

No. 14-21-OR

AN ORDINANCE

An Ordinance of the Council of the County of Allegheny ratifying amendments that add new section §2106.06, “Mon Valley Air Pollution Episode,” and revise §2105.50, “Open Burning,” 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 July 14, 2021 during its regularly scheduled public meeting, the Allegheny County Board of Health adopted by affirmative vote the attached amendments to Section 2106.06, “Mon Valley Air Pollution Episode,” and §2105.50, “Open Burning,” 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 resolves 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Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.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 14th day of September, 2021.

Council Agenda No. 11987-21.

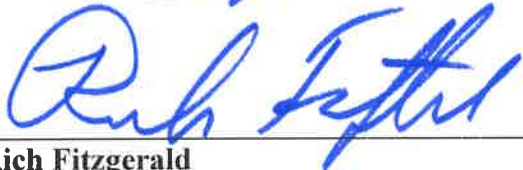


Patrick Catena
President of Council

Attest: 

Jared Barker
Chief Clerk of Council

Chief Executive Office September 15th, 2021

Approved: 

Rich Fitzgerald
Chief Executive

Attest: 

Jennifer M. 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 26, 2021

RE: Proposed Ordinance

Attached is an Ordinance of the Council of the County of Allegheny ratifying amendments that add new section §2106.06, "Mon Valley Air Pollution Episode," and revise §2105.50, "Open Burning," 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.

EXHIBIT "A"

PROPOSED REVISION

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

§2106.06, Mon Valley Air Pollution Episode (new)

And a related change to §2105.50, Open Burning

(Note: Portions of this proposed revision may 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, under Revision Tracking No. 97.)

Proposed Article XXI Revision – Mon Valley Air Pollution Episode Regulation

Because §2106.06 is a proposed new section, all type is shown in regular font.

§2106.06 MON VALLEY AIR POLLUTION EPISODE {effective }

- a. **Applicability.** This section applies to the following sources located in one or more of the municipalities identified in Subsection d:
 1. All major and synthetic minor sources of PM_{2.5};
 2. All sources that have combined allowable emissions from all emission units of 6.5 tons or more per year of PM_{2.5}; and
 3. All sources that have combined allowable emissions from all emission units of 10 tons or more per year of PM₁₀.
- b. **Air Quality Forecast.** For purposes of this Section, the Department shall rely on the air quality forecast provided by the Pennsylvania Department of Environmental Protection for determining Mon Valley Air Pollution Episodes. The Director of the Allegheny County Health Department may approve a change in the air quality forecast provider or methodology. The Department shall post on its Air Quality Program website any changes to the air quality forecast provider or methodology.
- c. **Mon Valley Air Pollution Episodes.** For purposes of this Section, the “Mon Valley PM_{2.5} threshold level” shall be the value of the primary 24-hour PM_{2.5} NAAQS.
 1. **Mon Valley Air Pollution Watch.** The Department shall issue a Mon Valley Air Pollution Watch if the Department has determined from an air quality forecast that for at least the next 24-hour period atmospheric conditions will exist which indicate that the 24-hour average ambient concentration of PM_{2.5} in one or more of the municipalities identified in Subsection d is forecasted to exceed the Mon Valley PM_{2.5} threshold level.
 2. **Mon Valley Air Pollution Warning.** The Department shall issue a Mon Valley Air Pollution Warning if during a rolling 24-hour averaging period, the Mon Valley PM_{2.5} threshold level is exceeded at an official monitoring station in the municipalities identified in Subsection d and the Department has determined atmospheric conditions will continue as described in Paragraph c.1.

