City AQCB

AQD EXHIBIT 5a

PENGAD 800-631-6989

ARTICLE XVI

AIR QUALITY CONTROL BOARD

Section

6-16-1	Short Title
6-16-2	Definitions.
6-16-3	Joint Air Quality Control Board.
6-16-4	Duties and Powers of Board.
6-16-5	Adoption of Regulations -- Notice and Hearing.
6-16-6	Permits.
6-16-7	Variances.
6-16-8	Variances -- Judicial Review.
6-16-9	Emergency Procedure.
6-16-10	Confidential Information -- Limitations on Regulations.
6-16-11	Enforcement.
6-16-12	Inspection.
6-16-13	Additional Means of Enforcement.
6-16-14	Declaratory Judgment on Regulations.
6-16-15	Notice.

6-16-1 SHORT TITLE.

This ordinance may be cited as the Joint Air Quality Control Board Ordinance.

(13-1975)

6-16-2 DEFINITIONS.

As provided in the New Mexico Air Quality Control Act, 74-2-1 to 74-2-17 NMSA 1978 (hereinafter referred to as the "Air Quality Control Act"), the following definitions shall apply to terms used in this ordinance.

A. "Air contaminant" means any substance, including but not limited to any particulate matter, fly ash, dust, fumes, gas, mist, smoke, vapor, micro-organisms, radioactive material, any combination thereof or any decay or reaction product thereof;

B. "Air pollution" means the emission, except as such emission occurs in nature, into the outdoor atmosphere of one or more air contaminants in such quantities and duration as may with reasonable probability injure human health, animal or plant life or as may unreasonably interfere with the public welfare, visibility or the reasonable use of property;

C. "Board" means the Albuquerque-Bernalillo County Air Quality Control Board created by this Ordinance.

D. "Delayed compliance order" means any federally issued order pursuant to the Federal Act, or any assurance of discontinuance accepted by the Board pursuant to the Air Quality Control Act, applicable to a source, postponing the date required for compliance by such source with any requirement of, any requirement established pursuant to or any requirement continued in effect by the Air Quality Control Act or the Federal Act;

E. "Department" means the administrative agency of the Albuquerque-Bernalillo County Air Quality Control Board;

F. "Director" means the administrative head of the Department;

G. "Emission limitation" and "emission standard" mean a requirement established by the Board, the Department or pursuant to the Federal Act which limits the quantity, rate or concentration, or combination thereof, of emissions of air contaminants on a continuous basis, including any requirements relating to the operation or maintenance of a source to assure continuous reduction;

H. "Environmental Improvement Division" means the environmental improvement division of the State of New Mexico Health and Environment Department;

I. "Federal Act" means the Clean Air Act, 42 U.S.C. Sections 7401 through 7642;

J. "Federal standard of performance" means any standard of performance, emission limitation or emission standard adopted pursuant to 42 U.S.C. Section 7411 or 7412;

K. "Hazardous air pollutant" means an air contaminant which has been classified as a hazardous air pollutant pursuant to the Federal Act;

L. "Mandatory class I area" means any of the following areas in the state of New Mexico which were in existence on August 7, 1977:

(1) national wilderness areas which exceed five thousand acres in size; and

(2) national parks which exceed six thousand acres in size;

M. "Modification" means any physical change in, or change in the method of operation of, a source which results in an increase in the potential emission rate of any regulated air contaminant emitted by the source or which results in the emission of any regulated air contaminant not previously emitted, but does not include:

(1) a change in ownership of the source;

(2) routine maintenance, repair or replacement;

(3) installation of air pollution control equipment, and all related process equipment and materials necessary for its operation, undertaken for the purpose of complying with regulations adopted by the Board or pursuant to the Federal Act; or

(4) unless previously limited by enforceable permit conditions:

(a) an increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(b) an increase in the hours of operation; or

(c) use of an alternative fuel or raw material if, prior to January 6, 1975, the source was capable of accommodating such fuel or raw material, or if use of an alternate fuel or raw material is caused by any natural gas curtailment or emergency allocation or any other lack of supply of natural gas;

N. "Nonattainment area" for any air contaminant means any federally designated geographical area of New Mexico within which a national ambient air quality standard for that air contaminant is being exceeded;

O. "Person" means any individual, partnership, firm, public or private corporation, association, trust, estate, political subdivision or agency or any other legal entity or their legal representatives, agents or assigns;

