### **Revision to ALLEGHENY COUNTY'S portion of the PENNSYLVANIA STATE IMPLEMENTATION PLAN**

For the Attainment and Maintenance of the National Ambient Air Quality Standards

**Revision Tracking No. 92** 

Allegheny County Health Department Rules and Regulations Article XXI, Air Pollution Control Sections Related to Air Quality Permit Fees:

Sections in SIP

§2101.20, "Definitions"

§2102.03, "Permits Generally"

§2102.04, "Installation Permits"

§2102.10, "Installation Permit Application and Administration Fees"

§2103.10, "Applicability, Prohibitions, Records"

§2103.11, "Applications"

§2103.13, "Expiration, Renewals, Reactivations"

§2103.14, "Revisions, Amendments, Modifications"

<u>Sections not in SIP</u> §2103.22, "Issuance, Standard Conditions"

§2103.40, "Administration Fees"

§2103.41, "Emissions Fees"

§2105.51, "Abrasive Blasting"

§2105.62, "Asbestos Abatement Applicability, Federal Requirements, Notices, And Permits"

§2109.07.b, "Penalties, Fines, And Interest - Disposition of Monies Collected"

§2109.08.e, "Allegheny County Air Pollution Control Fund & Air Quality Fund "

### (Tracking No. 92)

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# A. Article XXI Revisions – Permit Fee Related Regulations

Deletions are shown with strikethroughs. <u>Additions are shown in larger font, bolded, and</u> <u>underlined.</u>

**§2101.20 DEFINITIONS** {unless specifically indicated, all definitions effective October 20, 1995}

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**"Surface coating process"** means the application and solidification of a coating onto or into a substrate as the substrate proceeds through the equipment and activities of the manufacturing process. *{modified July 10, 2003}* 

# "Synthetic minor source" means an air contamination source subject to Federally enforceable conditions limiting the source's potential to emit to less than the major source thresholds specified in the definition of "major source." {Effective September 25, 2021.}

**"Tank car"** means a rail car which is used for transporting liquids in bulk and in an unpackaged form.

### §2102.03 PERMITS GENERALLY

{Paragraph a. 1 & d.2 & Subsections i & j amended, and k & l added September 6, 1995, effective October 20, 1995. Subsections e, j and l amended September 15,2021, effective September 25, 2021.}

Transfers. Permits issued pursuant to this Part or Part C of this Article shall not e. 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 set by the Board of Health and approved by Allegheny Council 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.

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### j. General Permits.

- 1. Except as otherwise provided under this Subsection, the General Plan Approvals and Operating Permits requirements promulgated by the Pa. Environmental Quality Board and Dept. of Environmental Protection (DEP) under the Pa. Air Pollution Control Act at 25 Pa. Code §§127.611 through 127.622 are hereby incorporated, by reference, into this Article. Additions, revisions, and deletions to such requirements adopted by the EQB and the DEP are incorporated into this Article and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.
- 2. For purposes of this Article:
  - A. 25 Pa. Code §127.612(a) shall only require the publication of the required notice in the <u>Pennsylvania Bulletin</u> and one newspaper of general circulation in the County;
  - B. 25 Pa. Code §127.612(c) shall only require that comments be retained for a period of five (5) years following final action on a proposed permit; and

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- C. 25 Pa. Code §127.621(b) shall also allow delivery or transmittal of applications by regular U.S. mail or any other generally accepted manner of delivery or transmittal.
- D. An applicant for a General Installation Permit shall pay a fee in accordance with §2102.10. An applicant for a General Operating Permit shall pay a fee in accordance with §2103.40.
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### 1. Temporary Sources at Multiple Locations.

- 1. Except as otherwise provided under this Subsection, the requirements for Plan Approvals and Operating Permits for Sources Operating at Multiple Temporary Locations promulgated by the Pa. Environmental Quality Board and Dept. of Environmental Protection (DEP) under the Pa. Air Pollution Control Act at 25 Pa. Code §§127.631 through 127.642 are hereby incorporated, by reference, into this Article. Additions, revisions, and deletions to such requirements adopted by the EQB and the DEP are incorporated into this Article and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.
- 2. For purposes of this Article:
  - A. 25 Pa. Code §127.632(a) shall only require the publication of the required notice in the <u>Pennsylvania Bulletin</u> and one newspaper of general circulation in the County;
  - B. 25 Pa. Code §127.632(c) shall only require that comments be retained for a period of five (5) years following final action on a proposed permit; and
  - C. 25 Pa. Code §127.641(c) shall also allow delivery or transmittal of applications by regular U.S. mail or any other generally accepted manner of delivery or transmittal.
  - D. An applicant for a General Installation Permit for Sources Operating at Multiple Temporary Locations shall pay a fee in accordance with §2102.10. An applicant for an Operating Permit for a Source Operating at Multiple Temporary Locations shall pay a fee in accordance with §2103.40.

### **§2102.04 INSTALLATION PERMITS**

{Paragraph a.5 deleted, Paragraphs b.11 & h.2 and Subsection j added, and Subparagraph a.1.B & Subsections g, h, & i amended September 6, 1995, effective October 20, 1995. Subparagraphs a.1.C and new paragraph a.5 added December 12, 2000, effective January 12, 2001. Subsection k added effective April 28, 2004. Subsection g amended March 23, 2012, effective April 3, 2012 Subsection g amended September 15,2021, effective September 25, 2021.}

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g. **Term.** An Installation Permit shall expire in 18 months if construction has not commenced within such period or shall expire 18 months after such construction has been suspended, if construction is not resumed within such period. Installation Permits shall authorize temporary operation to facilitate shakedown of sources and air cleaning devices, to permit operations pending issuance of a related subsequent Operating Permit, or to permit the evaluation of the air contamination aspects of the source. Such temporary operation period shall be valid for a limited time, not to exceed 180 days, but may be extended for additional limited periods, each not to exceed 120 days, except that no temporary operation shall be authorized or extended which may circumvent the requirements of this Article.

