SECTION 6. FEES.

(A) Annual Emission Fees

(1) Applicability – The provisions of this Regulations and Standards section shall apply to any person who owns or operates a source as defined in Article 2, Section 1 of these Regulations and Standards and is required to obtain any one of the following: 1) A Class I or a Class II operating permit in accordance with Article 2, Section 5 of the Regulations and Standards; 2) A construction permit in accordance with Article 2, Section 17 of the Regulations and Standards; or 3) Any source subject to an applicable requirement (other than permitting) of the Regulations and Standards the nature of which necessitates that the source submit an annual emissions report and/or be the subject of an annual or biannual inspection.

(2) Calculation of Fee – Beginning July 1, 1999, owners or operators of sources, identified in paragraph (A)(1) above, shall pay an annual fee for emissions of regulated air pollutants for fee purposes. The fee shall be based on the actual emission tonnage as established in the emission inventory for the previous calendar year as required by Article 2, Section 6 of these Regulations and Standards, beginning with calendar year 1998. For purposes of this section, a pollutant which may be regulated under more than one provision of these Regulations and Standards, need only be counted once. Any temporary source issued an operating permit under Article 2, Section 10 of the Regulations and Standards shall pay an annual fee based on emissions which occurred during the time period the source was located and operated in Lincoln or Lancaster County. The annual emission fees shall be assessed in accordance with the following:

(a) Fee Schedule:

(1) Major sources shall pay an annual emission fee as required by paragraph (A)(2)(b) and (A)(2)(c) of this section with the minimum annual emission fee to be no less than $2,500.00.

(2) Synthetic Minor sources shall pay an annual emission fee as required by paragraph (A)(2)(b) of this section with the minimum annual emission fee to be no less than $1,250.00.

(3) Minor sources shall pay an annual emission fee as required paragraph (A)(2)(b) of this section with the minimum annual emission fee to be no less than $250.00.

(4) Sources that have obtained a construction permit for a non-emergency generator(s) in accordance with the provisions set forth in Article 2, Section 17, paragraph (P) of these Regulations and Standards shall pay annual emission fees as follows:

(a) If the generator was operated only for emergency use and testing purposes during the previous calendar year, the source will not be required to pay any emission fees.

(b) If the generator was operated for non-emergency purposes during the previous calendar year, the source shall pay an annual emission fee as required by paragraph (a)(2)(b) of this section with the minimum annual emission fee to be no less than $250.00.

(b) The fee for emissions occurring in the previous calendar year is due and payable on July 1 of the current calendar year. Emission fees shall be assessed as follows:

(1) For annual emissions of less than or equal to 500 tons, the emission fee shall be ~~$58.00~~ $60.00 per ton;

(2) For annual emissions in excess of 500 tons, but less than or equal to 1,000 tons, the emission fee shall be ~~$70.00~~ $72.00 per ton;

(3) For annual emissions in excess of 1,000 tons, the emission fee shall be ~~$84.00~~ $86.00 per ton.

(c) The emission fee is due and payable on actual emissions up to and including 4,000 tons per year for each pollutant.

(3) For purposes of this section, the following definitions shall apply:

(a) Major source shall mean any source that meets the criteria set forth in Article 2, Section 2 of the Regulations and Standards.

(b) Synthetic Minor source shall mean any source that meets the definition of a Synthetic Minor source set forth in Article 2, Section 2 of the Regulations and Standards.

(c) Minor source shall mean any source that does not meet the definition of a major source as defined in Article 2, Section 2 of the Regulations and Standards, but has the potential to emit at levels that meet or exceed the Class II minor source permitting thresholds set forth in Article 2, Section 5, paragraph (A)(2), or the construction permitting thresholds set forth in Article 2, Section 17, paragraph (A)(1) of the Regulations and Standards.

(4) Any person subject to the requirement of paragraph (A) of this section who fails to submit and annual emission inventory report when required by Article 2, Section 6 of these Regulations and Standards shall pay an annual emission fee in accordance with the following:

(a) Sources that submit the annual emission inventory report on or after April 10 will be subject to an emission fee based on one-hundred twenty percent (120%) of the actual reported emissions;

(b) Sources that submit the annual emission inventory report on or after May 1 will be subject to an emission fee based on one-hundred thirty percent (130%) of the actual reported emissions;

(c) Sources that submit the annual emission inventory report on or after June 1 will be subject to an emission fee based on the source's potential to emit allowed under any operating and/or construction permit(s) held by the owner/operator.

