

No. 32-05-OR

Bill No. 1959-05

AN ORDINANCE

An Ordinance of the County of Allegheny amending Article XXI of the Allegheny County Health Department's Rules and Regulations, Article XXI, Air Pollution Control, implementing Stage II Control for Gasoline Dispensing Facilities.

Whereas, as a means of achieving better air quality for the citizens of Allegheny County, the Allegheny County Board of Health ("the Board"), desires to amend Article XXI, Section 2105.14 of the Allegheny County Health Department's Rules and Regulations, by implementing Stage II Control for Gasoline Dispensing Facilities in order to reduce emissions and their possible harmful effects on the public health; and

Whereas, after a duly advertised public comment period of thirty days, including the presentation of oral comments and the consideration of those comments received, the Board, by a unanimous vote at a publicly advertised meeting on March 2, 2005, adopted the attached amendment to its Article XXI that would implement Stage II Control for Gasoline Dispensing Facilities; and

Whereas, the Local Health Administration Law, Pa. Stat. Ann. tit. 16, § 12001 *et seq.*, provides for the submission of proposed health regulations or the amendment of existing health regulations to a County for approval and rejection; and

Whereas, in compliance with the Local Health Administration Law, the Director of the Allegheny County Health Department, on behalf of the Board, has submitted the amendment to Article XXI to the Allegheny County Chief Executive, with the recommendation that the County should approve the amendment; and

Whereas, the Allegheny County Chief Executive has submitted this Ordinance to Allegheny County Council for its consideration.

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

Section 1. Council Approval of Amendment to Article XXI of Health Department Rules and Regulations.

Pursuant to a request from the Chief Executive, County Council does hereby approve the amendment of Section 2105.14 of the Allegheny County Health Department's Rules and Regulations, Article XXI, Air Pollution Control, adopted by the

Board on March 2, 2005 that is attached to this Ordinance. Upon execution of this Ordinance by the Chief Executive, the amendment of Section 2105.14 of the Allegheny County Health Department's Rules and Regulations, Article XXI, Air Pollution Control shall be adopted by Allegheny County.

Section 2. **Submission of Amendment to Article XXI to Appropriate State and Federal Authorities.**

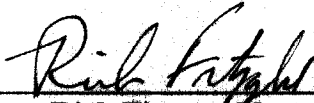
The Director, on behalf of the Board, is hereby authorized to submit the attached amendment to Article XXI changes to the Pennsylvania Department of Environmental Protection and the United States Environmental Protection Agency.

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.

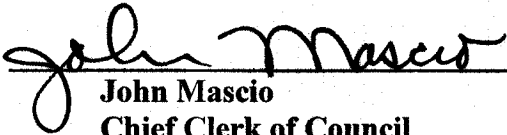
Section 4. **Repealer.** Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

Enacted in Council this 7th day of JUNE, 2005.

Council Agenda No. 1959-05

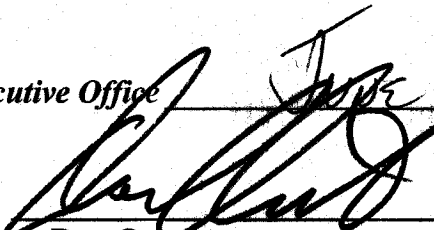


Rich Fitzgerald
President of Council

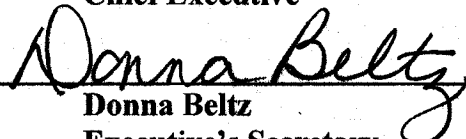
Attest: 

John Mascio
Chief Clerk of Council

Chief Executive Office June 13, 2005

Approved: 

Dan Onorato
Chief Executive

Attest: 

Donna Beltz
Executive's Secretary

§2105.14 GASOLINE DISPENSING FACILITIES - STAGE II CONTROL

{Subsection b amended September 6, 1995, effective October 20, 1995}

Section revised Month/Date 2005, effective...

- a. **Applicability.** This Section applies to gasoline dispensing facilities ~~owned or operated by independent small business marketers of gasoline, or the equivalent, as defined under Section 325 of the Clean Air Act, with monthly gasoline throughput of 50,000 gallons or more, and to all other gasoline dispensing facilities with monthly gasoline throughput of 10,000 gallons or more.~~ with throughputs greater than 10,000 gallons per month. In the case of independent small business marketers of gasoline, as defined in Section 324 of the Clean Air Act (42 U.S.C.A. §7625(c)), this Section does not apply if the throughput is less than 50,000 gallons per month.

- b. **Requirement for Stage II Control.** After the date specified in Subsection c, an owner or operator of a gasoline dispensing facility subject to this Section may not transfer or allow the transfer of gasoline into a motor vehicle fuel tank unless the dispensing facility is equipped with a Department approved and properly operating Stage II vapor recovery or vapor collection system. Unless a higher percent reduction is required by the EPA under section 182 of the Clean Air Act (42 U.S.C.A. § 7511a), approval by the Department of a Stage II vapor collection system will be based on a determination that the system will collect at least 95% by weight, of the gasoline vapors that are displaced or drawn from a vehicle fuel tank during refueling and the captured vapors are returned to a vapor tight holding system or vapor control system.