For major sources, if the construction, modification or installation is not commenced within 18 months of the issuance of an installation permit or if there is more than an 18-month lapse in construction, modification, or installation, a new installation permit application shall be submitted. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified. <u>An applicant for an extension of an installation permit</u> <u>shall pay a fee in the amount set by the Board of Health and</u> <u>approved by Allegheny County Council. The fee for an extension</u> <u>of an installation permit will not apply if, through no fault of the</u> <u>applicant, an extension is required.</u>

# **§2102.10 INSTALLATION PERMIT APPLICATION AND ADMINISTRATION FEES**

{Paragraphs b & d amended August 12, 1999, effective September 1, 1999. Paragraphs b, c, and d revised and paragraph f added by July 16, 2009 amendment, effective July 26, 2009. Amended September 15,2021, effective September 25, 2021.}

- 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.
- 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. The applicable fees required under this subsection are cumulative. Consideration shall be given to the degree of technical and regulatory difficulty in establishing fees for the following categories of installation permits:

# **<u>1.</u>** For any source requiring an Installation Permit under this Part.

- **42**. For any source requiring a Prevention of Significant Deterioration (PSD) permit under this Article.
- 2**3**. 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.
- 34. 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.
- 4<u>5</u>. For any source requiring an Installation Permit under this Section and subject to an existing NSPS, NESHAP, or MACT standard standards. <u>The owner or operator of such source shall pay a fee set by</u> <u>the Board of Health for each applicable standard up to and</u> <u>including three applicable standards per Installation Permit</u> <u>application. Applicants that have more than three</u> <u>applicable standards shall pay the fee for a maximum of</u> <u>three standards. The Department's permitting review will</u> <u>include all applicable standards.</u>

- 6. For any source requiring an Installation Permit under this Section for a Plantwide Applicability Limit permit under 25 Pa. Code §127.218(b) (relating to PALs), to cease a PAL permit under 25 Pa. Code 127.218(j) or to increase a PAL under 25 Pa. Code §127.218(l).
- 7. For any source proposing a PAL under §2102.07, <u>"Prevention of Significant Deterioration," that is not</u> <u>included in an application submitted under Paragraph 2 or</u> <u>Paragraph 6, above.</u>
- 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.
- 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 fees, an Annual Installation Permit Administration Fee in an amount set by the Board of Health.
  - dc. 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:
    - <u>3.</u> <u>There is no increase in emissions; and</u>
    - <u>4.</u> <u>The applicable requirements of §2102.04.j, "Miscellaneous</u> <u>Notice Requirements," are met</u>.

The fee amount shall be set by the Board of Health.

- d. Modifications of an Installation Permit Application. The owner or operator of a source proposing a revision to an Installation Permit application submitted by the applicant that includes one or more of the following changes after the Department has completed its technical review shall pay the fee in Paragraph 1 or Paragraph 2 as applicable.
  - **<u>1.</u>** For a reassessment of a control technology determination, the applicable fee set by the Board of Health under Paragraph b.1, above.
  - 2. For an analysis of the ambient impacts of the source, a fee in the amount set by the Board of Health.
- <u>e</u>. <u>Risk assessment. Each applicant for a risk assessment shall, as</u> <u>part of the installation permit application, submit an application</u> <u>fee for either:</u>
  - **<u>1.</u>** A risk assessment that considers inhalation only for all modeling; or
  - 2. <u>A multi-path risk assessment.</u>

The application fees required by this subsection shall be set by the board of health.

- f. Request for Determination. The owner or operator of a source subject to this Section that submits a request for determination under §2102.04.a.5 (relating to exemptions) for an installation permit, an operating permit or both an installation permit and an operating permit, shall pay a fee in the amount set by the Board of Health. The Board of Health shall set a reduced fee for an owner or operator of a source that meets the definition of small business stationary source set forth in Section 3 of the Air Pollution Control Act (35 P.S. §4003).
- g. <u>Fees for the use of General Installation Permits under §2102.03.j</u> <u>and §2102.03.l. The Department may establish application fees</u> <u>for the use of General Installation Permits for stationary sources</u>

or Sources Operating at Multiple Temporary Locations (portable sources). These application fees will be established and published when the General Installation Permit is issued or modified by the Department.

- eh. Payment of Fees. Payment of the required fees under Paragraphs a through d of this Section and under §2102.03.e and §2102.04.g for a source that requires a major operating permit shall be made by check or money order payable to the "Allegheny County Air Quality Fund." Payment of all other required fees under this Part by all other sources shall be made by check or money order payable to the "Allegheny County Air Pollution Control Fund."
- **fi**. **Approval of Fees.** Any fees approved by the Board of Health under the terms of this section shall not become effective until approved by Allegheny County Council.

## **SUBPART 1 - OPERATING PERMITS (All Major & Minor Permits)**

### **§2103.10 APPLICABILITY, PROHIBITIONS, RECORDS**

{Paragraphs b.1, 6, 9, 10, & 12 and c.2, & Subparagraph c.2.B amended September 6, 1995, effective October 20, 1995, Subparagraph c.2.C modified January 22, 1998, effective March 31, 1998. Subsection b 'Exemptions' deleted December 12, 2000, effective January 12, 2001. Paragraph b.2. amended September 15,2021, effective September 25, 2021.}

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### b. **Prohibitions.**

- 1. **Prohibition of Operating Without a Permit.** Except as otherwise expressly provided under this Subpart, no source subject to this Subpart may be operated, or allowed to operate, after the time a complete Operating Permit application for such source is required to be submitted under this Part, except in compliance with an Operating Permit issued under this Subpart.
- 2. **Exception.** If a timely and complete application for an Operating Permit or renewal or modification of an Operating Permit is submitted for a source under this Subpart, and through no fault of the applicant such permit has not yet been issued, the failure of such source to have a permit under this Subpart is not a violation of this Article until the Department takes final action on the permit application, but only if during the period in which the Department is reviewing the application for such permit:
  - A. Any and all required Installation Permits have been issued for such source or equipment pursuant to this Article, and in the case of a source subject to Subpart 2 of this Part such Installation Permits have been subject to public review under §2102.04.h or §2102.05 of this Article and are federally enforceable;
  - B. The source or equipment is being operated in compliance with §2102.04.g above and all terms and conditions contained in any required Installation Permits;
  - C. The source or equipment is being operated in compliance with all terms and conditions contained in the Operating Permits last issued to the source and the fees have been paid as required by **Subsection 2103.11.c and** Section 2103.40 of this Article.

