid for the current permit, or \$150, whichever is more;

(b). Such new permit has been issued; and

(c). Such abatement is conducted in compliance with this Article and such new permit.

• • •

D. Asbestos permit amendment applications may, in the sole discretion of the Department, be conditionally approved in the field or verbally over the phone, but such approval is automatically null and void unless:

i. By no later than 2:00 PM on the next Department business day, the owner of the facility has submitted to the Department a properly completed Asbestos Permit Amendment application including:

(a). A detailed description of the types, amounts, and specific locations within the facility of all additional ACM to be removed, encased, or encapsulated, including maps, blueprints and sketches where necessary;

(b). The appropriate fee, under this Section, in the amount of either the difference between the amount of the fee for the total amount of the ACM to be abated under the current permit plus the additional ACM to be removed, encased, or encapsulated, less the amount of the fee previously paid for the current permit, or \$150, whichever is more; and

(c). A detailed description of all changes in work practices, procedures, and equipment at the facility, including maps, blueprints and sketches where necessary;

ii. Such abatement is conducted in compliance with this Article and such amended permit application as issued by the Department; and

iii. Such permit amendment is subsequently issued by the Department.

- E. Asbestos permit amendments under Subparagraph D above not requiring any fee may, in the sole discretion of the Department, be tentatively approved in the field or verbally over the phone and finally approved by the issuance of a memo amendment by the Department to the site owner. Such asbestos abatement activities may proceed in accordance with such amendment following tentative approval, but only if:
 - i. Such abatement is conducted in compliance with this Article and such amended permit application as issued by the Department; and
 - ii. Such permit amendment is subsequently issued by the Department.

§2105.63 ASBESTOS ABATEMENT PROCEDURES

- k. **Final Clearance Inspection.**
 - 4. If the results of a final clearance inspection are not acceptable to the Department:
 - A. The Department will indicate the deficiencies which must be remedied; and
 - B. A request for a final clearance reinspection shall be submitted to the Department in accordance with the Department's procedures for scheduling initial final clearance inspections. All requests to schedule a final clearance reinspection shall include the submittal to the Department of:
 - i. A final clearance reinspection application, on a form approved by the Department; and
 - ii. A Final Clearance Reinspection fee in the amount of \$150 payable to the Allegheny County Air Pollution Control Fund. **The amount of the fee shall be set by the Board of Health. Any fees approved by the Board of Health under the terms of this section shall not become effective until approved by Allegheny County Council.**

§2109.01 INSPECTIONS

- d. The owner or operator of every coke plant within Allegheny County shall reimburse the Allegheny County Health Department for the cost of performing inspections pursuant to the coke oven NESHAP requirements of 40 CFR 63 Subpart L. The amount of reimbursement shall be determined annually by the Board of Health in accordance with 40 CFR 63.309, and include an appropriate administrative fee. Payment shall be made for each calendar quarter, within 30 days of invoice. Late payment of fees is subject to the provisions of Section 2109.07 of this Article.

§2109.07 PENALTIES, FINES, AND INTEREST

- a. **Fees.** A source that fails to pay any fee required under this Article when due shall pay a civil penalty of 50% of the fee amount, plus interest on the fee amount computed in accordance with Paragraph a.4 of

§2109.06 of this Article from the date the fee was required to be paid. In addition, the source may have its permit revoked.

b. **Disposition of Monies Collected.**

1. All interest received by the County under this Article as a result of emissions fees under §2103.41.a.1 of this Article shall be paid into the Allegheny County Air Quality Fund for the major operating permit program.
2. All interest received by the County under this Article as a result of fees, other than the emissions fees under §2103.41.a.1 of this Article, shall be paid into the Allegheny County Air Pollution Control Fund.
3. All penalties, fines, interest, and other funds received by the County under this Article as a result of consent orders, noncompliance penalties, civil penalty actions, consent decrees, civil penalties, or summary proceedings, other than such funds provided for under paragraph 1 above, shall be paid into the Allegheny County Clean Air Fund.

§2109.08 ALLEGHENY COUNTY AIR POLLUTION CONTROL FUND & AIR QUALITY FUND

- a. **Purpose.** The purpose of the "Allegheny County Air Pollution Control Fund", a restricted fund established by the Allegheny County Board of Commissioners for the Health Department on August 27, 1992, as of the effective date of this Article, is to receive and disburse all air pollution control fees, related interest, and all other related funds, including but not limited to related administrative charges and reimbursements for costs, in accordance with the Air Pollution Control Act Amendments of 1992, but not funds payable to the Allegheny County Air Quality Fund established under Subsection e below.
- b. **Disposition of Monies Collected.** All funds received by the County under this Article as a result of fees, related interest, and all other related funds, including but not limited to related administrative charges and reimbursements for costs, shall be paid into the special fund known as the Allegheny County Air Pollution Control Fund.
 1. The Funds under this Section shall be administered in accordance with the provisions of the Second Class County Code and other applicable laws. The County Treasurer shall invest monies deposited in the Funds in such manner as not to impair the liquidity of the Funds and shall credit all interest accruing on such monies to the respective Funds.
 2. The Department shall report on the status of the Funds to the Board of Health on an annual basis, or at such other intervals as the Board may require.
 3. Audits of the Funds shall be performed as required by law.
- c. **Disbursements.** Disbursements of monies from the Allegheny County Air Pollution Control Fund shall be utilized solely to cover all reasonable (direct and indirect) costs incurred by the County and required to develop and administer the County's air pollution control program other than those portions of the program required by Title V of the Clean Air Act. No air pollution source, which is subject to the provisions of this Article shall receive monies from the Funds under this Section, or services, equipment, or materials purchased with such monies, to fulfill its obligations under this Article, except for Department facilities supporting the Air Quality Program.
- d. At no time for any purpose shall monies be disbursed or borrowed from the Allegheny County Air Pollution Control Fund, or otherwise distributed or encumbered, except as specifically allowed under this Section.

