

No. 34-22-OR

AN ORDINANCE

An Ordinance of the Council of the County of Allegheny ratifying an amendment that adds §2105.08, "Additional RACT Requirements for Major Sources of Nitrogen Oxides and Volatile Organic Compounds For the 2015 Ozone NAAQS," to 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 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 September 7, 2022 during its regularly scheduled public meeting, the Allegheny County Board of Health adopted by affirmative vote the attached amendment adding §2105.08, "Additional RACT Requirements for Major Sources of Nitrogen Oxides and Volatile Organic Compounds For the 2015 Ozone NAAQS," to 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 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Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.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.


To be consistent with regulations promulgated by the Commonwealth’s Department of Environment Protection, this Ordinance shall become effective January 1, 2023.

Enacted in Council, this 25th day of October, 2022.

Council Agenda No. 12456-22.



Patrick Catena
President of Council

Attest: 

Jared Barker
Chief Clerk of Council

Chief Executive Office October 26th, 2022

Approved: 

Rich Fitzgerald
Chief Executive

Attest: 

Jennifer Liptak
Chief of Staff

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: September 15, 2022

RE: Proposed Ordinance

Attached is an Ordinance of the Council of the County of Allegheny ratifying an amendment that adds §2105.08, "Additional RACT Requirements for Major Sources of Nitrogen Oxides and Volatile Organic Compounds For the 2015 Ozone NAAQS," to 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 ---

§2105.08, “Additional RACT Requirements for Major Sources of Nitrogen Oxides and Volatile Organic Compounds For the 2015 Ozone NAAQS”

LEGISLATIVE SUMMARY

The ACHD is proposing to add regulations regarding Reasonably Available Control Technology (RACT) for major sources of nitrogen oxides and volatile organic compounds (VOCs) by “incorporating by reference” regulations being added by the state of Pennsylvania at 25 Pa. Code §129.111 through §129.115, and related definitions at §129.121.

The amendment adds a new §2105.08 relating to additional RACT requirements for major sources of NOX and VOCs for the 2015 Ozone NAAQS that establishes RACT requirements for the owner and operator of certain types of stationary air contamination sources located at any major NOX emitting facility or any major VOC emitting facility that was in existence in Allegheny County on or before August 3, 2018.

The regulation revision is mandated by Federal law or regulation. For RACT implementation purposes, the entire Commonwealth of Pennsylvania is treated as a “moderate” ozone nonattainment area because this Commonwealth is included in the Ozone Transport Region (OTR) established by operation of law under sections 176A and 184 of the CAA.

Because Allegheny County, as part of Pennsylvania, is in the Ozone Transport Region, the County is thus required to implement RACT requirements for major stationary sources of nitrogen oxides (NOx) and volatile organic compounds (VOCs) as part of a Federally approvable State Implementation Plan (SIP) for the 2015 8-hour ozone NAAQS.

The proposed revision was the subject of a public comment period, including a public hearing held on August 18, 2022. The regulation was approved by the Allegheny County Board of Health at their September 7, 2022 meeting.

Finally, the proposed changes to add Article XXI §2105.08 will be submitted as a revision to the Allegheny County portion of the Pennsylvania State Implementation Plan.

EXHIBIT “A”

PROPOSED REVISION

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

§2105.08

Additional RACT Requirements for Major Sources of Nitrogen Oxides and Volatile Organic Compounds For the 2015 Ozone NAAQS

(Note: The 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, under Revision Tracking No. 98.)

Proposed Article XXI Regulation Revision

Article XXI, §2105.08 is new and printed in regular type.
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§2105.08 Additional RACT Requirements for Major Sources of Nitrogen Oxides and Volatile Organic Compounds for the 2015 Ozone NAAQS */Added mm/dd/yyyy, effective mm/dd/yyyy./*

- a. Except as otherwise provided under this Section, the additional RACT requirements for major sources of nitrogen oxides and volatile organic compounds promulgated by the Pa. Environmental Quality Board and Dept. of Environmental Protection (DEP) under the Pa. Air Pollution Control Act at 25 Pa. Code §129.111 to §129.115, and the related definitions at 25 Pa. Code §121.1, are hereby incorporated, by reference, into this Article.

Additions, revisions, and deletions to such requirements adopted by the EQB and the DEP are incorporated into this Article and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.

- b. Under the regulations incorporated by reference under this Section and for purposes of this Article:
1. "Combustion unit" shall mean 'Fuel burning and combustion equipment,' as defined in this Article;
 2. "Plan approval" shall mean Installation permit;
 3. The terms "Department" and "approved local air pollution control agency" shall mean Department as defined under this Article;
 4. "Facility" shall mean Source as defined under this Article;
 5. With respect to the requirements of 25 Pa. Code §129.111 to §129.115, the sections of 25 Pa. Code Chapter 129 cited there shall mean the corresponding Article XXI sections listed in the following table. Where there is no corresponding Article XXI section as indicated by "None" in the table, follow the requirements of the Pennsylvania Code.