### **§2103.11 APPLICATIONS**

Paragraph a.2 & Subsections b, d, e, f, & g amended & h added September 6, 1995, effective October 20, 1995. Subsections a & c amended September 15,2021, effective September 25, 2021.}

### a. Generally.

- 1. The submittal of a complete application under this Subpart shall not affect any other requirements that any source has under this Article.
- 2. Except for major sources, where a source only requires one permit, multiple permits, each for a portion of the source, may be applied for, but only where the issuance of such multiple permits is determined by the Department to be in the best interest of administratively efficient and effective permitting and regulatory enforcement of the source. Such separate permits can not, however, act to change any of the applicable requirements for the source or any of the applicable emission fees. In addition, all of the separate permits will each require the same <u>applicable</u> administrative fees <u>and maintenance fees</u> as the one permit would have required.

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c. Annual Operating Permit Application/Administration Fee and Additional Annual Operating Permit Fees. On the date that an application for an Operating Permit is submitted under this Subpart, the owner or operator of such source shall submit to the Department an operating permit application fee in amounts determined under, and in accordance with, the requirements of §2103.40, and on or before the last day of the month in which such application was submitted in each year thereafter, Wwhile 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 applicable emission fees, all applicable <u>annual</u> <u>operating permit</u> administration <u>or annual operating permit</u> <u>maintenance</u> fees in amounts determined under, and in accordance with, the requirements of Subpart 4 of this Part.

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**§2103.13 EXPIRATION, RENEWALS, REACTIVATIONS** *{Subsections b and d amended September 15,2021, effective September 25, 2021.}* 

- a. **Expiration.** Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with the requirements of this Subpart.
- 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. <u>Permits being</u> <u>renewed are subject to the fees required by Section 2103.40</u> <u>of this Article.</u>
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- 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 <u>operating permit</u> 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 REVISIONS, AMENDMENTS, MODIFICATIONS

{Subparagraphs a.1.A, B, & D, b.1.D & E, Paragraphs b.2 & 4, and Subsection c amended, Subparagraph b.1.F deleted, & Paragraphs b.6 & 7 and Subsection e added September 6, 1995, effective October 20, 1995. Paragraphs c.1, 3, 4 & 6 and e.5 amended December 12, 2000, effective January 12, 2001. Subsections b and d amended September 15,2021, effective September 25, 2021.}

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- b. **Administrative Permit Amendment Procedures.** An administrative permit amendment may be made by the Department consistent with the following:
  - 3. Applications for administrative permit amendments must be accompanied by the submission to the Department of Administrative Permit Amendment application fees in the amount <u>set by the Board of Health of 25% of the annual application/permit administration fees required for said permits by this Part, but not less than \$50 per permit. Any fees approved by the Board of Health under the terms of this section shall not become effective until approved by <u>Allegheny County Council.</u></u>
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  - d. Significant Modification Procedures Requirements.
    - **<u>1.</u>** The owner or operator of a stationary air contamination source or facility may make a significant modification to an applicable operating permit under this section.
    - **2.** Significant permit modifications shall meet all requirements of the applicable Subparts of this Part, including those for applications, fees, public participation, review by affected States, and review by EPA, as they apply to permit issuance and permit renewal.
    - 3. The owner or operator of the facility shall submit to the Department, on a form provided by or approved by the Department, a brief description of the change, the date on which the change is to occur and the proposed language for revising the operating permit conditions proposed to be changed.

- **<u>4.</u>** The approval of a significant permit modification, if the entire permit has been reopened for review, shall commence a new full five (5) year permit term.
- **<u>5.</u>** The Department shall take final action on all such permits within nine (9) months following receipt of a complete application.

### **§2103.22 ISSUANCE, STANDARD CONDITIONS**

{Paragraph c.1 & Subsection j amended & Subsection k added September 6, 1995, effective October 20, 1995. Subsection l added January 22, 1998, effective March 31, 1998. Subsection k amended September 15,2021, effective September 25, 2021.}

### k. General Permits and Temporary Sources at Multiple Locations.

- 1. Except as otherwise provided under this Subsection, the requirements for General Permits and Operating Permits for Sources Operating at Multiple Temporary Locations promulgated by the Pa. Environmental Quality Board and Dept. of Environmental Protection (DEP) under the Pa. Air Pollution Control Act at 25 Pa. Code §§127.514 & 127.515 are hereby incorporated, by reference, into this Article. Additions, revisions, and deletions to such requirements adopted by the EQB and the DEP are incorporated into this Article and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.
- 2. For purposes of this Article, an applicant for a General Operating Permit or for an Operating Permit for Sources Operating at Multiple Temporary Locations shall pay a fee in accordance with §2103.40.
- 2<u>3</u>. Under the regulations incorporated by reference under this Subsection:
  - A. "Plan approval" shall mean Installation Permit;
  - B. "Department" shall mean Department as defined under this Article;
  - C. "Title V Permit" shall mean an Operating Permit issued under this Subpart;
  - D. "Title V Facility" shall mean Major Source;
  - E. "§127.516" shall mean Subsection e above;
  - F. "Subchapter H" shall mean §2102.03.j & 1 of this Article; and
  - G. "Facility" shall mean Source.

## **SUBPART 4 - OPERATING PERMIT FEES AND EMISSIONS FEES**

### §2103.40 **OPERATING PERMIT** ADMINISTRATION FEES

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{*Paragraph b amended August 12, 1999, effective September 1, 1999. Paragraph b revised and paragraph g added by July 16, 2009 amendment, effective July 26, 2009. Amended September 15,2021, effective September 25, 2021.*}

### a. Annual Operating Permit Application/Permit Administration Fees.

- 1. On the date that an application for an Operating Permit is submitted under this Part, including applications for <u>renewals</u>, revisions, transfers, <u>administrative</u> 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 <u>application f</u>Fee <u>in the amount set by the Board of Health</u>.
- 2e. 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 <u>renewals</u>, revisions, transfers, <u>administrative</u> 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 <u>Annual Hazardous Air Pollutant Permit Application/Permit</u> 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.
- <u>3</u>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 **renewals**, revisions, transfers, **administrative** 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.