e. There is hereby established the "Allegheny County Air Quality Fund" for the major operating permit program which is specifically for the deposit of all emission fees, and related interest, and only such fees and interest, required to be collected by the County by Title V of the Clean Air Act, and the disbursement of such funds, and only such funds, solely to cover all of the costs of the County's air pollution control program required by Title V of the Clean Air Act. All funds received by the County under this Article as a result of major source emissions fees, and related interest, and only such funds, shall be paid into the Allegheny County Air Quality Fund for the major operating permit program. Disbursements of monies from the Air Quality Fund for the major operating permit program shall be utilized solely to cover any and all reasonable (direct and indirect) costs required to develop and administer the County's air pollution control program required by Title V of the Clean Air Act, whether such costs are incurred by the County or other State or local agencies that do not issue permits directly but that support permit issuance or administration. At no time for any purpose shall monies be disbursed or borrowed from the Air Quality Fund for the major operating permit program, or otherwise distributed or encumbered, except as specifically allowed under this Section.

§2109.09 ALLEGHENY COUNTY CLEAN AIR FUND

a. **Purpose.** The purpose of the "Allegheny County Clean Air Fund" is to receive and disburse all penalties, fines, and interest received by the County under this Article as a result of applications, permits, licenses, consent orders, noncompliance penalties, civil penalty actions, consent decrees, civil penalties, or summary proceedings, other than any fees, related interest, and other related funds. The Clean Air Fund is specifically for the disbursement of such funds solely to support activities related to the improvement of air quality within Allegheny County and to support activities which will increase or improve knowledge concerning air pollution, its causes, its effects, and the control thereof.

b. **Disposition of Monies Collected.** All funds, other than fees, related interest, and other related funds received by the County under this Article shall be paid into the special fund known as the Allegheny County Clean Air Fund.

1. This Fund shall be administered in accordance with the provisions of the Second Class County Code and other applicable laws. The County Treasurer shall invest monies deposited in the Fund in such manner as not to impair the liquidity of the Fund and shall credit all interest accruing on such monies to the Fund.
2. The Department shall report on the status of the Fund to the Board of Health on an annual basis, or at such other intervals as the Board may require.
3. Audits of the Fund shall be performed as required by law.

c. **Disbursements.**

1. Disbursements of monies from the Allegheny County Clean Air Fund shall be utilized solely to support the purposes set forth under Subsection a above. Funds may therefore be disbursed for such purposes as, but not limited to:
 - A. The support of research and development of control technologies;
 - B. Health effects studies and surveys concerning air pollution;
 - C. Special purpose monitoring, as defined by the EPA;
 - D. Public education concerning air pollution;

E. The acquisition of consulting or other services from persons with special experience and/or expertise;

F. The purchase of equipment, materials, or services to supplement the County's air pollution control program; or

G. Any other project that is consistent with the purpose of this Section and the mission of the Board of Health.

2. Disbursements of monies from the Clean Air Fund shall not be used to replace the normal operating funds of the County's air pollution control program. An amount, no greater than five percent of the balance of the Clean Air Fund on December 31st of the previous calendar year, may be used to fund the normal operating costs of the County's Air Quality Program.

3. No air pollution source, except for Department facilities supporting the Air Quality Program, which are subject to the provisions of this Article shall receive monies from this Fund, or services, equipment, or materials purchased with such monies, to fulfill its obligations under this Article.

d. **Procedures for Disbursement of Funds.** Procedures for disbursement of monies paid into the Clean Air Fund shall be as follows:

1. The Department shall prepare requests for disbursements, upon consultation with the Air Pollution Control Advisory Committee and the Board of Health.

2. The Department shall consult with the Air Pollution Control Advisory Committee regarding the disbursement requests.

3.2. The Department shall present requests for disbursements to the Board of County Commissioners Health. The request shall include a statement as to the results of the consultation with the Board of Health and summary of the consultation with the Air Pollution Control Advisory Committee.

4.3. The Board of County Commissioners Health shall approve or disapprove requests for disbursement made by the Department. Approval of the Air Pollution Control Advisory Committee is not required. If approved, the Board of County Commissioners shall authorize disbursement of funds in the manner provided by law.

§2109.11 CITIZEN SUITS

f. The court, in issuing any final order in any action brought pursuant to Subsection c of this Section, may award costs of litigation, including attorney and expert witness fees, to any party whenever the court determines such an award is appropriate. Except as provided in Subsection b of this Section, the court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Pennsylvania Rules of Civil Procedure.

MEMORANDUM

OFFICE OF THE COUNTY MANAGER

TO: John Mascio
Chief Clerk

FROM: James M. Flynn, Jr. *JK*
County Manager

DATE: May 28, 2009

RE: Proposed Ordinance

Attached is an Ordinance ratifying amendments to Allegheny County Health Department Rules and Regulations pursuant to Section 12011 of the Local Health Administration Law, 16 P.S. §12001 et seq.

The Allegheny County Law Department has reviewed this legislation prior to submitting it to Council.

I am requesting that this item be placed on the agenda at the next Regular Meeting of Council.

ALLEGHENY COUNTY COUNCIL
09 MAY 28 AM11:39