

*No. 18-20-OR*

**AN ORDINANCE**

An Ordinance of the Council of the County of Allegheny ratifying amendments to Section 2104.10, “Commercial Fuel Oil”, of the Allegheny County Health Department Rules and Regulations, Article XXI, “Air Pollution Control”.

**Whereas**, Allegheny County, pursuant to the Pennsylvania Local Health Administration Law, 16 P.S. §§ 12001 – 12028, created the Allegheny County Health Department, and the Allegheny County Board of Health; and

**Whereas**, the Allegheny County Health Department regulates air quality under authority granted to it via the Pennsylvania Air Pollution Control Act, 35 P.S. §§ 4001 – 4106, and its implementing regulations; and

**Whereas**, Section 12011 of the Local Health Administration Law provides for the Board of Health to adopt regulations and submit such regulations to Allegheny County for approval or rejection; and

**Whereas**, on January 10, 2020, during its regularly scheduled public meeting the Allegheny County Board of Health adopted by affirmative vote the attached amendments to Section 2104.10, “Commercial Fuel Oil”, of the Allegheny County Health Department Rules and Regulations, Article XXI, “Air Pollution Control”, and

**Whereas**, it is the desire of Council to ratify the Allegheny County Health Department regulation amendments as approved by the Board of Health.

***The Council of the County of Allegheny hereby enacts as follows:***

***SECTION 1.           Incorporation of Preamble.***

The provisions set forth in the preamble to this Ordinance are incorporated by reference in their entirety herein.

***SECTION 2.           Ratification of Regulations.***

Acting pursuant to the Pennsylvania Local Health Administration Law and the Allegheny County Home Rule Charter, County Council hereby ratifies the amendments to the Allegheny County Health Department Rules and Regulations, Article XXI, “Air Pollution Control”, attached hereto as Exhibit “A”.

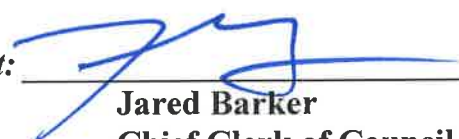
**SECTION 3.**        Severability.    *If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance, which shall be in full force and effect.*

**SECTION 4.**        Repealer.    *Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.*

Enacted in Council, this 14<sup>th</sup> day of July, 2020

Council Agenda No. 11556-20

  
\_\_\_\_\_  
Patrick Catena *ROBERT J. MAREY*  
President of Council

Attest:   
\_\_\_\_\_  
Jared Barker  
Chief Clerk of Council

Chief Executive Office July 18<sup>th</sup>, 2020

Approved:   
\_\_\_\_\_  
Rich Fitzgerald  
Chief Executive

Attest:   
\_\_\_\_\_  
Jennifer M. Liptak  
Chief of Staff

# **EXHIBIT “A”**

## **PROPOSED REVISION**

**Allegheny County Health Department  
Rules and Regulations  
Article XXI, Air Pollution Control**

**§2104.10, Commercial Fuel Oil**

**(This proposed revision will also be submitted to the Pennsylvania DEP and U.S. EPA as a 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. 93.)**

# Revision

Deletions are shown with strikethroughs.  
 Additions are shown in **larger font, bolded, and underlined**.

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**§2104.10 COMMERCIAL FUEL OIL** *{This section added by 11/28/2017 amendment, effective 12/08/2017. Subsections a and d amended mm/dd/2020, effective mm/dd/2020.}*

Fuel-burning or combustion equipment must conform with the following:

- a. **Commercial Fuel Oil.** Except as specified in Paragraphs 1 and 2, a person may not offer for sale, deliver for use, exchange in trade or permit the use of commercial fuel oil in Allegheny County, if the commercial fuel oil contains sulfur in excess of the applicable maximum allowable sulfur content set forth in the following table:

***Maximum Allowable Sulfur Content  
 Expressed as Parts per Million (ppm) by Weight or Percentage by Weight***

*Grades Commercial Fuel Oil (Consistent with ASTM D396)*

No. 2 and lighter oil	500 ppm	<del>(0.05%)</del>	
No. 4 oil	2,500 ppm	(0.25%)	
No. 5, No. 6 and heavier oil	5,000 ppm	(0.5%)	

<i>Grades Commercial Fuel Oil (Consistent with ASTM D396)</i>	<b><u>Through August 31, 2020</u></b>		<b><u>Beginning September 1, 2020</u></b>
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No. 2 and lighter oil	500 ppm	(0.05%)	<b><u>15 ppm</u></b>	<b><u>(0.0015%)</u></b>
No. 4 oil	2,500 ppm	(0.25%)	2500 ppm	(0.25%)
No. 5, No. 6 and heavier oil	5,000 ppm	(0.5%)	5000 ppm	(0.5%)

1. Commercial fuel oil that was stored in Allegheny County by the ultimate consumer prior to ~~July 1, 2016~~ **September 1, 2020**, which met the applicable maximum allowable sulfur content **through August 31, 2020**, at the time it was stored, may be used by the ultimate consumer **on and after September 1, 2020**.
2. The applicable maximum allowable sulfur content for a commercial fuel oil set forth in Subsection a may temporarily be suspended or increased if the Pennsylvania Department of Environmental Protection (DEP) has acted to do so in accordance with 25 Pa. Code §§123.22(d)(2)(iii & iv) and (h), regarding the Allegheny County air basin.