P. "Potential emission rate" means the emission rate of a source at its maximum capacity in the absence of air pollution control equipment which is not vital to production of the normal product of the source or to its normal operation;

Q. "Regulated air contaminant" means any air contaminant, the emission or ambient concentration of which

is regulated pursuant to the Air Quality Control Act or the Federal Act;

R. "Significant deterioration" means any increase in the ambient concentrations of any air contaminant above the levels allowed by the Federal Act or Federal regulations for that air contaminant in the area within which the increase occurs;

S. "Source" means any structure, building, equipment, facility, installation or operation which emits or may emit any air contaminant;

T. "Standard of performance" means a requirement of continuous emission reduction, including any requirement relating to operation or maintenance of a source to assure continuous emission reduction; and

U. "State implementation plan" means any plan submitted by the state of New Mexico to the Federal Environmental Protection Agency pursuant to 42 U.S.C. Section 7410."

(13-1975, 45-1984)

6-16-3 JOINT AIR QUALITY CONTROL BOARD.

A. In accordance with the New Mexico Air Quality Control Act, a joint air quality control board to be known as the Albuquerque-Bernalillo County Air Quality Control Board is hereby created. The Metropolitan Environmental Health Advisory Board, established by the Metropolitan Environmental Health Advisory Board Ordinance, Article 6-17, R.O. 1974, shall serve as the Albuquerque-Bernalillo County Air Quality Control Board for the County of Bernalillo and the City of Albuquerque. A majority of the Board constitutes a quorum.

B. The Board shall administer and enforce the Air Qualify Control Act and any regulations relating to air pollution applicable within Albuquerque and Bernalillo County.

C. The Director of the department shall keep full minutes of all transactions and proceedings of the Board under the Air Quality Control Act and shall perform duties under the Act prescribed by the Board. The Director is the custodian of all files and records of the Board and shall meet with the Board but does not have a vote.

D. Staff for administration and enforcement of the Air Quality Control Act, the Joint Air Quality Control Board

Ordinance and any regulations pursuant thereto and any other laws relating to air pollution applicable within Albuquerque and Bernalillo County shall be provided by the City of Albuquerque.

(13-1975, 45-1984)

6-16-4 DUTIES AND POWERS OF BOARD.

A. The Board, in accordance with the Air Quality Control Act, shall prevent or abate air pollution within the City of Albuquerque and County of Bernalillo.

B. The Board shall,

1. Adopt, promulgate, publish, amend and repeal regulations consistent with the Air Quality Control Act and this Ordinance to prevent or abate air pollution, including regulations prescribing air standards within the geographic area of the Board's jurisdiction, or any part thereof. Regulations may include regulations to protect visibility in mandatory class I areas, to prevent significant deterioration of air quality and to achieve national ambient air quality standards in nonattainment areas; provided that such regulations shall be no more stringent than but at least as stringent as required by the Federal Act and Federal regulations pertaining to visibility protection in mandatory class I areas, prevention of significant deterioration and nonattainment areas and shall be applicable only to sources subject to such regulation pursuant to the Federal Act. Regulations may also prescribe standards of performance for sources and emission standards for hazardous air pollutants, provided that such regulations shall be no more stringent than but at least as stringent as required by federal standards of performance and shall be applicable only to source subject to such federal standards of performance. Any regulations shall not specify the method to be used to prevent or abate air pollution. Any regulation promulgated under this section shall be consistent with federal law if any, relating to control of motor vehicle emission. In making its regulations, the Board shall give weight it deems appropriate to all facts and circumstances, including but not limited to:

a. character and degree of injury to, or interference with health, welfare, visibility and property.

b. the public interest, including the social and economic value of the sources and subjects of air contaminants.

c. technical practicability and economic reasonableness of reducing or eliminating air contaminants from the sources involved and previous experience with equipment and methods available to control the air contaminants involved.

2. Develop facts and make investigations and studies consistent with the Air Quality Control Act and this Ordinance, and in connection therewith, enter at all reasonable times in or upon any private or public property, except private residences, which the Board has reasonable cause to believe is or will become a source of air contaminants contributing to air pollution, and require the production of information relating to emissions which cause or contribute to air pollution. The results of any such investigations shall be reduced to writing if any enforcement action is contemplated, and a copy thereof shall be furnished to the owner or occupants of the premises investigated before the action is filed.