- **Annual Operating Permit Application/Permit Non-Compliance 4**e. Administration Fee. On the date that an application for an Operating Permit is submitted under this Part, including applications for **renewals**, revisions, transfers, **administrative** 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 operating permit 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.
- b. Annual Operating Permit Administration Fee. In addition to any other applicable administration and emissions fees, an owner or operator of a source that has submitted an application for an operating permit under this Part shall pay an annual operating permit administration fee in the amount set by the Board of Health for applications filed through calendar year 2020. While such application is being reviewed and then during the term of any permit subsequently issued, the owner or operator shall pay the fee on or before the last day of the month in which such submission is made in each year thereafter through calendar year 2020.

- c. Annual Operating Permit Maintenance Fee. Beginning for calendar year 2021, an owner or operator of a source that has submitted an application for an operating permit under this Part shall pay an annual operating permit maintenance fee in the amount set by the Board of Health. For calendar year 2021, the annual operating permit maintenance fee is due on or before 60 days after the effective date of this subsection. For subsequent years, the annual operating permit maintenance fee is due on or before December 31 of each year for the next calendar year. The owner or operator shall pay the fee while such application is being reviewed and then during the term of any permit subsequently issued.
- **d**b. **Amount of Fees.** A schedule of the amounts of the annual operating permit application <u>fees</u>, *A* annual operating permit administration <u>fee</u>, and <u>annual</u> <u>operating permit maintenance</u> 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.
- <u>e.</u> The owner or operator of a source that submits an application for <u>a Plantwide Applicability Limit (PAL) permit under 25 Pa. Code</u> §127.218(b) (relating to PALs), to cease a PAL permit under 25 <u>Pa. Code 127.218(j) or to increase a PAL under 25 Pa. Code</u> §127.218(l) shall pay a fee in the amount set by the Board of <u>Health.</u>
- <u>f.</u> <u>The owner or operator of a source proposing a PAL under</u> <u>§2102.07, "Prevention of Significant Deterioration," that is not</u> <u>included in an application submitted under Subsection e, above,</u> <u>shall pay a fee in the amount set by the Board of Health.</u>

- g. <u>Request for Determination. The owner or operator of a source</u> <u>subject to this Section that submits a request for determination</u> <u>under §2102.04.a.5 (relating to exemptions) for an operating</u> <u>permit, an installation permit, or for both an operating permit</u> <u>and an installation permit, shall pay a fee in the amount set by the</u> <u>Board of Health. The Board of Health shall set a reduced fee for</u> <u>an owner or operator of a source that meets the definition of small</u> <u>business stationary source set forth in Section 3 of the Air</u> <u>Pollution Control Act (35 P.S. §4003).</u>
- <u>h.</u> Fees for General Permits and for Operating Permits for Sources Operating at Multiple Locations under §2103.22.k. The Department may establish application fees for the use of General Operating Permits for stationary sources or Sources Operating at Multiple Temporary Locations (portable sources) for both major and non-major sources. These application fees will be established and published when the General Operating Permit is issued or modified by the Department.
- Fi. Payment of Fees. <u>The payment of the required fees under</u> <u>Paragraphs a, b, c, e and f of this Section and under</u> <u>§2103.13.d.1.A for a source that requires a major operating</u> <u>permit shall be made by check or money order payable to the</u> <u>"Allegheny County Air Quality Fund."</u> The payment of <u>all other</u> required fees under this Section shall be made by check or money order payable to the "Allegheny County Air Pollution Control Fund."
- **gj**. **Approval of Fees.** 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. Subsections a & b amended, and Subsection c deleted November 13, 2014, effective January 1, 2015. Amended September 15,2021, effective September 25, 2021.}
- •
  - b. Annual Emissions Fee Deadline. In addition to any other administration<u>or</u> maintenance 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. 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.

• • •

**§2105.51 ABRASIVE BLASTING** {Subsection d amended July 16, 2009, effective July 26, 2009. Subsection d amended September 15,2021, effective September 25, 2021.}

• • •

- d. Permit Application Fees.
- • •
- 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 <u>set by the Board of Health-of \$600</u>, payable to the Allegheny County Air Pollution Control Fund, for the proposed abrasive blasting. <u>Any fees approved by the Board of Health under the terms of this section shall not become effective until approved by Allegheny County Council.</u>

### §2105.62 ASBESTOS ABATEMENT APPLICABILITY, FEDERAL

**REQUIREMENTS, NOTICES, AND PERMITS** {Subsection h amended July 16, 2009, effective July 26, 2009. Subsection d amended July 16, 2009, effective July 26, 2009. Subsection h amended September 15,2021, effective September 25, 2021.}

• • •

- h. Permits.
- • •

. . .

. . .

- 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:
        - (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 <u>in the amount set by</u> <u>the Board of Health</u>\$150, whichever is more;
    - 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 <u>in the amount set by</u> <u>the Board of Health</u>\$150, whichever is more;
- 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:
  - (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 <u>in the amount set by the Board of Health \$150</u>, whichever is more; and

# **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.

**§2109.07 PENALTIES, FINES, AND INTEREST** *{Subsection b amended September 15,2021, effective September 25, 2021* 

- 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.
  - All interest received by the County under this Article as a result of emissions fees under Sections 2102.10.h, 2103.40.i, and §2103.41.a.1 of this Article shall be paid into the Allegheny County Air Quality Fund for the major operating permit program.
  - All interest received by the County under this Article as a result of fees, other than the emissions fees under Sections 2102.10.h, 2103.40.i, and §2103.41.a.1 of this Article, shall be paid into the Allegheny County Air Pollution Control Fund.

