

No. 20-22-OR

AN ORDINANCE

An Ordinance of the Council of the County of Allegheny ratifying amendments that revise §2105.13, "Gasoline Loading Facilities," and §2105.14, "Gasoline Dispensing Facilities-Stage II Control," 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 November 3, 2021 during its regularly scheduled public meeting, the Allegheny County Board of Health adopted by affirmative vote the attached amendments to §2105.13, "Gasoline Loading Facilities," and §2105.14, "Gasoline Dispensing Facilities-Stage II Control," 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 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Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

Enacted in Council, this 5th day of July, 2022.

Council Agenda No. 12320-22.

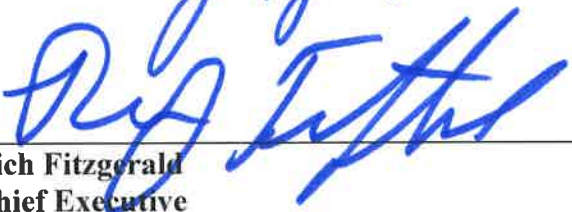


Patrick Catena
President of Council

Attest: 

Jared Barker
Chief Clerk of Council

Chief Executive Office July 12th, 2022

Approved: 

Rich Fitzgerald
Chief Executive

Attest: 

Jennifer M. 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: June 2, 2022

RE: Proposed Ordinance

Attached is an Ordinance of the Council of the County of Allegheny ratifying amendments that revise §2105.13, "Gasoline Loading Facilities," and §2105.14, "Gasoline Dispensing Facilities-Stage II Control," 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 ---

§2105.13, Gasoline Loading Facilities

§2105.14, Gasoline Dispensing Facilities – Stage II Control

LEGISLATIVE SUMMARY

“Stage II” equipment at gasoline stations in Allegheny County has been in place for over two decades to help capture escaping gasoline vapors that could be released during the refueling process leading to increased Ozone pollution formation. The Allegheny County Health Department (ACHD) is proposing changes to Article XXI to address decommissioning Stage II requirements for gasoline dispensing facilities in Allegheny County.

The Clean Air Act (CAA) allows the EPA to revise or waive CAA Stage II requirements in moderate or above ozone nonattainment areas after EPA determines that Onboard Refueling Vapor Recovery (ORVR) is in widespread use.

ORVR systems act like a Stage II system on a vehicle. They capture vapors in a canister to be combusted later. However, the ORVR systems can be incompatible with Stage II systems. The vacuum-assisted Stage II systems pull air from the ORVR vehicles and return the air to the storage tank. The air returned to the storage tank pulls vapor out of the liquid fuel in the tank, which, under certain conditions, is vented to the atmosphere. Over 90% of Stage II systems in Pennsylvania use vacuum assist nozzles (the other system is called a vapor balance Stage II system).

EPA has now waived the CAA Stage II requirements for moderate and worse nonattainment areas. These waivers enable states to repeal Stage II programs, and the Pennsylvania Department of Environmental Protection is, at the time of this writing, in the process of doing that and ACHD is following suit.

PA DEP has conducted an analysis called a “Non-Interference Demonstration” or “NID,” demonstrating that there will be no adverse impact on the air quality from the repeal of the Stage II requirements. The results of this analysis cover Allegheny County as well.

Simultaneously, DEP is making additional regulatory changes to improve the leakage monitoring capabilities of the remaining Stage I systems, and the ACHD Article XXI changes incorporate those changes by reference.

The proposed revision was the subject of a comment period, including a public hearing held on September 27, 2021. The regulation was approved by the Allegheny County Board of Health at its November 3, 2021 meeting.

Finally, the proposed Article XXI §§2105.13 and 14 changes 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

§2105.13, Gasoline Loading Facilities §2105.14, Gasoline Dispensing Facilities – Stage II Control

(Note: 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, under Revision Tracking No. 91.)

Proposed Article XXI Revision – Gasoline Dispensing Facility Stage 1 and Stage 2 Regulations

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

PART E - SOURCE EMISSION AND OPERATING STANDARDS

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SUBPART 1 - VOC SOURCES

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§2105.13 GASOLINE LOADING FACILITIES *{Subsection e amended mm/dd/20nn, effective mm/dd/20nn}*

- a. **Handling.** No person shall handle, or allow to be handled, gasoline in any bulk gasoline terminal, bulk gasoline plant, or other source subject to this Section in such manner that it is spilled, discarded in sewers, stored in open containers, or otherwise handled so as to result in uncontrolled evaporation into the open air.

