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City Council Document Tracking Sheet

Meeting Date:	6/8/2011
Sponsor(s):	Solis, Daniel (25)
Type:	Ordinance
Title:	Amendment of Chapter 11-4 of Municipal Code regarding lead emission monitoring and standards
Committee(s) Assignment:	Committee on Health and Environmental Protection

SUBSTITUTE
ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION I. Chapter 11-4 of the Municipal Code of Chicago is hereby amended by adding a new section 11-4-715, by deleting the language struck through and by inserting the language underscored, as follows:

11-4-715 Lead emissions.

(a) No person shall cause or allow the discharge or emission of lead from any facility: (i) so as to prevent the attainment or maintenance of the national primary ambient air quality standard for lead and its compounds, codified in Title 40, Section 50.16 of the Code of Federal Regulations (C.F.R.), as amended; or (ii) so as to cause or tend to cause air pollution, provided, however, that for purposes of this subsection (ii), lead emissions in compliance with a facility's state or federal air permit shall not constitute air pollution; or (iii) so as to prevent the attainment or maintenance of any applicable ambient air quality standard in violation of Title 35, Section 201.141 of the Illinois Administrative Code (I.A.C.), as amended. 40 C.F.R. Section 50.16, and any subsequent amendments to the national primary ambient air quality standard for lead and its compounds is adopted and incorporated by reference and made part of this section as if fully set forth herein.

(b) For purposes of this section, nonattainment of the applicable ambient air quality standard for lead shall be determined using: data collected from a monitor operated by a federal, state, or local governmental entity; and, the calculation, sampling and analysis methods specified or referred to in 40 C.F.R. Part 50, Appendix R, as amended.

(c) Any person who owns or operates a facility subject to the toxic release inventory (T.R.I.) reporting requirements as codified in 40 C.F.R. Part 372, as amended, and reported total lead air emissions greater than or equal to one hundred pounds in a T.R.I. report in any of the five years preceding the current calendar year shall submit quarterly reports to the department, in the form prescribed by the commissioner, of the facility's estimated lead emissions during each quarter of the year. The report for the first quarter of each calendar year (January through March) is due on or before **O**ctober 15th of the same calendar year; the report for the second quarter (April through June) is due on or before January 15th of the following calendar year; the report for the third quarter (July through September) is due on or before April 15th of the following calendar year; and, the report for the fourth quarter (October through **D**ecember) is due on or before July 15th of the following calendar year. If the due date under this subsection falls on a Saturday, Sunday, or designated City of Chicago holiday, then the due date will be the first business day immediately following the Saturday, Sunday, or designated City of Chicago holiday. At a minimum, each quarterly report must contain the same information regarding the facility's estimated lead emissions as is required under 40 C.F.R. Section 372.85, as amended, except that the emission estimates will be on a quarterly basis. The person shall estimate its quarterly lead emissions using the same methodology that it uses for its annual T.R.I. report.

11-4-800 Enforcement.

(a) *Rules and regulations.* The commissioner may issue rules and regulations to implement the provisions of this article.

(b) *Abatement orders.* Upon finding a violation of section 11-4-715(a), any emission limitation, performance standard or permit requirement set forth in this chapter or any air pollution control permit or certificate of operation condition imposed by the commissioner pursuant to this article, the commissioner may issue an emergency or non-emergency cessation order or an emergency or non-emergency abatement order in accordance with the provisions of section 11-4-025 of this Code to any person who causes such violation. Such cessation or abatement order may be in addition to the administrative proceedings, fines and penalties herein provided.

(Omitted text is unaffected by this ordinance)

11-4-810 Fines.

(a) In addition to any penalty imposed by Section 11-4-800 of this article, and in addition to permanent or temporary injunctive relief that the city may seek in the Circuit Court of Cook County, whenever the commissioner determines that a facility is in violation of any term or condition of an air pollution control permit, certificate of operation, any section of this article, or any regulation promulgated pursuant to this article, the following penalties shall apply:

(Omitted text is unaffected by this ordinance)

(6) Any person who causes or allows air pollution in violation of section 11-4-730 of this Code or, any person who violates the substantive emission standards provided in Part C of this article or any regulation promulgated thereunder, shall be fined not less than \$1,000.00 nor more than \$5,000.00; and

(7) Any person who violates any of the provisions of this article or any regulation promulgated thereunder, unless a different fine is imposed pursuant to this section, shall be fined not less than \$1,000.00 nor more than \$5,000.00;

(8) Any person who violates subsection (a) of section 11-4-715 of this Code shall be fined not less than \$5,000.00 nor more than \$10,000.00 for each violation.¹ For a violation of an applicable ambient air quality standard, a violation may be found for each three month period of nonattainment or non-maintenance, or such other time period as determined in accordance with 40 C.F.R. Part 50, Appendix R, as amended; and.

(9) Any person who fails to submit a required quarterly emissions report under subsection (c) of section 11-4-715 of this Code shall be fined not less than \$200.00 nor more than \$500.00 for each day after the due date that a complete quarterly emissions report has not been submitted to the department.

(Omitted text is unaffected by this ordinance)

¹ The fine range is merely a placeholder until we get direction from the policymakers - another option would be a ramp-up provision for increasing fines for repeat offenses during a given time period.

SECTION II. If any section, subsection, paragraph, or part of this ordinance is for any reason held to be unconstitutional or invalid by any final court of competent jurisdiction, such decisions shall not affect the validity or effectiveness of the remaining portions of this ordinance.

SECTION III. This ordinance shall be effective 6 months from its passage and publication.

Daniel Solis
Alderman, 25th Ward