• • •

### **§2109.08 ALLEGHENY COUNTY AIR POLLUTION CONTROL FUND & AIR**

**QUALITY FUND** {*Paragraph c amended July 16, 2009, effective July 26, 2009. Subsection e amended September 15,2021, effective September 25, 2021*}

- • •
- There is hereby established the "Allegheny County Air Quality Fund" for the e. 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 under this article to implement the requirements of 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, collected from sources that require a major operating permit, 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.

End of regulation changes

## B. Technical Support Document

This submittal affects the Allegheny County Health Department Air Pollution Control Regulations, Article XXI, related to permit application, administration, and maintenance fees.

The Pennsylvania Department of Environmental Protection (DEP) "Air Resources" regulations set forth specific fee schedules for plan approvals and operating permits. The DEP has amended existing air quality requirements and fee schedules to ensure that fees are sufficient to cover the costs of administering the air pollution control program required by section 502(b) of the Clean Air Act (CAA) and section 6.3 of the Air Pollution Control Act (APCA). The DEP has increased the existing fee schedules for applications for plan approvals and for both Title V and Non-Title V operating permits. The DEP has also replaced the annual operating permit administration fee with an annual operating permit maintenance fee. The DEP has also established new fees for applications for the following: plantwide applicability limits (PAL); ambient air impact modeling of certain plan approval applications; risk assessments; and requests for determination. The recent amendments also give the DEP the authority to establish fees for the use of general plan approvals and general operating permits for stationary or portable sources.

The ACHD's Article XXI regulations do not set forth specific fee schedules for installation permits and operating permits. Instead, the regulations provide that fees are to be set by the Allegheny County Board of Health and approved by Allegheny County Council. The ACHD Air Quality Program is amending its regulations to be consistent with the DEP fee structure. The Article XXI amendments include replacing the annual operating permit administration fee with an annual operating permit maintenance fee and allow the Board of Health to set fee amounts for PAL, risk assessments, and for requests for determinations. The fee schedule set by the Board of Health was approved by the Allegheny County Council. This Article XXI regulations also allows the ACHD to establish fees for the use of general installation permit and general operating permits.

The following sections of Article XXI are being submitted as a SIP Revision:

- §2101.20, "Definitions"
- §2102.03, "Permits Generally" except L.2
- §2102.04, "Installation Permits"
- §2102.10, "Installation Permit Application and Administration Fees"
- §2103.10, "Applicability, Prohibitions, Records"
- §2103.11, "Applications"
- §2103.13, "Expiration, Renewals, Reactivations"
- §2103.14, "Revisions, Amendments, Modifications"

The following sections of Article XXI are not being submitted as a SIP Revision:

- §2103.22, "Issuance, Standard Conditions"
- §2103.40, "Administration Fees"
- §2103.41, "Emissions Fees"
- §2105.51, "Abrasive Blasting"
- §2105.62, "Asbestos Abatement Applicability, Federal Requirements,
- Notices, And Permits"
- §2109.07.b, "Penalties, Fines, and Interest Disposition of Monies Collected"
- §2109.08.e, "Allegheny County Air Pollution Control Fund & Air Quality Fund "

# C. Documentation of Public Hearing and Certifications

- 1. Public Hearing Notice
- 2. Letters of Notification to EPA and DEP
- 3. Proof of Publication of Hearing
- 4. Certification of Hearing
- 5. Summary of Comments and Responses
- 6. Certification of Approval and Adoption

### NOTICE OF PUBLIC HEARING FOR PROPOSED AMENDMENTS TO ALLEGHENY COUNTY HEALTH DEPARTMENT RULES AND REGULATIONS ARTICLE XXI, AIR POLLUTION CONTROL

The Allegheny County Board of Health will hold a public hearing on **Monday, August 26, 2019**, at **10:00 AM**, in the First Floor Conference Room at Building #7 of the Clack Health Center, 301 39th Street, Pittsburgh, PA 15201 to take testimony on proposed modifications to Allegheny County Health Department Article XXI, that will revise several sections related to air quality installation and operating permit fees, including but not limited to §2102.10, 'Installation Permit Application and Administration Fees,' and §2103.40, 'Administration Fees' (related to operating permits), and the corresponding sections of County Ordinance 16782.

### Changes to the sections noted in the Technical Support Document will be submitted as a revision to Allegheny County's portion of the Pennsylvania State Implementation Plan.

Copies of the proposed regulatory amendments may be examined beginning Friday, July 26, 2019 at the Allegheny County Health Department Document Control Room, Building 7, Clack Health Center, from 8:30 AM until 3:30 PM Monday thru Friday; on the Allegheny County Health Department web site: <u>www.achd.net</u>; or by calling 412-578-8120 to request a mailed printed copy.

Oral testimony must be pre-scheduled by calling 412-578-8120 no less than 24 hours in advance of the public hearing. Speakers will be limited to five minutes and should bring a written copy of their comments.

The Board will accept written testimony beginning Friday July 26, 2019, and concluding Monday, August 26, 2019 at 11:59 PM:

By mail to Allegheny County Health Department 301 39<sup>th</sup> Street, Bldg #7 Pittsburgh, PA 15201-1811 By email to <u>aqcomments@achd.net</u> By Fax to 412-578-8144

# COUNTYOF



ALLEGHENY

July 23, 2019

Ms. Christina Fernandez, Director Air Protection Division Region III (3AD00) U.S. Environmental Protection Agency 1650 Arch Street Philadelphia, PA 19103-2029

Dear Ms. Fernandez:

Enclosed is a Notice of Public Hearing for proposed revisions to the Allegheny County Health Department Rules and Regulations, Article XXI, Air Pollution Control and County Ordinance Number 16782, regarding revising various sections related to permit fees, including, but not limited to, Section 2102.10, "Installation Permit Application and Administration Fees," and Section 2103.40, "Administration Fees."

The revisions to several of the sections will also be submitted as changes to Allegheny County's portion of the Pennsylvania State Implementation Plan under our Revision Tracking Number 92.

The public comment period begins July 26, 2019 and concludes August 26, 2019 at 11:59 p.m. The public hearing will be held August 26, 2019. Your comments are welcome.

