

established by the Federal regulations. The EPA delegates our authority as follows:

1. Authority is delegated for all sources located in Allegheny County subject to review pursuant to the Federal PSD program. This includes all source categories listed in 40 CFR 52.21 for each pollutant regulated by the Clean Air Act.

2. Acceptance of this delegation of authority of the Federal PSD program commits Allegheny County to implement and enforce the Federal PSD program currently promulgated at 40 CFR 52.21 and any additions, revisions, or deletions to 40 CFR 52.21 adopted by EPA after the date of this letter.

3. If at any time there is a conflict between a County regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of the County. If the County does not have the authority to implement a Federal regulation that is more stringent than the applicable County regulation, the pertinent portion of the authority may be revoked.

4. In processing applications for PSD permits pursuant to 40 CFR 52.21, the County shall follow all procedural requirements which the Administrator would be required to follow in processing such applications, whether these procedural requirements are set forth in full in 40 CFR 52.21 or only referenced therein.

5. If EPA determines that the County's procedures for implementing and enforcing any or all of the portions of the PSD program is inadequate, or is not being effectively carried out, the authority granted pursuant to this delegation agreement may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a notice of revocation to Allegheny County.

6. Allegheny County shall ensure through its interstate intergovernmental cooperation procedures that all potential source interactions along County boundaries are properly determined and considered during the PSD permitting process.

7. Enforcement of the PSD program shall be the primary responsibility of Allegheny County. If the County determines that such enforcement is not feasible and so notifies EPA, or where the County acts in a manner inconsistent with the terms of this granted authority, EPA will exercise its concurrent enforcement authority pursuant to sections 113, 167, and 505(b) of the Clean Air Act, 42 U.S.C. 7413, 7477 and 7661b, with respect to sources within Allegheny County subject to PSD requirements. In accordance with 40 CFR 52.21(r) and sections 113, 167, and 505(b) of the Clean Air Act, EPA reserves the right to commence an enforcement action against any entity in violation of the Federal PSD program should Allegheny County fail to take such an enforcement action or, in the opinion of EPA, fail to pursue a timely or appropriate enforcement action. Section 167 provides that EPA shall issue administrative orders, initiate civil actions, or take whatever other enforcement action may be necessary to prevent construction of a major stationary source that does not "conform to the requirements of" the PSD program. Similarly, section 113(a)(5) provides for administrative orders and civil actions whenever EPA finds

that the County "is not acting in compliance with" any requirement or prohibition of the Act regarding construction of new or modified sources. Likewise, section 113(a)(1) provides for a range of enforcement remedies whenever EPA finds that a person is in violation of an applicable implementation plan.

8. The County and EPA shall continue to implement a system of communication sufficient to guarantee a program that includes the items described below:

a. Each agency is informed of the current compliance status of sources in Allegheny County subject to the PSD program.

b. Allegheny County shall send a copy of preliminary determinations and public comment notices required pursuant to 40 CFR 52.21(g) to EPA Region III at the same time the notice is being forwarded for publication in the newspaper.

c. Allegheny County shall provide to EPA Region III copies of the final PSD permit at the time of issuance.

d. The status of incomplete permit applications shall be provided to EPA Region III on an as needed basis.

9. Prior EPA concurrence is to be obtained on any matter involving the interpretation of sections 160–169 of the Clean Air Act, 42 U.S.C. 7470–7492, or 40 CFR 52.21 to the extent that implementation, review, administration, or enforcement of these sections have not been covered by determinations or guidance available to Allegheny County.

A notice announcing this delegation of authority of the Federal PSD to Allegheny County will be published in the **Federal Register** in the near future. This delegation of authority shall be effective as of the publication date of that notice. This delegation of authority should not be construed as a transfer of PSD responsibility under section 110(a)(2)(j) of the Clean Air Act. Such a transfer involves different procedures and considerations.

There is no requirement that the County notify EPA of its acceptance. Unless EPA receives from the County written notice of objections within 10 days of the date receipt of this letter, the County shall be deemed to have accepted all of the terms as stated herein. Finally, EPA commits to continue to provide training and support assistance as requested by the County. If you have any questions regarding this letter, please contact me or Ms. Judith Katz, Director, Air Protection Division.

Sincerely,  
Donald S. Welsh,  
Regional Administrator.

### III. Conclusion

Effective immediately, Allegheny County is the delegated permitting authority to implement and enforce the Federal PSD program and all applications and other information required pursuant to the PSD permit program at 40 CFR 52.21 from sources located or locating in Allegheny County shall continue to be submitted to the Allegheny County, Pennsylvania Health Department at the following address:

Allegheny County Health Department,  
Air Quality Program, 301 Thirty-Ninth  
Street, Pittsburgh, Pennsylvania 15201–  
1891.

### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this information notice is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this information notice is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This information notice imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this information notice will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this information notice delegates pre-existing requirements under Federal law and does not impose any additional enforceable duty beyond that required by Federal law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This information notice also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This information notice also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This information notice merely delegates the implementation of a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This information notice also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.