- b. **Transfers.** No person shall transfer, or allow the transfer of, gasoline between any tank truck or trailer and any stationary storage tank located in a bulk gasoline terminal or bulk gasoline plant, or any small gasoline storage tank to which Subsection e below applies, unless:
 1. A vapor balance system is in good working order and is designed and operated during the transfer in such manner that:
 - A. Gauge pressure does not exceed 18 inches of water and vacuum does not exceed six inches of water in the gasoline tank truck;
 - B. Readings do not equal or exceed 100 percent of the lower explosive limit (LEL, measured as propane) at one inch from all points on the perimeter of a potential leak source when measured by the method referenced in §2107.04 of this Article during transfer operations; and
 - C. There are no avoidable visible liquid leaks during trans operations;
 2. Any truck, vapor balance system, or vapor disposal system, where applicable, that exceeds the limits in Paragraph b.1 above is repaired and retested according to the method referenced in §2107.04 of this Article within 15 days;
 3. There are no visually or audibly detectable leaks in the pressure/vacuum relief valves and hatch covers of the tank truck or the pressure/relief valves and hatch covers of the trailer, the truck tanks or storage tanks, or associated vapor and liquid lines during transfer; and
 4. The pressure and vacuum relief valves on stationary and vehicular tanks are set to release at no less than 0.7 psig of pressure or 0.3 psig of vacuum or the highest allowable pressure and vacuum as specified in state or local fire codes, or the National Fire Prevention Association guidelines or other national consensus standard approved in

writing by the Department. Upon demonstration to the Department's written satisfaction by the owner or operator of an underground small gasoline storage tank that the vapor balance system required by Subsection e below will achieve a 90% vapor recovery efficiency without a pressure and vacuum relief valve and that an interlock system sufficient to ensure connection of the vapor recovery line prior to transfer of gasoline will be used, no pressure and vacuum relief valve shall be required. The vacuum setting on the pressure and vacuum relief valve on an underground storage tank may be set at the lowest vacuum setting which is sufficient to keep the vent closed at zero pressure and vacuum.

- c. **Bulk Gasoline Terminals.** No person shall load, or allow to be loaded, gasoline from a bulk gasoline terminal into a vehicular tank unless:
1. There is in operation on the gasoline loading racks a vapor collection and disposal system reducing uncontrolled emissions by at least 90% by weight or emitting no more than 0.0668 pounds of gasoline for every 100 gallons of gasoline loaded;
 2. There is in operation on the gasoline loading racks a loading arm with a vapor collection adaptor and pneumatic, hydraulic or other mechanical means to force a vapor-tight seal between the adaptor and the hatch of the vehicular tank. A means shall also be provided to prevent gasoline drainage from the loading device when it is not connected to the hatch, and to accomplish complete drainage before disconnection. When loading is done by means other than hatches, all loading and vapor lines shall be equipped with fittings which make vapor-tight connections and which are closed when disconnected; and
 3. Any person who operates, or allows to be operated, a bulk gasoline terminal shall maintain records of daily throughput. Such records shall be retained for not less than two years and shall be made available for inspection and copying by the Department upon request.

Compliance testing shall be done according to the provisions of §2107.04 of this Article.

- d. **Bulk Gasoline Plants.** No person shall load, or allow to be loaded, gasoline from a bulk gasoline plant stationary tank into a vehicular tank unless such loading is done by means of bottom filling with the inlet flush with the vehicular tank bottom or by means of top-submerged filling with the fill pipe extending to within six inches of the bottom of the vehicular tank throughout the loading operation.