Sincerely,

Sandra Etzel, Section Head Planning & Data Analysis

cc: Jayme Graham (Manager, Air Quality Program, ACHD) Susan Spielberger Megan Goold Amy Johansen

Enclosures

- Public Hearing Notice
- Proposed Article XXI/SIP Revision 92

ALLEGHENY COUNTY HEALTH DEPARTMENT • AIR QUALITY PROGRAM 301 39<sup>TH</sup> STREET BUILDING #7 • PITTSBURGH, PA 15201-1811 PHONE (412) 578-8103 • FAX (412) 578-8144



ALLEGHENY

July 23, 2019

Mr. Krishnan Ramamurthy, Director Bureau of Air Quality Department of Environmental Protection Rachel Carson Building 400 Market Street P O Box 8468 Harrisburg, PA 17105-8468

Dear Mr. Ramamurthy:

Enclosed is a Notice of Public Hearing for proposed revisions to the Allegheny County Health Department Rules and Regulations, Article XXI, Air Pollution Control and County Ordinance Number 16782, regarding revising various sections related to permit fees, including, but not limited to, Section 2102.10, "Installation Permit Application and Administration Fees," and Section 2103.40, "Administration Fees."

The revisions to several of the sections will also be submitted as changes to Allegheny County's portion of the Pennsylvania State Implementation Plan under our Revision Tracking Number 92.

The public comment period begins July 26, 2019 and concludes August 26, 2019 at 11:59 p.m. The public hearing will be held August 26, 2019. Your comments are welcome.

Sincerely,

Sandra Etzel, Section Head Planning & Data Analysis

cc: Jayme Graham (Manager, Air Quality Program, ACHD) Kirit Dalal Steve Hepler Susan Hoyle

Enclosures

- Public Hearing Notice
- Proposed Article XXI/SIP Revision 92

ALLEGHENY COUNTY HEALTH DEPARTMENT • AIR QUALITY PROGRAM 301 39<sup>TH</sup> STREET BUILDING #7 • PITTSBURGH, PA 15201-1811 PHONE (412) 578-8103 • Fax (412) 578-8144

### No.

Term,

### Proof of Publication of Notice in Pittsburgh Post-Gazette

Under Act No 587, Approved May 16, 1929, PL 1784, as last amended by Act No 409 of September 29, 1951

Commonwealth of Pennsylvania, County of Allegheny, ss <u>D. Rullo</u>, being duly sworn, deposes and says that the Pittsburgh Post-Gazette, a newspaper of general circulation published in the City of Pittsburgh, County and Commonwealth aforesaid, was established in 1993 by the merging of the Pittsburgh Post-Gazette and Sun-Telegraph and The Pittsburgh Press and the Pittsburgh Post-Gazette and Sun-Telegraph was established in 1960 and the Pittsburgh Post-Gazette was established in 1927 by the merging of the Pittsburgh Gazette established in 1786 and the Pittsburgh Post, established in 1842, since which date the said Pittsburgh Post-Gazette has been regularly issued in said County and that a copy of said printed notice or publication is attached hereto exactly as the same was printed and published in the <u>regular</u> editions and issues of the said Pittsburgh Post-Gazette a newspaper of general circulation on the following dates, viz:

### 25 of July, 2019

Affiant further deposes that he/she is an agent for the PG Publishing Company, a corporation and publisher of the Pittsburgh Post-Gazette, that, as such agent, affiant is duly authorized to verify the foregoing statement under oath, that affiant is not interested in the subject matter of the afore said notice or publication, and that all allegations in the foregoing statement as to time, place and character of publication are true.

Sub

PG Publishing Company Sworn to and subscribed before me this day of: July 25, 2019

Commonwealth of Pennsylvania - Notary Seal Elizabeth R. Chmura, Notary Public Allegheny County My commission expires February 8, 2022 Commission number 1326781 Member. Pennsylvania Association of Notaries

STATEMENT OF ADVERTISING COSTS ALLEGHENY CO HEALTH DEPT-LEGAL 542 4TH AVENUE PITTSBURGH PA 15219

To PG Publishing Company

Total ----- \$78.75

### Publisher's Receipt for Advertising Costs

PG PUBLISHING COMPANY, publisher of the Pittsburgh Post-Gazette, a newspaper of general circulation, hereby acknowledges receipt of the aforsaid advertising and publication costs and certifies that the same have been fully paid.

Office 2201 Sweeney Drive CLINTON, PA 15026 Phone 412-263-1338 PG Publishing Company, a Corporation, Publisher of Pittsburgh Post-Gazette, a Newspaper of General Circulation By

I hereby certify that the foregoing is the original Proof of Publication and receipt for the Advertising costs in the subject matter of said notice.

Attorney For

#### COPY OF NOTICE OR PUBLICATION

NOTICE OF PUBLIC HEARING FOR PROPOSED AMENDMENTS TO ALLEGHENY COUNTY EALTH DEPARTMEN ES AND REGULATIO TICLE XXI ith will hold a on at Monday, 10:00 AM an In the rechnical s Document will be sut as a revision to Alle County's portion of Domatican ion Plan of the ry amendri examined beginning y 26, 2019 at the Alie unty Health Dena Con 7, Clack from 8:30 A 3:30 PM Monday thru on the Allegheny Health Department w 412-578-8120 ed printed com pre-scheduled by 412-578-8120 no les advance of the Speakers of five minu hours in ad to five minutes and bring a written copy of amments. r comments. Board will accept written testimony beginning July 26, 2019, and et Monday, August 26, 11:59 PMt By mail to

By mail to Allegheny County Health Department 301 39th Street, Bidg #7 Pittsburgh, PA 15201-1811 By email to aqoommentsitiachd.net By Fax to 412-578 8144

### Revision 92

Article XXI Various sections related to permit fees, including, but not limited to, Section 2102.10, "Installation Permit Application and Administration Fees," and Section 2103.40, "Administration Fees."