- d. **Mon Valley Air Pollution Episode Area.** This Section shall apply to the following municipalities: City of Clairton, City of Duquesne, City of McKeesport, Borough of Braddock, Borough of Braddock Hills, Borough of Chalfant, Borough of Dravosburg, Borough of East McKeesport, Borough of East Pittsburgh, Borough of Elizabeth, Borough of Forest Hills, Borough of Glassport, Borough of Jefferson Hills, Borough of Liberty, Borough of Lincoln, Borough of Munhall, Borough of North Braddock, Borough of Port Vue, Borough of Rankin, Borough of Swissvale, Borough of Turtle Creek, Borough of Versailles, Borough of Wall, Borough of West Elizabeth, Borough of West Mifflin, Borough of White Oak, Borough of Wilmerding, Borough of Whitaker, Elizabeth Township, Forward Township, North Versailles Township, and Wilkins Township.
- e. **Mon Valley Air Pollution Mitigation Plan.** In addition to any applicable plan requirements under Sections 2106.02 and 2106.05, all sources subject to this Section shall submit to the Department according to the schedule provided in Subsection f, a Mon Valley Air Pollution Mitigation Plan (referred to in this Section as “Plan”) with the following two phases:
1. **Mon Valley Air Pollution Watch Phase:** A Mon Valley Air Pollution Watch Phase shall include procedures to ensure the source is operating in a manner consistent with good engineering practice and all air pollution control equipment is maintained in good working condition. The Mon Valley Air Pollution Watch Phase shall include procedures for record keeping and reporting to the Department the actions taken during the Mon Valley Air Pollution Watch period. The Mon Valley Air Pollution Watch Phase shall also include procedures to ensure that the source has sufficient staff and resources available to implement the Mon Valley Air Pollution Warning Phase within 24 hours of the Department’s notification to the source of a Mon Valley Air Pollution Watch.
 2. **Mon Valley Air Pollution Warning Phase:** A Mon Valley Air Pollution Warning Phase shall include measures to reduce PM_{2.5} and PM₁₀ emissions to minimize the impact on public health, safety, or welfare, the timeframe for implementing each measure, and an estimate of the PM_{2.5} and PM₁₀ emissions reductions during a 24-hour period for each measure. The Mon Valley Air Pollution Warning Phase shall include the procedures identified in the Mon Valley Air Pollution Watch Phase and procedures for record keeping and reporting to the Department the actions taken during the Mon Valley Air Pollution Warning period. The measures to

reduce PM_{2.5} and PM₁₀ emissions may include, but are not limited to, the following:

- A. Reduce transportation activity;
- B. Switch or decrease fuel use as allowed by the facility's permit issued under this Article;
- C. Delay nonessential activities that may cause emissions;
- D. Modify work or other practices; and
- E. Reduce, modify, cease, curtail, defer or postpone production and allied operations.

f. **Dates for Submission of Mon Valley Air Pollution Mitigation Plan.** Sources subject to this Section shall submit the Mon Valley Air Pollution Mitigation Plan according to the following schedule:

1. Existing sources shall submit to the Department the Plan within 90 days after the effective date of this Section.
2. Sources that startup after the effective date of this Section shall submit to the Department the Plan within 90 days after initial startup of the source.
3. Existing sources that become subject to this Section after the effective date of this Section shall submit to the Department the Plan within 90 days after the source becomes subject to this Section.
4. Any person responsible for operation of the source shall advise the Department in writing of any change affecting the technical content or the implementation of the Plan no more than 30 days following the change. Such submittals shall be reviewed and implemented according to the procedures described in Subsection g below.

g. Procedure for Review and Effective Date of the Mon Valley Air Pollution Mitigation Plans.

1. The Mon Valley Air Pollution Mitigation Plan shall be effective upon submission to the Department.
2. If the Mon Valley Air Pollution Mitigation Plan is not acceptable to the Department, the Department shall issue an order directing the responsible person to modify and resubmit the Plan within thirty (30) days after receiving notice. The order shall specify the reason or reasons for disapproval and shall specify the changes or additions necessary to make the Plan acceptable to the Department. The Plan submitted for review to the Department under Paragraph g.1 shall continue to be effective until a modified Plan has been submitted. The modified Plan shall be effective upon submission to the Department.
3. When determining whether the Mon Valley Air Pollution Mitigation Plan is acceptable, the Department may consider the following factors:
 - a. The feasibility of implementing the Mon Valley Air Pollution Warning Phase within 24 hours of the Department's notification to the source of a Mon Valley Air Pollution Watch;
 - b. Whether the measures to decrease PM_{2.5} and PM₁₀ emissions can reasonably improve public health, safety, or welfare; and
 - c. Whether the estimated reduction in PM_{2.5} and PM₁₀ emissions is proportionate to the source's contribution to emissions in any of the municipalities identified in Subsection d.
4. In the event that a source fails to submit the Mon Valley Air Pollution Mitigation Plan according to the schedule provided in Subsection f, fails to resubmit the Plan, or fails to resubmit the Plan in accordance with the changes or additions specified by the Department, the Department, in addition to any other remedies available to it under this Article, shall have the authority to issue an order to that person detailing the procedures for a Mon Valley Air Pollution Watch or Warning Phase.