(5) Payment of Fees – Any person required to submit fees pursuant to paragraph (A) of this section, shall submit the fees to the Director of the Department by check, or other authorized transfer, made payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable on July 1st of each year, beginning with the calendar year 1999. All fees paid in accordance with the section shall be non-refundable.

(6) Failure to submit the fees required by paragraph (A) of this section by July 1st, in addition to other relief allowed by law, shall be cause for:

(a) Revocation of the source's operating and/or construction permit; and

(b) Assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (A)(4) above.

(7) If the Director determines that the annual emission inventory report form is incomplete or inaccurate for the purposes of calculation of fees under this section, the Director may require the source to submit additional data or other information, as well as an explanation of the source's calculation. If any annual emission inventory report form which is modified pursuant to this section results in the assessment of additional fees, such additional fees shall be payable within 30 days of notice of the assessment in accordance with paragraph (A)(4) above.

(B) Area Sources of Hazardous Air Pollutants Annual Fees.

(1) Applicability – The following provisions of this section shall apply to any person who owns or operates any source subject to requirements of Title 40, Part 63 of the Code of Federal Regulations (40 CFR Part 63), the nature of which necessitates that the source be the subject to inspection.

(2) Determination of Fee – Owners or operators of sources identified in paragraphs (B)(2)(a) through (B)(2)(f) shall pay an annual fee in accordance with the following fee schedule:

(a) Area Source Bulk Gasoline Plants subject to 40 CFR Part 63 Subpart BBBBBB that are stand-alone plants or that are located at facilities that are not required to have a Class II operating permit - ~~$260.00~~$270.00.

(b) Area Source Gasoline Dispensing Facilities subject to 40 CFR Part 63 Subpart CCCCCC subject to the requirements of §63.11118 (average monthly gasoline throughputs equal to or greater than 100,000 gallons) - ~~$310.00~~$320.00.

(c) Area Source Paint Stripping and Miscellaneous Surface Coating Facilities subject to 40 CFR Part 63 Subpart HHHHHH

(1) Facilities using one ton or less of methylene chloride annually for paint stripping activities and that are not required to have a Class II operating permit - ~~$130.00~~$135.00

(2) Facilities using more than one ton of methylene chloride annually that are not required to have a Class II operating permit - ~~$260.00~~$270.00.

(3) Miscellaneous surface coating operations (auto body shops and mobile equipment painting[1] and non auto body shops and non mobile equipment painting[2]) that are not required to have a Class II operating permit.

(a) Operations with one painter - ~~$130.00~~$135.00

(b) Operations with two painters - ~~$260.00~~$270.00

(c) Operations with 3 or more painters - ~~$515.00~~$530.00

[1] The fee shall not apply to a facility that has been granted an exemption by the USEPA, the Nebraska Department of Environmental Quality, or the LLCHD because none of its coatings contain any of the 5 metal hazardous air pollutants (HAPS).

[2] The fee shall not apply to a facility that has certified to the LLCHD that none of its coatings contain any of the five metal HAPS addressed by this rule.

(4) Facilities that have petitioned for and have been issued an exemption (auto body shops and mobile equipment painting operations) from the Subpart HHHHHH rule or facilities that have certified to the LLCHD (non auto body shops and non mobile equipment painting operations) that they are exempt from the rule because none of their coatings contain any of the five metal HAPS addressed by this rule shall pay a one-time exemption fee of ~~$260.00~~$270.00[1].

[1] Payment of the one time fee assumes that a facility will continue to qualify for exempt status throughout the life of that facility. The exemption or certification fees shall not apply to facilities where all coatings are spray applied with a hand-held device whose paint cup capacity is 3 fluid ounces or less, where coatings are applied by using hand-held non refillable aerosol containers such as spray cans, where coatings are applied using powder coating equipment, where coatings are applied using non spray application methods such as brushing or rolling, or where non atomizing coating application technology (such as flow coating, dip coating and electrodeposition) is utilized.

(d) Area Source Plating and Polishing Operations subject to 40 CFR Part 63 Subpart WWWWWW that are not required to have a Class II operating permit - ~~$515.00~~$530.00

(e) Area Source Metal Fabrication and Finishing Facilities subject to 40 CFR Part 63 Subpart XXXXXX that are not required to have a Class II operating permit - ~~$515.00~~$530.00

(f) Area Source Perchloroethylene Dry Cleaning Facilities subject to 40 CFR Part 63 Subpart M that are not required to have a Class II operating permit - ~~$250.00~~$270.00

(3) Payment of Fees – Any person required to submit fees pursuant to paragraph (B) of this section, shall submit the fees to the Director of the Department by check, or other authorized transfer, made payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable on July 1st of each year, beginning with the calendar year 2011. All fees paid in accordance with the section shall be non-refundable.