### Certification of Hearing

Thomas Lattner deposes and says that he is an Air Pollution Control Engineer in the Air Quality Program of the Allegheny County Health Department and hereby certifies that a Public Hearing was held on August 26, 2019 on the proposed revisions to Article XXI, "Rules and Regulations of the Allegheny County Health Department for Air Pollution Control," and County Ordinance No. 16782 revising various sections related to permit fees, including, but not limited to, Section 2102.10, "Installation Permit Application and Administration Fees," and Section 2103.40, "Administration Fees;"

that these changes are to be incorporated as a change to Allegheny County's Portion of the Pennsylvania State Implementation Plan for the Attainment and Maintenance of National Ambient Air Quality Standards;

that the opportunity for written comments was given in accordance with the requirements of 40 CFR 51.102; that notice of such hearing was given by publication in a newspaper of general circulation on July 25, 2019; and to the best of his knowledge, belief and understanding, such proceedings were in full compliance with all applicable State and Federal laws, regulations, and other requirements.

Thomas Lathe

Date

Thomas Lattner, Air Pollution Control Engineer Air Quality Program Allegheny County Health Department

### SUMMARY OF COMMENTS AND RESPONSES

for

### **Proposed SIP Revision 92**

### Article XXI, Various Sections related to Permit Fees

### Public Comment Period: July 26 to August 26, 2019 Public Hearing: August 26, 2019

1. Comment: Revisions to the fee schedule are necessary for the Air Quality Program to be able to fulfill its mission of protecting air quality in Allegheny County. Commenters: Ned Mulcahy, Staff Attorney, Group Against Smog and Pollution; Robert Orchowski, P.E.

**Response**: The Allegheny County Health Department ("Department" or "ACHD") concurs and appreciates support for the revised regulation.

Comment: The commenter supports the addition of a permit maintenance fee as long as the fee is used to offset or limit emission fees. Such a fee will spread cost obligations in an equitable manner.
Commenter: Christopher W. Hardin, U.S. Steel.

**Response**: The Department appreciates the support for the annual operating permit maintenance fee.

 Comment: The existing Article XXI regulation provisions that gave the Board of Health autonomy to propose specific fee amount should be revised to ensure that any proposed fees be subject to a complete Article XXI regulation revision process, complete with the opportunity for development of fee amounts, public comment and hearing(s) prior to adoption.
Commenters: Robert Orchowski, P.E; Christopher W. Hardin, U.S. Steel.

**Response**: These comments are not within the scope of the Department's proposed regulations. In 2009, Article XXI was amended to require fees to be set by the Board of Health and approved by Allegheny County Council. The proposed Article XXI regulations amend the fee structure; they do not address the fee amounts.

4. Comment: The ACHD fee policy should be modeled after that proposed by the Pennsylvania Department of Environmental Protection (PA DEP). Commenter: Christopher W. Hardin, U.S. Steel.

**Response**: The Department considered the proposed regulation revision to be modeled after that proposed by the PA DEP with respect to the types of fees established by the regulation.

5. Comment: The proposed regulation should not be finalized unless significant Program need and actual fee amount justification is provided. It is not sufficient or acceptable for the Health Department to stand behind a position that the County and PA DEP fees and fee structure must be the same. Commenter: Robert Orchowski, P.E.

**Response**: The proposed Article XXI regulations amend the fee structure but do not address the fee amounts. The Department will provide the Board of Health with an analysis of the financial considerations necessitating the revised permit fee amounts at the time it seeks final approval of the revision from the Board of Health. For purposes of statewide consistency, it is reasonable for the Department to have a fee structure consistent with that of the PA DEP's.

6. Comment: The Clean Air Act requires that the fees imposed on Title V sources must be "sufficient to cover all reasonable (direct and indirect) costs required to develop and administer" the Title V permit program. Similarly, because the ACHD Air Quality Program receives little or no funding from Allegheny County itself, the fees paid by non- Title V sources in the County must also generate sufficient revenue to fund the non-Title V side of that program. If the proposed revisions to Article XXI's provisions relating to fees are ultimately enacted by County Council, the Board of Health must set fees in amounts that will generate revenue sufficient to fund the operations of ACHD's Air Quality Program.

Commenter: John Baillee, Group Against Smog and Pollution (GASP).

**Response**: These comments are not within the scope of the Department's proposed regulations. The Department intends to present to the Board of Health a proposed fee schedule that is demonstrably sufficient to support the operation of its Program.

7. Comment: What people really want to know is what will be the fees, how will they relate to the funding of the air program, and whether they will be sufficient. A comprehensive fee structure and amount analysis similar to that already developed by PA DEP should be provided before there is any further consideration of this proposed regulation.

**Commenters**: Joseph Otis Minott, Esq. and Christopher D. Ahlers, Esq., Clean Air Council, and Robert Orchowski, P.E.

**Response**: Please see the responses to Comments #5 and #6.

 Comment: ACHD Air Program may find, absent its own comprehensive analysis of a proposed fee structure, that it does not have adequate revenues if it simply adopts any fee structure adopted by the PA DEP.
Commenter: Robert Orchowski, P.E.

**Response**: Please see the response to Comment #6.

**9. Comment**: ACHD has been charging fees set forth in PA DEP's regulations, but those fees have not changed since 2005, and ACHD has not revised its regulations on its own even though it has that authority. This is a problem because ACHD has blamed its deficiency in the implementation of the Title V program on the lack of sufficient fees, at least in part.

**Commenters**: Joseph Otis Minott, Esq. and Christopher D. Ahlers, Esq., Clean Air Council.

**Response**: The fee amount is not within the scope of this regulation change. The Department's intent in moving forward is to adequately support both the Title V and the non-Title V programs.

**10. Comment**: The Technical Support Document for the proposed revisions to Article XXI's provisions relating to fees does not identify the legal basis for County Council's authority to make the proposed changes. However, it is "clear" that such authority exists under Allegheny County's Home Rule Charter and the Pennsylvania Air Pollution Control Act.

Commenter: John Baillee, Group Against Smog and Pollution (GASP).

**Response**: The Department does not consider it necessary to demonstrate in the Technical Support Document of this SIP submittal that it has the authority to collect permit fees. The Department believes that authority has been well established since its 1980 State Implementation Plan submittal (reference Chapter 3, "Legal Authority"). That authority is also recognized in the State's Infrastructure SIP.