25 Pa. Code	Article XXI	25 Pa. Code	Article XXI
§129.51	§2105.01	§129.71	§2105.19
§129.52	§2105.10 incl. Table 2105.10	§129.72	None*
§129.52a	§2105.77	§129.73	§2105.74
§129.52b	§2105.79	§129.75	§2105.75
§129.52c	§2105.78	§129.77	§2105.85
§129.52d	§2105.83	§129.91, §§129.93-95	§2105.06 applicable subsections
§129.52e	§2105.84	§129.92	§2105.06.a-c and §129.92
§129.54	§2105.04	§§129.96-100	None*
§129.55	§2105.70	§129.101	§2105.76
§129.56	§2105.12	§129.102	§2105.76
§129.57	§2105.12	§129.103	§2105.76
§129.58	§2105.70	§129.104	§2105.76

§129.59	§2105.13		§129.105	§2105.76
§129.60	§2105.13		§129.105	§2105.76
§129.61	§2105.13		§129.106	§2105.76
§129.62	§2105.13		§129.107	§2105.76
§129.63	§2105.15		§129.301	§2105.101
§129.63a	§2105.82		§129.302	§2105.101
§129.64	§2105.16		§129.303	§2105.101
§129.65	§2105.17		§129.304	§2105.101
§129.66	None*		§129.305	§2105.101
§129.67	§2105.11		§129.306	§2105.101
§129.67a	§2105.81		§129.307	§2105.101
§129.67b	§2105.80		§129.308	§2105.101
§129.68	§2105.71		§129.309	§2105.101
§129.69	§2105.72		§129.310	§2105.101

*25 Pa. Code §129.66, §129.72, and §§129.96-100 have no corresponding Article XXI sections. Additional Notes on Corresponding Regulations: 25 Pa. Code §129.201-205 apply to certain sources only in Bucks, Chester, Delaware, Montgomery or Philadelphia County. 25 Pa. Code §145.111-113 are part of the NOx SIP call and not regulated by Allegheny County. 25 Pa. Code §145.141-145, Cement Manufacturing – no Allegheny Count Sources.

6. Regarding 25 Pa. Code §129.112(e)(1), and with respect to a municipal solid waste landfill constructed, reconstructed or modified on or before July 17, 2014, §2105.73 of this Article applies, and "§122.3" shall mean Subsection §2105.05 of this Article;
7. Regarding 25 Pa. Code §129.112(e)(2), and with respect to a municipal solid waste landfill constructed after July 18, 2014, "§122.3" shall mean Subsections §2105.05 of this Article;
8. Regarding 25 Pa. Code §129.112(l) and RACT permits issued to the owner or operator of an air contamination source:
 - A. 25 Pa. Code §§129.91 – 129.95, shall mean Section 2105.06 of this Article;
 - B. "stationary" sources shall mean "major" sources.
9. Regarding 25 Pa. Code §129.112(m) and any other portions of §§129.111-115:
 - A. 25 Pa. Code §§129.201 - 205, do not apply to Allegheny County;
{Editor's Note: They apply to the counties around Philadelphia.}
 - B. 25 Pa. Code §§129.301 - 310, shall mean Section 2105.101 of this Article;
 - C. 25 Pa. Code §§145.111 - 113, there are no corresponding Article XXI regulations;
{Editor's Note: 25 Pa. Code §§145.111 – 113 are part of the NOx SIP Call regulations, for which DEP prohibits ACHD from enacting regulations.}
 - D. 25 Pa. Code §§145.141 - 146, do not apply to Allegheny County.
{Editor's Note: There are no Portland cement plants in Allegheny County.}
10. Regarding 25 Pa. Code §129.114(d)(1), and (d)(3), "25 Pa. Code §129.92(a)(1)-(5), (7)-(10) and (b)" shall mean that and Article XXI §2105.06.a, b, and c.
11. Regarding 25 Pa. Code §129.114(f) and (j), "25 Pa. Code Chapter 127" shall mean Article XXI Parts Band C.

12. Regarding 25 Pa. Code §129.114(j)(2), the Department shall publish notice in accordance with Article XXI §2102.03.m.2.
13. Regarding 25 Pa. Code §129.115(b)(1), (3), (4) and (5), monitoring and testing shall be in accordance with “Chapter 139, Subchapter C” as incorporated by Article XXI, §2108.02.g.
14. Regarding 25 Pa. Code §129.115(b)(6) and (e)(2), monitoring and testing shall be in accordance with “Chapter 139, Subchapter A” as incorporated by Article XXI, §2107.01.b.
15. Regarding 25 Pa. Code §129.115(f), “25 Pa. Code, Part 1, Subpart C, Article III” shall mean Article XXI.

End of Regulation Changes