3. Cause to be instituted legal proceedings to compel compliance with the Air Quality Control Act, this Ordinance or any regulation of the Board.

4. Advise, consult, contract and cooperate with municipalities, counties, the State of New Mexico, other states, the federal government and other interested persons or groups in regard to matters of common interest in the field of air quality control and initiate cooperative action between municipalities, counties and the Board, or any combination thereof for control of air pollution in areas having related air pollution problems that overlap the boundaries of political subdivisions.

5. Encourage and make every reasonable effort to obtain voluntary cooperation by persons in the preservation, the restoration or the improvement of air purity.

6. Consult with any person proposing to construct, install or otherwise acquire an air contaminant source or device or system for the control thereof, concerning the efficiency of the device or system, or the air pollution problem which may be related to the source, device or system. Nothing in any such consultation relieves any person from compliance with the Air Quality Control Act, this Ordinance, regulations in force pursuant thereto, or any other provision of law.

7. Accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government or from any person.

8. Classify and record air contaminant sources which, in its judgment, may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which relate to air pollution. Classifications made pursuant to this paragraph may be for application to the city and county as a whole or to any designated area of the city and county, and shall be made with special reference to the effects on health, economic and social factors and physical effects on property.

9. Develop and adopt a plan or plans for the regulation, control, prevention or abatement of air pollution, recognizing the differences, needs, requirements and conditions in the different areas of the city and county.

C. The Board may adopt regulations requiring notice to the Board of the intent to introduce or permit the introduction of an air contaminant into the air of the City and County.

D. The Board may, by regulation, require any person emitting an air contaminant to,

1. Install, use and maintain emission monitoring devices.

2. Sample emissions in accordance with methods and at locations and intervals as may be prescribed by the Board.

3. Establish and maintain records of the nature and amount of emissions.

4. Submit reports regarding the nature and amounts of emissions and the performance of emission control devices.

5. Provide any other information relating to the emission of air contaminants.

(13-1975, 45-1984, 19-1989)

6-16-5 <u>ADOPTION OF REGULATIONS -- NOTICE AND HEARING.</u>

A. No regulation or emission control requirement or amendment or repeal thereof shall be adopted until after public hearing by the Board. Notice of hearing shall be given at least thirty days prior to the hearing date and shall state the subject, the time and the place of hearing and the manner in which interested persons may present their views. The notice shall also state where interested persons may secure copies of any proposed regulation or air quality

standard. The notice shall be published in a newspaper of general circulation in the City and County. Reasonable effort shall be made to give notice to all persons who have made written request to the Board for advance notice of its hearings. At the hearing, the Board shall allow all interested persons reasonable opportunity to submit data, views or arguments orally or in writing to examine witnesses testifying at the hearing. Any person heard or represented at the hearing shall be given written notice of the action of the Board. The Board may designate a hearing officer to take evidence in the hearing. No regulation or emission control requirement or amendment or repeal thereof adopted by the Board shall become effective until thirty days after its filing under the State Rule Act.

B. A copy of adopted air quality control regulations shall be on file in the office of the City Clerk and shall be available for inspection by the public during regular business hours. Copies of said regulations shall be available to any person upon request and payment of a reasonable charge set by the Mayor.

(13,1975, 15-1983, 45-1984)

6-16-6 PERMITS.

A. By regulation, the Board may require persons preparing for any construction or modification of any new source of air contaminant to obtain a permit from the Department prior to the construction or modification. Such regulations may include requirements relating to prevention of significant deterioration and to construction in nonattainment areas; provided that such requirements shall be no more stringent than but at least as stringent as required under the Federal Act and regulations adopted pursuant thereto.

B. Prior to the issuance of a permit, the Department shall require the submission of plans, specifications, and other relevant information which it deems necessary, including information the Department deems necessary to ensure that regulations and standards under this Ordinance, the Air Quality Control Regulations of the Board, the Air Quality Control Act or the Federal Act are not violated.

C. The Department may deny any application for a permit if,

1. It appears that the construction or modification will not meet applicable regulations;

2. The construction or modification will emit a hazardous air pollutant or air contaminant in excess of a federal standard of performance, or a regulation of the Board;

3. It appears that the construction or modification will cause or contribute to air contaminant levels in excess of any national or state, or applicable local, ambient air quality standards, or

4. Any other provision of the Air Quality Control Act will be violated.

D. The Department shall, within thirty days, review any application submitted for completeness. If the application is judged complete, a letter to that effect shall be sent to the applicant. If the application is judged incomplete, a letter shall be sent to the applicant stating what additional information or points of clarification are necessary to judge the application complete. The Department shall, as soon as practicable but not to exceed one hundred twenty days or one hundred eighty days if there is a hearing after the filing of a complete application for a permit, either grant, grant subject to conditions or deny the permit for the construction or modification of a source.

