

Bill No. 1253-03

No. 47-03-OR

AN ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, establishing a Bad Actor Policy that requires applicants for air pollution permits to be in compliance with their current pollution permits before receiving a new permit for expansion or new facilities.

WHEREAS, Allegheny County Council desires to improve compliance with Allegheny County's clean air rules and regulations by instituting a bad actor policy.

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

Section 1. Any applicant to the Allegheny County Health Department (ACHD) for a new or modified air pollution permit must demonstrate to the ACHD that they have been in compliance for a period of one year with all current air pollution permits, and applicable air pollution laws and regulations, under which they operate. The one year compliance period will begin one year prior to the date of the new or modified permit application received by ACHD.

Section 2. ACHD shall not deem an application for a new or modified permit complete until such time as the applicant documents their compliance with current permits as specified in this ordinance.

Section 3. ACHD shall not deem an application complete if ACHD's records show that the applicant has not been in compliance with current permits as specified in this ordinance.

Section 4. ACHD shall not act on an application for a new or modified permit that is currently not complete.

Section 5. A facility will not be considered to be "in compliance," as the term is used in this ordinance, if the ACHD, a state or federal environmental agency has sent a Notice of Violation (NOV), or has sent a Statement of Violation (SOV) that documents the violation in writing, or has taken an enforcement action against the company including, but not limited to, issuing a fine or initiating legal proceedings.

Section 6. Required reports to the ACHD that are missing at the time of application for a new or modified permit shall be considered a violation under this ordinance. Required reports that are filed with ACHD at a date later than required shall not be considered a violation under this ordinance.

Section 7. A single, accidental release during the one year compliance period shall not be considered a violation under this section unless the accidental release caused significant harm or danger to human health or significant damage to the environment, as determined by ACHD.

Section 8. This ordinance shall not apply to facilities seeking permits to install new pollution control equipment, or making pollution prevention changes which does not increase total emissions at existing facilities in Allegheny County.

Section 9. This ordinance shall not apply to Title V Operating Permits or any other operating permit issued by ACHD.

Section 10. This ordinance shall apply to all private and public entities that apply to the ACHD for new or modified air pollution permits. Changes that would require a modified air pollution permit would include any physical change in a source, or any change in the method of operation of a source which would increase the amount of any air contaminant emitted by the source, or which would result in the emissions of any air contaminant not previously emitted, except that routine maintenance, repair and replacement shall not be considered a physical change.

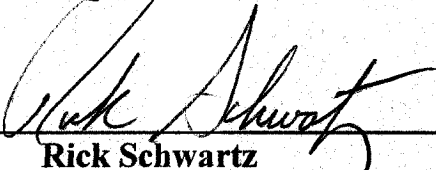
SECTION 11. *If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.*

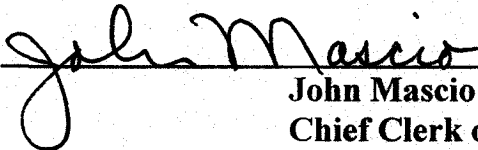
SECTION 12. *Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.*


SPONSORED BY COUNCIL MEMBERS FRANCIS, FITZGERALD & FRAZIER

Enacted in Council, this 26th day of August, 2003

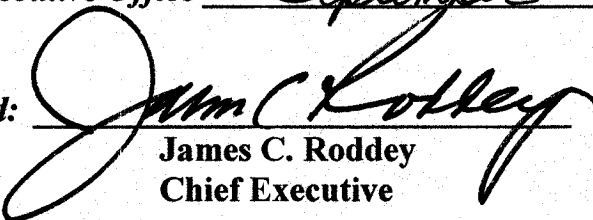
Council Agenda No. 1253-03

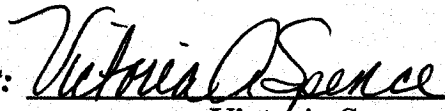

Rick Schwartz
President of Council

Attest: 
John Mascio
Chief Clerk of Council

Approved as to form: 
Charles P. McCullough
County Solicitor

Chief Executive Office September 2, 2003

Approved: 
James C. Roddey
Chief Executive

Attest: 
Victoria Spence
Executive's Secretary