

No. 24-22-OR

**AN ORDINANCE**

An Ordinance of the Council of the County of Allegheny ratifying amendments that revise §2104.08, “National Emission Standards for Hazardous Air Pollutants,” and §2101.20, “Definitions,” 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 under 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**, during a regularly scheduled public meeting, the Allegheny County Board of Health adopted by affirmative vote the attached amendments to §2104.08, “National Emission Standards for Hazardous Air Pollutants,” and §2101.20, “Definitions,” 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 Resolution 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Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.


**SECTION 5.**            **Effective Date.**

This Ordinance shall enter effect immediately upon its approval.


Enacted in Council, this 13<sup>th</sup> day of September, 2022.

Council Agenda No. 12401-22.

  
\_\_\_\_\_  
Pat Catena  
President of Council

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

Chief Executive Office September 16<sup>th</sup>, 2022

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

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

**MEMORANDUM**  
**OFFICE OF THE COUNTY MANAGER**

TO: Jared E. Barker  
Allegheny County Council

FROM: William D. McKain CPA  
County Manager

DATE: August 18, 2022

RE: Proposed Ordinance

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Attached is an Ordinance of the Council of the County of Allegheny ratifying amendments that revise §2104.08, "National Emission Standards for Hazardous Air Pollutants," and §2101.20, "Definitions," 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.

**Proposed revisions to Allegheny County Health Department Rules and Regulations, Article XXI, Air Pollution Control ---**

**Portions of Article XXI Related to  
Risk Management Plan**

**LEGISLATIVE SUMMARY**

The ACHD Air Program is proposing minor revisions to Article XXI that are necessary to reflect that it no longer has the authority to implement the 40 CFR Part 68, Chemical Accident Prevention Provisions, more commonly referred to as the Risk Management Program (RMP).

In 2017, ACHD requested to voluntarily withdraw from the delegated authority and return implementation and enforcement authority to U.S. EPA (Region 3) for the provisions of 40 CFR Part 68, Chemical Accident Prevention Provisions, (the RMP). The reasons for the voluntary withdrawal, as expressed in the 2017 request to EPA, are described below:

*EPA's Region 3 has about 660 applicable sources and implements and enforces these provisions for the remainder of Pennsylvania, District of Columbia, Maryland, Virginia, and West Virginia. Whereas, Allegheny County only has 16 sources and these requirements and standards are very different from the remainder of the Air Quality Program's work. The EPA has the expertise and the experience and can serve the public in a more cost-effective manner in this matter. There are no changes in the requirements imposed on sources other than the authority to implement those requirements will reside with EPA instead of ACHD.*

In March 2019, that request was approved by EPA.

With that approval, the Air Program is now proposing a few minor changes to Article XXI that are necessary to reflect that it no longer has the authority to implement the RMP.

The proposed revision was the subject of a comment period, including a public hearing held on November 3, 2021. The regulation was approved at a public meeting of the Allegheny County Board of Health.

**EXHIBIT "A"**

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

**§2101.20, Definitions  
and  
§2104.08, National Emission Standards for Hazardous Air Pollutants**

# Article XXI Revision

## Risk Management Plan Related Requirements and a Definition

**LEGEND:**

Deletions are shown with strikethroughs.

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

### PART A – GENERAL

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**§2101.20 DEFINITIONS** {unless specifically indicated, all definitions effective October 20, 1995.}

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**"Major source applicable requirement"** means all of the following as they apply to emissions units at sources that require permits under Part C Subpart 2 of this Article (including requirements under the following that have been promulgated or approved by the County, the Commonwealth, or the U.S. EPA at the time of issuance of such permits but have future-effective compliance dates): *{Amended mm/dd/2022, effective mm/dd/2022}*

- a. Any standard or other requirement provided for in this Article which has been approved or promulgated by EPA as part of the Pennsylvania state implementation plan under the Clean Air Act or through regulations adopted under the Clean Air Act through rulemaking at the time of issuance but have future effective compliance dates or a standard provided for in the Commonwealth's SIP approved by EPA under Title I of the Clean Air Act that implements the relevant requirements of the Act, including any revisions to that plan;
- b. Any term or condition of any Installation Permits issued pursuant to this Article under either §2102.05 or §2102.04.h, including Installation Permits approved or promulgated through rulemaking under Title I, including Part C or D, of the Clean Air Act;
- c. Any new source performance standard or other requirement under §2105.05 of this Article or under Section 111 of the Clean Air Act, including Subsection (d);
- d. Any national emission standard for hazardous air pollutants, MACT standard, or other requirement under §2104.08 of this Article, including ~~any~~ **the** requirements concerning accidental release prevention **found in 40 CFR 68.215**, or any other standard or requirement under Section 112 of the Clean Air Act;

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**§2104.08 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS** *{Subsection a revised January 22, 1998 effective March 31, 1998. Subsection a revised mm/dd/2022, effective mm/dd/2022.}*

**c. Incorporation by reference. All:**

1. NESHAP's;
2. MACT emission limitations for hazardous air pollutants;
3. Generally Achievable Control Technology (GACT) emission limitations;
4. General Provisions for hazardous air pollutants; and
5. Regulations for the determination of emission limitations by the Department under Paragraph h.1 below,

established at 40 CFR Parts 61 and 63 by the EPA in accordance with §112 of the Clean Air Act, all other federal regulations promulgated under §112, including **only the** accidental release prevention regulations **of 40CFR68.215** under §112®, and any state hazardous air pollutant emission or performance standards regulations promulgated under §6.6. of the Air Pollution Control Act are hereby incorporated by reference into this Article. For the purposes of this Section all of the definitions adopted by the federal regulations in this subsection are hereby incorporated by reference, including those of source and major source. Additions, revisions, or deletions to these federal and state regulations promulgated by the EPA and the Commonwealth, respectively, are incorporated into this Article and are effective on the date established by the applicable federal or state regulations, unless otherwise established by regulation under this Article.

- b. Violations.** It shall be a violation of this Article giving rise to the remedies provided by §2109.02 of this Article for any person to operate, or allow to be operated, any source in a manner that does not comply with: this Article; all requirements of any applicable NESHAP's, MACT emission limitation for hazardous air pollutants, Generally Achievable Control Technology (GACT) emission limitation for hazardous air pollutants, or accidental release prevention regulations incorporated by reference under Subsection a above, except if such person is lawfully temporarily relieved of the duty to comply with such requirements; and all applicable state hazardous air pollutant emission and performance standards regulations incorporated by reference under Subsection a above.
- c. Reporting Requirements.** Any person who operates, or allows to be operated, any source subject to any standard or limitation incorporated by reference under Subsection a above shall conduct, or cause to be conducted, such tests, measurements, monitoring and the like as is required by such standard or limitation. All notices, reports, test results and the like as are required by such standard or limitation shall be submitted to the Department in the manner and time specified by such standard or limitation. All information, data and the like which is required



to be maintained by such standard or limitation shall be made available to the Department upon request for inspection and copying.

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*End of Regulation Changes*