In addition, no person shall load, or allow to be loaded, gasoline into any stationary tank of a bulk gasoline plant, or from any such stationary tank into a vehicular tank, unless:

1. There is in operation on such stationary tank:
 - A. A vapor balance system which emits no more than the amount of emissions permitted by Paragraph c.1 of this Section; or
 - B. A floating roof complying with Paragraph b.1 and Subsection c of §2105.12 under this Article and a vapor recovery and disposal system which emits no more than the amount of emissions permitted by Paragraph c.1 of this Section; and
 2. Any person who operates, or allows to be operated, a bulk gasoline plant shall maintain records of daily throughput. Such records shall be retained for not less than two years and shall be made available for inspection and copying by the Department upon request.
- e. **Small Gasoline Storage Tanks.** No person shall load, or allow to be loaded, gasoline from any vehicular tank into any stationary storage tank having a capacity of 250 gallons or more if installed

on or after January 1, 1979, or 2,000 gallons or more if installed before January 1, 1979, which is located in any gasoline handling facility unless there is in operation on such storage tank a vapor balance system which emits no more than the amount of emissions permitted by Paragraph c.1 of this Section and unless the stationary tank is equipped with a submerged fill pipe extending to within six inches of the bottom of the tank throughout the loading operation.

The dispensing delivery tank shall remain vapor tight at all times except after all vapors have been disposed of in accord with the provisions of this Section.

Stationary storage tanks with a capacity less than 550 gallons that are used for agricultural purposes and that are equipped with a submerged fill pipe shall be exempted from the provisions of this Subsection.

- 1. An owner or operator of a gasoline storage tank subject to this subsection may also be subject to 25 Pa. Code §129.61a, “Vapor leak monitoring procedures and other requirements for small gasoline storage tank emission control,” which is hereby incorporated by reference into this Article. All terms used in 25 Pa. Code §129.61a and defined in 25 Pa. Code §121.1 are hereby incorporated by reference, except as explicitly set forth herein. Additions, revisions, or deletions to such regulation by the Commonwealth are incorporated into this Article and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.**
- 2. For the purposes of this subsection, references in 25 Pa. Code §129.61a to:**
 - A. “Department” shall mean Department as defined under this Article, except at 25 Pa. Code §129.61a(k)(2) relating to PA DEP publishing notice in the Pennsylvania Bulletin of a CARB Executive Order of Certification of a second manufacturer for an enhanced conventional nozzle;**
 - B. 25 Pa. Code §129.61, shall mean Article XXI, §2105.13.e;**
 - C. 25 Pa. Code §129.127, shall mean Article XXI, Parts B and C; and**
 - D. “Plan approval” shall mean Installation Permit.**

§2105.14 GASOLINE DISPENSING FACILITIES – STAGE II CONTROL

{Section amended June 13, 2005, effective July 10, 2005. Section amended mm/dd/20nn, effective mm/dd/20nn.}

- a. **Applicability.** This Section applies to the owner or operator of a gasoline dispensing facilities facility equipped with a Stage II vapor recovery system 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(e)), 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.~~

- b. 25 Pa. Code §129.82a, “Requirements to decommission a Stage II vapor recovery system,” is hereby incorporated by reference into this Article. All terms used in 25 Pa. Code §129.82a and defined in 25 Pa. Code §121.1 are hereby incorporated by reference, except as explicitly set forth herein. Additions, revisions, or deletions to such regulation by the Commonwealth are incorporated into this Article and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.

For the purposes of this subsection, references in 25 Pa. Code §129.82a to:

1. “Department” shall mean Department as defined under this Article;
2. 25 Pa. Code §129.61, shall mean Article XXI, §2105.13.e;
3. 25 Pa. Code §129.82, shall mean Article XXI, §2105.14;
4. 25 Pa. Code §129.127, shall mean Article XXI, Parts B and C; and
5. “Plan approval” shall mean Installation Permit.

ce. General Requirements. The owner or operator ~~Owners or operators, or both, of a gasoline dispensing facilities~~ **facility** subject to this Section shall **meet the following requirements until the Stage II vapor recovery system at the gasoline dispensing facility is decommissioned under 25 Pa. Code §129.82a, (relating to requirements to decommission a Stage II vapor recovery system):**