**11. Comment**: Further action on the proposed revisions to Article XXI should be delayed pending resolution of the concerns raised in the Independent Regulatory Review Commission's (IRRC) comments regarding the proposed revisions to PA DEP's Air Quality fee schedule, so that ACHD knows what the final form of the EQB's proposed revisions will be, and can revise proposed revisions to its own fee schedule accordingly.

Commenter: John Baillee, Group Against Smog and Pollution (GASP).

**Response**: This comment was submitted on August 26, 2019. As of January 8, 2020, the time of writing this response, the PA DEP appears to have resolved the IRRC's concerns as evidenced by its Final Annex submitted to the Air Quality Technical Advisory Committee's (AQTAC) December 12, 2019 meeting. The AQTAC has recommended that the Final Annex, as presented, proceed toward the Environmental Quality Board review and approval. {Editor's note: Pennsylvania issued its regulation effective January 16, 2021. 51 Pa. Bulletin 283.}

12. Comment: The proposed revisions to Article XXI's provisions relating to fees will properly shift the costs of maintaining ACHD's Air Quality division to regulated entities based on those entities' demand for ACHD's resources. Commenter: John Baillee, Group Against Smog and Pollution (GASP).

**Response**: The Department concurs with the commenter's assertion that the proposed regulations will result in a fairer distribution of the cost of Air Program services.

**13. Comment**: There is no requirement in the proposed revisions for calculating and adjusting the amount necessary to operate the Program over time. **Commenter**: Ned Mulcahy, GASP.

**Response**: These comments are not within the scope of the Department's proposed regulations. The proposed Article XXI regulations only amend the fee structure and do not address fee amounts. The Department will approach the Board of Health in the future, when necessary, to seek changes to the amounts of its fees.

### <u>Air Program Comments</u>

14. Comment: Extend the revision of §2102.04.g to include the phrase "<u>the fee for an</u> <u>extension of an installation permit will not apply if, through no fault of the applicant,</u> <u>an extension is required.</u>"
Commenter: ACHD Air Program.

**Response**: The PA DEP added this language to its proposed regulation based on public comment received. The Department agrees with the comment and made a similar change.

15. Comment: Delete the requirements of §2102.10.c, "Annual Installation Permit Administration Fee."Commenter: ACHD Air Program.

**Response**: The Department believes that this fee is not warranted given that the fee for installation permit applications will be increased.

**16. Comment:** Rephrase §2102.10.e, "Risk Assessment." **Commenter:** ACHD Air Program.

**Response**: Rephrased for the sake of clarity. Meaning is unchanged.

 17. Comment: Rephrase §2102.10.f, "for an installation permit, AN OPERATING <u>PERMIT or both an installation permit and an operating permit</u>." Commenter: ACHD Air Program.

**Response**: Rephrased to be consistent with the language of §2103.40.g, "Request for Determination" under the section on Operating Permits Fees.

**18. Comment**: Delete §2102.10.h and §2103.40.h, "Fees for Confidential Information Determination," and adjust the Technical Support Document accordingly by deleting language in the TSD indicating that fees will be instituted for confidential information determinations.

Commenter: ACHD Air Program.

**Response**: After receiving public comment on its proposed regulation, the PA DEP decided this type of fee is unneeded and deleted their proposed fees on Confidential Information Determinations. The Department is being consistent in that approach.

**19. Comment**: Revise §2103.40.b and c, dealing with the annual administration and maintenance fees, to set "dates-certain" of 2020 and 2021 instead of "blanks" and "editorial notes" indicating that "the blanks refer to the effective date of adoption of the rulemaking."

Commenter: ACHD Air Program.

**Response**: Adding the specific years will make the regulation clearer. However, for calendar year 2021, because it is not certain when the rulemaking will be finalized, the language in §2103.40.c will state that the annual operating permit maintenance fee is due on or before 60 days after the effective date of the adoption of the proposed regulation.

20. Comment: Revise §2102.10.h and §2103.40.i ("Payment of Fees") to clarify that fees for sources that require a major operating permit will be paid to the "Allegheny County Air Quality Fund." Also changed reference from §2102.03.f to §2103.02.e due to error in citation in original draft.
Commenter: ACHD Air Program.

**Response**: These sections were rephrased accordingly.

21. Comment: Revise §2109.07.b.1 & 2, "Penalties, fines, and interest - disposition of monies collected" to broaden the application such that the paragraphs address the interest collected on emission fees and the other fees established by sections 2102.10.h and 2103.40.i.

Commenter: ACHD Air Program.

Response: These paragraphs were rephrased accordingly.

22. Comment: Revise §2109.08.e, "Allegheny County Air Pollution Control Fund & Air Quality Fund" to broaden the requirements related to what fees are deposited to the Air Quality Fund, such that instead of only emission fees being so deposited, all fees collected to implement the requirements of Title V of the Clean Air Act are so deposited .

Commenter: ACHD Air Program.

Response: This section was rephrased accordingly.

### CERTIFICATION of APPROVAL and ADOPTION

To the best of my knowledge, information, and belief, I the undersigned hereby certify that the amendments revising §§2101.20, 2102.03, 2102.04, 2102.10, 2103.10, 2103.11, 2103.13, 2103.14, 2103.22, 2103.40, 2103.41, 2105.51, 2105.62, 2109.07, and 2109.08 of Article XXI, Rules and Regulations of the Allegheny County Health Department, Air Pollution Control, adopted by the Allegheny County Board of Health on March 3, 2021, ratified by the Allegheny County Council on September 14, 2021 (Ordinance 13-21-OR, Bill No. 11986-21), approved by the Allegheny County Chief Executive on September 15, 2021, and effective September 25, 2021, as a revision to the County's Portion of the Pennsylvania State Implementation Plan for the Attainment and Maintenance of the National Ambient Air Quality Standards, were duly and properly enacted as prescribed by the Local Health Administration Law and the Allegheny County Home Rule Charter, and as such, are fully and legally enforceable by the Allegheny County Health Department and the County of Allegheny as provided for by the within authority.

Will' Jason Willis, Esq.

Solicitor Allegheny County Health Department