E. This section does not authorize the Department to require the use of machinery, devices or equipment from a particular manufacturer if the federal standards of performance, state regulations and permit conditions may be met by machinery, devices or equipment otherwise available.

F. The Board may provide by regulation a schedule of fees for permits, sufficient to cover the reasonable costs of reviewing and acting upon any application for such permit and the reasonable costs of implementing and enforcing the terms and conditions of the permit, excluding any court costs or other costs associated with an enforcement action. Initial fees are to be paid at the time the application for the permit is filed, and subsequent fees, if any, are to be paid as determined by the Director. Fees collected, pursuant to this section, shall be deposited in the General Fund of the City of Albuquerque, if the application is for a new source within the City, or in the General Fund of the County of Bernalillo, if the application is for a new source located outside the City, but within the County.

G. The issuance of a permit does not relieve any person from the responsibility of complying with the provisions of the Air Quality Control Act, this Ordinance and any applicable regulations of the Board. Any conditions

placed upon a permit by the Department shall be enforceable to the same extent as a regulation of the Board.

H. If the Department denies a permit or grants the permit subject to conditions, the Department must notify the applicant by certified mail of the action taken and the reasons therefor. If the applicant is dissatisfied with the action taken by the Department, he may request a hearing before the Board. The request must be made in writing to the Director of the Department within thirty days after notice of the Department's action has been received by the applicant. Unless a timely request for hearing is made, the decision of the Department shall be final.

I. If a timely request for hearing is made, the Board shall hold a hearing within thirty days after receipt of the request. The Department shall notify the applicant by certified mail of the date, time and place of the hearing. In the hearing, the burden of proof shall be upon the applicant. The Board may designate a hearing officer to take evidence in the hearing. Based upon the evidence presented at the hearing, the Board shall sustain, modify or reverse the action of the Department.

J. An applicant may appeal the decision of the Board by filing with the court of appeals a notice of appeal within thirty days after the date the decision is made. The appeal must be on the record made at the hearing. The applicant shall certify in his notice of appeal that arrangements have been made with the Board for preparation of a sufficient number of transcripts of the record of the hearing on which the appeal depends to support his appeal to the court, at the expense of the applicant, including two copies which he shall furnish to the Board. Upon appeal, the court of appeals shall set aside the decision of the Board only if found to be:

(1) arbitrary, capricious or an abuse of discretion;

(2) not supported by substantial evidence in the record; or

(3) otherwise not in accordance with law.

K. The Board shall adopt such regulations as are necessary to implement this section, including regulations governing the deadlines for processing permit applications and the public notice, comment period and public hearing, if any, required prior to the issuance of a permit.

L. The Department shall provide notice to the Environmental Improvement Division of all permit applications by any source which emits, or has a potential emission rate of, one hundred tons per year or more of any regulated air contaminant, including any source of fugitive emissions of each regulated air contaminant at least sixty days prior to the date on which construction or major modification is to commence.

M. (1) Except as otherwise provided in Paragraph (2) of this subsection, the Department may specify conditions to any permit granted under this section. Such conditions may include:

(a) placement of individual emission limits determined on a case-by-case basis on the source for which the permit is issued, but such individual emission limits shall be only as restrictive as the more stringent of the following:

1) the extent necessary to meet the requirements of this Ordinance, the Air Quality Control Act and the Federal Act; or

2) the emission rate specified in the permit application;

(b) a requirement that such source install and operate control technology, determined on a case-by-case basis, sufficient to meet the requirements, pertaining to prevention of significant deterioration or to sources locating in nonattainment areas, of this Ordinance, the Air Quality Control Act and the Federal Act, and regulations promulgated under such Ordinance and Acts;

(c) compliance with applicable federal standards of performance;

(d) imposition of reasonable restrictions and limitations other than restrictions and limitations relating to emission limits or emission rates; or

(e) any combination of the above.

(2) In the case of a modification, the requirements of Paragraph (1) of this subsection apply only to the facility or facilities involved in such modification.