- c. **Compliance Schedule.**
 1. Facilities for which construction was commenced after April 1, 1997, shall achieve compliance at the time of opening of the gasoline dispensing facility.
 2. Facilities which dispense greater than or equal to 120,000 gallons of gasoline per month, based on average monthly sales during calendar years 1995 and 1996, shall have achieved compliance by July 1, 1999.
 3. Facilities which dispense greater than 90,000 gallons per month but less than 120,000 gallons per month based on average monthly sales during calendar years 1995 and 1996 shall have achieved compliance by December 31, 2000.

d. Definition. For the purposes of this Section, the term "construction" includes, but is not limited to, the addition or replacement of one or more underground gasoline storage tanks.

e.b. Prohibition. General Requirements. No owner or operator of a gasoline dispensing facility subject to this Section shall transfer, or allow the transfer of, gasoline into a motor vehicle fuel tank on or after the effective date of this Section unless: Owners or operators, or both, of gasoline dispensing facilities subject to this Section shall:

1. ~~The dispensing facility is equipped with a DEP approved and properly operating and maintained Stage II vapor recovery and control system that collects at least 90 percent, or such higher percentage as is required under Section 182 of the Clean Air Act, by weight of the gasoline vapors that are displaced or drawn from a vehicle fuel tank during refueling and returns the captured vapors to a vapor tight holding system or vapor control system; and~~

1. Install necessary Stage II vapor collection and control systems, provide necessary maintenance and make modifications necessary to comply with the requirements.

2. ~~The owner or operator, or both, has, at all times:~~

A. ~~Within the past six (6) months, provided adequate training and written instructions to the operator of the affected gasoline dispensing facility to assure proper operation of the system;~~

2. Provide adequate training and written instructions to the operator of the affected gasoline dispensing facility to assure proper operation of the system.

B. ~~Immediately removed from service and tagged as defective any defective nozzle or dispensing system;~~

C. ~~Not returned any defective nozzle or dispensing system to service nor returned any defective component to service until the defective component is replaced or repaired and, if such nozzle or system was found to not be properly tagged under this Section during an inspection by the Department, until such return to service is approved by the Department in writing;~~

3. Immediately remove from service and tag any defective nozzle or dispensing system until the defective component is replaced or repaired. A component removed from service may not be returned to service until the defect is corrected. If the Department finds that a defective nozzle or dispensing system is not properly tagged during an inspection, the component may not be returned to service until the defect is corrected, and the Department approves its return to service in writing.

4.D. Conspicuously posted operating instructions for the system in the gasoline dispensing area which, at a minimum, include:

A. i. A clear description of how to correctly dispense gasoline with the vapor recovery nozzles utilized at the site;

B. ii. A warning that continued attempts to dispense gasoline after the system indicates that the vehicle fuel tank is full may result in spillage or recirculation of the gasoline into the vapor collection system; and

C. iii. A telephone number established by the Department for the public to report problems experienced with the system; and

5. Comply with the functional testing and certification requirements specified in EPA's Stage II Enforcement and Technical Guidance Documents developed under section 182 of the Clean Air Act to meet the Clean Air Act requirements, conduct Department approved efficiency tests upon installation, addition, or replacement of one or more underground storage tanks, and conduct compliance tests at intervals thereafter according to the following schedule:

A. For vapor balance systems, a pressure decay or leak test once every 5 years, a dynamic back-pressure test once every 5 years, and a blockage test once every 5 years; or

B. For vacuum-assist systems, including Healy systems, a pressure decay or leak test once every 12 months, and an air to liquid volume ratio test once every 12 months; or

C. For all other systems, tests and a testing schedule as approved by the Department.

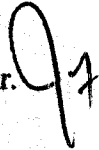
6.E. Maintained written and electronic records on the premises of the affected gasoline dispensing facility, available for inspection and copying by the Department upon request, of system test results, monthly throughput, type and duration of any failures of the system, and maintenance and repair activities, training, and compliance records. The records shall be kept for the past at least two (2) years, except for efficiency test reports which shall be kept since the most recently required testing date.

f.e. **Exception.** The requirements of this Section shall not be effective unless such requirements are specifically mandated by controlling federal or state laws or regulations. Any rescission of the controlling federal and state laws and regulations mandating these requirements, or the suspension of enforcement of the same, shall result in the immediate suspension of the requirements of this Section by the Department.

MEMORANDUM

OFFICE OF THE COUNTY MANAGER

TO: John Mascio
Chief Clerk

FROM: James M. Flynn, Jr. 
County Manager

DATE: April 28, 2005

RE: Proposed Ordinance

Attached is an Ordinance amending Article XXI of the Allegheny County Health Department's Rules and Regulations, Article XXI, Air Pollution Control, implementing Stage II Control for Gasoline Dispensing Facilities.

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

Please place this on the next agenda for County Council approval.

Thank you.