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d. **Recordkeeping and reporting.**

1. Beginning with the refinery owner or operator who sells or transfers commercial fuel oil into or within Allegheny County for use in Allegheny County and ending with the ultimate consumer, each time the physical custody of, or title to, a shipment of commercial fuel oil changes hands, the transferor shall provide to the transferee an electronic or paper record described in this paragraph. This record must legibly and conspicuously contain the following information:

- A. The date of the sale or transfer.
- B. The name and address of the transferor.
- C. The name and address of the transferee.
- D. The volume of commercial fuel oil being sold or transferred.
- E. The identification of the sulfur content of the shipment of commercial fuel oil, determined using the sampling and testing methods specified in Paragraph c.1, expressed as one of the following statements:
  - i. For a shipment of No. 2 and lighter commercial fuel oil:
    - (a) **Prior to September 1, 2020** - “The sulfur content of this shipment is 500 ppm or below.”
    - (b) **On and after September 1, 2020 – “The sulfur content of this shipment is 15 ppm or below.”**
  - i. For a shipment of No. 4 commercial fuel oil, “The sulfur content of this shipment is 2,500 ppm or below.”
  - ii. For a shipment of No. 5, No. 6 and heavier commercial fuel oil, “The sulfur content of this shipment is 5,000 ppm or below.”
- F. The location of the commercial fuel oil at the time of transfer.
- G. Except for a transfer to a truck carrier, an owner or operator of a retail outlet or an ultimate consumer, the transferor may substitute the information required under Subparagraphs A - F with the use of a product code if the following are met:
  - i. The product code includes the information required under Subparagraphs A – F.
  - ii. The product code is standardized throughout the distribution system in which it is used.
  - iii. Each downstream party is given sufficient information to know the full meaning of the product code.

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***End of Regulation Changes***

**Proposed change to Allegheny County Health Department Rules and Regulations, Article XXI, Air Pollution Control --- the revision of §2104.10, "Commercial Fuel Oil" limiting sulfur content of Number 2 fuel oil**

**LEGISLATIVE SUMMARY**

The 1977 Clean Air Act (CAA) Amendments declared a national goal to prevent future visibility impairment and remedy existing impairment in national parks, wilderness areas and wildlife refuges ("Class I areas"). The goal is to reach natural visibility conditions by 2064.

The predominant cause of haze pollution in the mid-Atlantic region of the nation is sulfate particles, which are formed from sulfur dioxide (SO<sub>2</sub>) emissions during fuel combustion. Mid-Atlantic states (MANE-VU) evaluated several categories for potential sulfur reductions and in 2007 adopted a formal statement agreeing to pursue a regional low-sulfur oil strategy, among other means, as appropriate and necessary.

To address this, ACHD is proposing to reduce the No. 2 and lighter commercial fuel oil sulfur limit for combustion units from 500 ppm to 15 ppm. The sulfur content level of 15 ppm is consistent with the level that is required in highway, nonroad, locomotive and marine transportation diesel fuels.

As recent as 2017, ACHD amended Article XXI to reduce sulfur content emissions from home heating and commercial fuel oils. Due to supply concerns at the time, Allegheny County, and the rest of Pennsylvania, only reduced the sulfur limit for No. 2 and lighter fuel oil (distillate oil) to 500 parts per million (ppm), not 15 ppm. Now, however, the supply of distillate fuel oil on the east coast and nationwide with 15 ppm or less sulfur content is no longer a concern.

MANE-VU adopted a formal statement which noted that to meet reasonable progress goals, each state that has not fully adopted the 15-ppm limit on sulfur for No. 2 and lighter fuel oil should pursue this standard as expeditiously as possible and before 2028.

The proposed rulemaking would be applicable to anyone who offers for sale, delivers for use, exchanges in trade or permits the use of No. 2 and lighter commercial fuel oil in Allegheny County. Owners and operators of refineries, terminals and retail outlets that produce, convey, store or sell commercial fuel oils; distributors, carriers, boiler owners; and anyone who uses No. 2 and lighter commercial fuel oil in the County would be affected.

The environmental and health benefits of lowering sulfur content in fuel are reduced sulfur dioxide (SO<sub>2</sub>) and fine particulate matter (PM<sub>2.5</sub>) emissions which will decrease regional haze and improve visibility; and decreased health effects of PM<sub>2.5</sub> exposure such as respiratory and cardiovascular disease.

The State of Pennsylvania is also pursuing this same regulatory change.

The proposed revision was the subject of a comment period, including a public hearing held on June 3, 2020. No comments were received. The Board of Health granted final approval to this regulation on January 10, 2020

This rule, when finalized, will be submitted to EPA as a revision to the Allegheny County portion of the Pennsylvania State Implementation Plan.

**M E M O R A N D U M**  
**OFFICE OF THE COUNTY MANAGER**

TO: Jared E. Barker  
Allegheny County Council

FROM: William D. McKain CPA  
County Manager

DATE: July 2, 2020

RE: Proposed Ordinance

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Attached is an Ordinance of the Council of the County of Allegheny ratifying amendments to Section 2104.10, "Commercial Fuel Oil", of the Allegheny County Health Department Rules and Regulations, Article XXI, "Air Pollution Control".

The Allegheny County Law Department has reviewed this legislation prior to submitting it to Council.

I am requesting that this item be placed on the agenda at the next Regular Meeting of Council.