- 1.** ~~Install necessary Stage II vapor collection and control systems, provide~~ **Maintain a Department approved and properly operating Stage II vapor recovery system. The Department will not approve a Stage II vapor recovery system unless the Stage II vapor recovery system collects at least 95% by weight of the gasoline vapors that are displaced from a vehicle fuel tank during refueling and returns the captured vapors to a vapor tight system.**
- 2.** **Provide** necessary maintenance and make modifications necessary to comply with the requirements **this section.**
- 3.** Provide adequate training and written instructions to the operator of the ~~affected~~ gasoline dispensing facility to assure proper operation of the **Stage II vapor recovery** system.
- 4.** Immediately remove from service and tag any **a** defective **vapor recovery hose, nozzle or other component of the** ~~dispensing~~ **Stage II vapor recovery** system until the defective component is replaced or repaired.
 - A.** A component removed from service may not be returned to service until the defect is corrected.
 - B.** If the Department finds **during an inspection** that a defective **vapor recovery hose, nozzle or other component of the** ~~dispensing~~ **Stage II vapor recovery** 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.
- 5.** Conspicuously post **the** operating instructions for the **gasoline dispensing** system in the gasoline dispensing area which, at a minimum, include:
 - A. A clear description of how to correctly dispense gasoline with the vapor recovery nozzles utilized at the site.
 - B. A warning that continued attempts to dispense gasoline after the system indicates that the **motor** vehicle fuel tank is full may result in spillage **and**

contamination of the air or water or recirculation of the gasoline into the vapor collection recovery system.

- C. A telephone number, email address or social media account established by the Department for the public to use to report problems experienced with the gasoline dispensing system.

65. 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~~ **The owner or operator of a gasoline dispensing facility that uses a Stage II vapor balance recovery system shall conduct the following test procedures:**
- i. **A liquid blockage test procedure under CARB TP-201.6, "Determination of Liquid Removal of Phase II Vapor Recovery Systems of Dispensing Facilities," adopted April 28, 2000, including updates and revisions, upon major modification of the system and every 5 years thereafter.**
 - ii. **A dynamic backpressure test procedure under CARB TP-201.4, "Dynamic Back Pressure," amended July 3, 2002, including updates and revisions, upon major modification of the system and every 5 years thereafter.**
- 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~~ **The owner or operator of a gasoline dispensing facility that uses a Stage II vacuum assist vapor recovery system shall quantify the air to liquid volumetric ratio conducted under CARB TP-201.5 "Air to Liquid Volume Ratio," amended February 1, 2001, including updates and revisions, once in every 12-month period.**

- C. The owner or operator of a gasoline dispensing facility that conducts a test procedure under subparagraph A or B shall do all of the following:**
- i. Conduct the test procedures in subparagraph A simultaneously, consecutively or separately at different times of the 5-year period.**
 - ii. Conduct the test procedure in subparagraph B simultaneously with, consecutively with or separately from the test procedures in 25 Pa. Code §129.61a(d)(1) (relating to vapor leak monitoring procedures and other requirements for small gasoline storage tank emission control) during the 12-month period.**
 - iii. Repair to a component on, or correction to, the Stage II vapor recovery system must be made within 10 days following a failed test procedure.**
 - iv. Record all of the following information, as applicable, for each test procedure performed under subparagraph A or B:**
 - (a) The name of the test procedure.**
 - (b) The name of the person performing the test procedure.**
 - (c) The date the test procedure was performed.**
 - (d) The result of the test procedure.**
 - (e) The date, time, type and duration of a test procedure failure.**
 - (f) The name of the person correcting the test procedure failure.**
 - (g) The date the test procedure failure was corrected.**
 - (h) The action taken to correct the test procedure failure.**

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

76. Maintain written and electronic records on the premises of the affected gasoline dispensing facility, available for inspection and copying by the Department upon request, of **the gasoline dispensing** system test **procedure** results, monthly throughput, type and duration of any failures **failure** of the system, maintenance and repair activities, training, and compliance records. The records shall be kept for ~~at least~~ two (2) years, except for efficiency test reports which shall be kept since the most recently required testing date, **unless a longer period is required under Parts B and C (relating to construction, modification, reactivation and operation of sources) or an installation permit, operating permit, consent decree or order issued by the Department.**

f. **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.

...d. Additional requirements. An owner and operator of a gasoline storage tank subject to this section may also be subject to §129.61a and § 129.82a.

End of Regulation Changes