N. Persons constructing or modifying any new source requiring a permit, which new source is within the confines of the Board's jurisdiction under the Air Quality

Control Act, must obtain a permit from the Department and not from the Environmental Improvement Division.

(13-1975, 45-1984, 19-1989)

6-16-7 VARIANCES.

A. The Board may grant an individual variance from the limitations prescribed under the Air Quality Control Act, this Ordinance, any regulation of the Board, or any permit condition whenever it is found, upon presentation of adequate proof, that compliance with any part of the Air Quality Control Act, this Ordinance, any regulation of the Board, or any permit condition will result in arbitrary and unreasonable taking of property or will impose an undue economic burden upon any lawful business, occupation or activity, and that the granting of the variance will not result in a condition injurious to health or safety.

B. No variance shall be granted pursuant to this section until the Board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges and the general public.

C. Any variance or renewal thereof shall be granted within the requirements of subsection A of this section and for time periods and under conditions consistent with the reasons therefor, and within the following limitations:

1. If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the air pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available;

2. If the variance is granted on the grounds that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the Board, is requisite for the taking of necessary measures. A variance granted on the ground specified in this paragraph shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to the timetable, or

3. If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in Paragraphs 1 and 2 of this subsection, it shall be for not more than one year.

D. Any person seeking a variance shall do so by filing a petition for variance with the Director. The Director shall promptly investigate the petition and make recommendations to the Board as to the disposition thereof. Upon receiving the recommendation of the Director, the Board shall if the recommendation favors a variance, hold a public hearing prior to the granting of any variance. If the Board is opposed to the granting of any variance, then a hearing shall be held upon the request of the petitioner, and in such hearings the burden of proof shall be upon the petitioner.

(13-1975, 45-1985)

6-16-8 VARIANCES -- JUDICIAL REVIEW.

A. Any person to whom the Board denies a variance, after a hearing, may appeal to the court of appeals. All appeals shall be upon the record made at the hearing, and shall be taken to the court of appeals within thirty days after the Board's denial.

B. The procedure for perfecting an appeal to the court of appeals under this section consists of the timely filing of a notice of appeal, in the court of appeals, with an attached copy of the regulation or permit condition from which the variance was sought and denied, a copy of the variance request and a copy of the Board's findings and order, if any, denying the variance requested. The appellant shall certify in his notice of appeal that arrangements have been made with the Board for preparation, at the appellant's expense, of a sufficient number of transcripts of the record of the hearing on which the appeal depends, to support his appeal to the court, including three copies which he shall furnish to the Board. Such appeal shall be prosecuted in the same manner as other civil cases.

C. Upon appeal, the court of appeals shall set aside the Board's denial of the variance request only if found to be:

(1) arbitrary, capricious or an abuse of discretion;

(2) not supported by substantial evidence in the record; or

(3) otherwise not in accordance with law.

D. The appellant may apply to the court of appeals for a stay of enforcement of the Board's order pending the

determination of such appeal. The court of appeals may, upon hearing before the court and upon good cause shown, grant such stay.

(13-1975, 45-1984)

6-16-9 EMERGENCY PROCEDURE.

Notwithstanding provisions of the Air Quality Control Act, or any regulation of the Board, if the Director of the department determines that any person is causing or contributing to air pollution of such characteristics and duration as to create an emergency which requires immediate action to protect human health or safety, the Director of the department shall order the person to reduce or cease immediately the emission of air contaminants creating the emergency condition. If the effectiveness of the order is to continue beyond forty-eight hours, the Director of the department shall file in the District Court, not later than forty-eight hours after the date of the order, an action to extend the effectiveness of the order.

(13-1975)

6-16-10 CONFIDENTIAL INFORMATION -- LIMITATIONS ON REGULATIONS.

A. Any records or other information furnished to or obtained by the Board or the Department concerning air contaminant sources relating to processes or production techniques unique to the owner or operator and relating to the profits and costs of the owner or operator which have not previously been released to the public are confidential if specifically marked as confidential at the time such items are submitted, and shall not be made a part of any public record unless the person expressly agrees to its publication. This does not limit the use of such records or information in any civil or criminal action, subject to such protection as the court may give, or prohibit the release of information concerning the nature and amount of emissions from any source.