- h. **Notification of Mon Valley Air Pollution Episodes.** When a Mon Valley Air Pollution Watch or Warning is issued, the Department shall make the following notifications:
1. The Department shall notify all sources subject to this Section that they are required to implement the procedures and measures identified in either the Mon Valley Air Pollution Watch or Warning Phase.
 2. The Department shall notify all municipalities identified in Subsection d, and any other municipality that requests to be notified, that a Mon Valley Air Pollution Watch or Warning is in effect.
 3. The Department shall issue an advisory on its Air Quality Program website and notify various media that a Mon Valley Air Pollution Watch or Warning is in effect.
- i. **Termination of Mon Valley Air Pollution Episodes.**
1. The Department shall terminate any Mon Valley Air Pollution Watch or Warning when the conditions in Paragraphs c.1 and c.2 no longer exist.
 2. The Department shall issue a notification to all person(s) identified under Subsection h when the ACHD has determined that a Mon Valley Air Pollution Watch or Warning is no longer in effect.
- j. **Other powers unaffected.** Nothing contained in this Section shall affect the power of the Department to issue an Emergency Order pursuant to §2109.05 of this Article, whether or not such emergency occurs during a Mon Valley Air Pollution episode.

For the following section:
Additions are shown in **larger font, bolded, and underlined.**

§2105.50 OPEN BURNING *{Subsection f amended May 8, 2007, effective, August 17, 2007, and amended July 16, 2009, effective July 26, 2009. Subsections a, b, and d amended, and e & f renumbered November 13, 2014, effective, January 1, 2015. Paragraph a.3 amended mm/dd/yyyy, effective mm/dd/yyyy.}*

a. **General.**

...

- 3. Wood burning activities shall not be conducted on Air Quality Action Days **or in the municipalities identified in Subsection 2106.06.d when a Mon Valley Air Pollution Watch or Warning under Section 2106.06 has been issued,** with the exception of conducting such burning for the commercial preparation of food.

End of Regulation Changes

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

**the addition of
§2106.06, “Mon Valley Air Pollution Episode”**

LEGISLATIVE SUMMARY

The Allegheny County Health Department (ACHD) is proposing changes to Article XXI to address air pollution episodes in the Mon Valley Area involving fine particulate matter (PM_{2.5}).

When Allegheny County experiences temperature inversions as a result of weather conditions including light wind speeds, heavy fog, and a significant warm front, pollutants can be trapped closer to the surface.

During these episodes, the Health Department sometimes recorded exceedances of the 24-hour PM_{2.5} federal National Ambient Air Quality Standard at the Liberty monitor, although elevated pollution readings were also recorded at other monitored sites across the county.

This proposed new air quality regulation is aimed at emission mitigation requirements for industry operating in the portion of the county known as the “Mon Valley” during weather-related pollution episodes. The goal is to have emission reduction plans in place that can be implemented within 24 hours of notice from the Health Department to minimize the impact on public health. During these incidences, Air Quality Action Alerts will also be issued for citizens in the Mon Valley communities.

ACHD recognizes that industry is not the only contributor to poor air quality as mobile and area source emissions from motor vehicles, lawnmowers, solvents and open burning can also have an impact on pollution levels. While continuing to advocate for residents to do what they can to reduce emissions, the proposed new regulation will impose corrective action requirements on industry during short-term pollution events.

The proposed revision was the subject of a comment period, including a public hearing held on June 9, 2021. The regulation was approved by the Allegheny County Board of Health at their July 14, 2021 meeting.

Finally, the proposed Article XXI §2106.06 and the change to §2105.50 will be submitted as a revision to the Allegheny County portion of the Pennsylvania State Implementation Plan.