(4) Failure to submit the fees required by paragraph (B) of this section by July 1st, in addition to other relief allowed by law, shall be cause for assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (B)(3) above.

(C) National Emission Standards for Asbestos – Project Notification Fees.

(1) Applicability – Any person or source who engages in activities subject the requirements of Title 40, Part 61 of the Code of Federal Regulations (40 CFR Part 61) Subpart M: National Emission Standard for Asbestos (NESHAP asbestos projects) shall pay a notification fee of ~~$295.00~~$305.00 per project.

(2) Payment of Fees – Any person required to submit fees pursuant to paragraph (C) of this section, shall submit the fees to the Director of the Department by check, or other authorized transfer, made payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable within thirty (30) days of billing by the Department. All fees paid in accordance with the section shall be non-refundable.

(3) Failure to submit the fees required by paragraph (C)(1) of this section within thirty (30) days after billing by the Department, in addition to other relief allowed by law, shall be cause for assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (C)(2) above.

(D) Construction Permit Fees.

(1) Applicability – Any person or source required to obtain a construction permit under Article 2, Section 17 of these Regulations and Standards shall pay a construction permit fee for activities included under Article 2, Section 30, paragraph (A) of these Regulations and Standards. The construction permit fee shall be charged at the rate of $100.00 per hour but shall not exceed a maximum of $10,000.00.

(2) Payment of Fees – Any person required to submit fees pursuant to paragraph (D) of this section, shall submit the fees to the Director of the Department by check or other authorized transfer payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable within thirty (30) days after issuance of the permit.

(3) Failure to submit the fees required by paragraph (D)(1) of this section within thirty (30) days after the issuance of a construction permit, in addition to other relief allowed by law, shall be cause for:

(a) Revocation of the source's operating and/or construction permit; and

(b) Assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (D)(2) above.

(E) Emergency Electrical Generator Construction Permit Exemption Fees.

(1) Applicability – Any person or source requesting to obtain an emergency electrical generator construction permit exemption in accordance with Article 2, Section 17, paragraph (O) of these Regulations and Standards shall pay an exemption fee for review of the construction permit exemption request and issuance of the construction permit exemption. The construction permit exemption fee is $55.00 per generator.

(2) Payment of Fees – Any person required to submit fees pursuant to (E) of this section, shall submit the fees to the Director of the Department by check or other authorized transfer payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable at the time of submittal of the construction permit exemption request. All fees paid in accordance with this section shall be non-refundable.

(3) Failure to submit the fees required by paragraph (F)(1) of this section at the time of submittal of the construction permit exemption request, in addition to other relief allowed by law, shall be cause for the Department to not issue the exemption.

(F) Variance Fees.

(1) Applicability – Any person or source issued a variance in accordance with the requirements set forth in Article 1, Section 5 of these Regulations and Standards shall pay a fee for all activities associated with application for and issuance of the variance. The variance fee shall be charged at the rate of $100.00 per hour but shall not exceed a maximum of $10.000.00.

(2) Payment of Fees – Any person required to submit fees pursuant to paragraph (F) of this section, shall submit the fees to the Director of the Department by check or other authorized transfer payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable within thirty (30) days after issuance of the variance. All fees paid in accordance with the section shall be non-refundable.

(3) Failure to submit the fees required by paragraph (F)(1) of this section within 30 days after the issuance of a variance, in addition to other relief allowed by law, shall be cause for:

(a) Revocation of the source's operating and/or construction permit and/or the variance; and

(b) Assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (F)(2) above.

(G) Fees will be reviewed annually by the Director, and a report submitted to the Board of Health. The Board of Health may recommend any modifications to the Lincoln City Council and the Lancaster County Board of Commissioners. The new rate structure may be adopted by Resolution of the two governing bodies, individually, as a result of a recommendation by the Board of Health, or at the initiation of either of the two governing bodies.

(H) All money collected from the fees, provided for herein, shall be payable to the Lincoln-Lancaster County Health Department and shall be credited to the Air Pollution Control Fund.