B. The Air Quality Control Act and this Ordinance do not,

1. Authorize the Board to make any regulation with respect to any condition or quality of the outdoor atmosphere if the condition or air quality level and its effect are confined entirely within the boundaries of the industrial or manufacturing property within which the air contaminants are or may be emitted and public access is restricted within such boundaries;

2. Grant to the Board any jurisdiction or authority affecting the relation between employers and employees with respect to or arising out of any condition or air quality level; or

3. Supersede or limit the applicability of any law relating to industrial health, safety or sanitation.

(13-1975, 45-1984)

6-16-11 ENFORCEMENT.

A. If, as a result of investigation, the Department has good cause to believe that any person is violating any provision of the Air Quality Control Act, this Ordinance, any regulation of the Board, any permit condition or any emergency order of the Director and if the Department is unable within a reasonable time to obtain voluntary cooperation to prevent air pollution, the Department may cause an action for injunction or other appropriate relief to be filed in the District Court to secure the abatement of the emission of air contaminants or compliance with the provisions of the Air Quality Control Act, regulation, permit condition or emergency order.

B. In any action to enforce the provisions of any City Ordinance adopted in accordance with the provisions of the Air Quality Control Act, or this Ordinance, or to enforce any regulation of the Board within the City, the Board and the City shall be represented by the City Attorney.

C. In any action to enforce the provision of any County Ordinance adopted in accordance with the Air Quality Control Act or to enforce any regulation of the Board outside the City, the Board and the County shall be represented by the District Attorney.

D. Any person who violates any of the provisions of this Joint Air Quality Control Board Ordinance or any of the Air Quality Control Regulations adopted in accordance with the Joint Air Quality Control Board Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding three hundred ($300) dollars and/or imprisonment for a period not to exceed ninety (90) days. Each day this ordinance is violated shall be considered a separate offense.

(13-1975, 15-1983, 45-1984)

6-16-12 INSPECTION.

Any employee of the department upon presentation of proper departmental credentials,

A. Shall have at reasonable times, a right of entry to, upon or through any premises in which an emission source is located or in which are located any records required to be maintained by regulations of the Board.

B. May at reasonable times have access to and copy any records required to be established and maintained by regulations of the Board, and

C. Inspect any monitoring equipment or methods required to be installed by regulations of the Board.

D. If premises described in A of this section are unoccupied, a department employee shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and demand entry.

E. If entry if refused, the Mayor shall proceed to obtain a search warrant by filing a complaint made before the Metropolitan Court or District Court upon oath or affirmation. The complaint shall:

1. Set for the particular premises, or portion thereof, sought to be inspected;

2. State that the owner or occupant of the premises, or portion thereof, has refused entry;

3. State that inspection of the premises or portion thereof is necessary to determine whether it complies with the requirements of this ordinance;

4. Set forth the particular provisions of this ordinance sought to be enforced;

5. Set forth any other reason necessitating the inspection, including knowledge or belief that a particular condition exists in the premises, or portion thereof, which constitutes a violation of this ordinance; and

6. State that the Mayor is authorized by the City to make the inspection.

(13-1975, 15-1983)

6-16-13 <u>ADDITIONAL MEANS OF ENFORCEMENT</u>.

As an additional means of enforcing the Air Quality Control Act, this Ordinance, any regulation of the Board or any

permit condition, the Board may accept a written assurance of discontinuance of any act or practice deemed in violation of the Air Quality Control Act, this Ordinance, any regulation adopted pursuant thereto, or any permit condition from any person engaging in, or who has engaged in, such act or practice, signed and acknowledged by the Board, the Department and the party affected. Any such assurance shall specify a time limit during which such discontinuance is to be accomplished. So long as the party affected complies with the provisions of the assurance of discontinuance, it shall not be subject to the imposition of any fines or penalties by the Board or the Department for the specific act or practice covered by the assurance of discontinuance.

(13-1975, 45-1984)

6-16-14 DECLARATORY JUDGMENT ON REGULATIONS.

In addition to any other remedy available, the validity or applicability of a regulation of the Board may be determined in an action for a declaratory judgment in accordance with the Air Quality Control Act.

(13-1975)

6-16-15 NOTICE.

Copies of the results of investigations shall be furnished to the County Commission or Mayor as appropriate, when enforcement action is contemplated. Before enforcement proceedings are commenced in the District Court, advance written notice thereof will be given to the County Commission or Mayor as appropriate. Written notice of hearings on the adoption of regulations or emission control requirements or amendment or repeal thereof will be given to the Mayor and County Commission.

(13-1975)