

No. 16-23-OR

AN ORDINANCE

An Ordinance of the Council of the County of Allegheny ratifying an amendment that revises §2105.73, “Municipal Solid Waste Landfills,” 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 2, 2022 during its regularly scheduled public meeting, the Allegheny County Board of Health adopted by affirmative vote the attached amendment to revise §2105.73, “Municipal Solid Waste Landfills,” 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 amendment 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 amendment 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Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.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.


In accordance with Section 12011(c) of the Local Health Administration Law, this Ordinance shall become effective ten days after it has been approved.

Enacted in Council, this 20th day of June, 2023.

Council Agenda No. 10716-23.



Patrick Catena
President of Council

Attest: 

Jared Barker
Chief Clerk of Council

Chief Executive Office June 22nd, 2023.

Approved: 

Rich Fitzgerald
Chief Executive

Attest: 

Jennifer Liptak
County Manager

MEMORANDUM
OFFICE OF THE COUNTY MANAGER

TO: Jared E. Barker
Allegheny County Council

FROM: Jennifer M. Liptak
County Manager

DATE: June 1, 2023

RE: Proposed Ordinance

Attached is an Ordinance of the Council of the County of Allegheny ratifying an amendment that revises §2105.73, "Municipal Solid Waste Landfills," 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 ---**

§2105.73, Municipal Solid Waste Landfills

LEGISLATIVE SUMMARY for EXHIBIT “A”

The Clean Air Act (CAA) requires the U.S. Environmental Protection Agency (EPA) to establish performance standards for Municipal Solid Waste (MSW) Landfills pursuant to Section 111 of the Act. The EPA promulgates New Source Performance Standards (NSPS) for "new" MSW Landfills and Emission Guidelines (EG) for "existing" MSW Landfills. The NSPS and EG are based on the EPA's determination that MSW landfills cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare.

The NSPS are directly enforceable Federal regulations. The Emission Guidelines (EG), on the other hand, promulgated under section 111(d) of the CAA, establish criteria for state and local agencies to develop control strategies for “existing” landfills. The EG are not themselves directly enforceable. Instead, states must submit to the EPA a Plan to implement and enforce the requirements of the EG.

Beginning in 2014, the EPA reviewed the NSPS and EG based on changes in the landfill industry since the rules were first promulgated in 1996, including changes to the size and number of existing landfills, industry practices, and gas control methods and technologies. In August 2016, the EPA made several revisions to further reduce emissions of landfill gas and its components and promulgated revised regulations for MSW Landfills.

So, as mentioned above, states (and local air agencies such as ACHD) with existing MSW landfills are to submit state plans to the EPA in order to implement and enforce the emission guidelines. If such state plans are not submitted and approved, the CAA and Code of Federal Regulations require the EPA to develop, implement, and enforce a federal plan for existing MSW landfills located in any state that does not have an approved state plan that implements the 2016 MSW Landfills Emission Guidelines.

On August 22, 2019, the EPA proposed a federal plan to implement the 2016 EG for Municipal Solid Waste landfills located in states that did not have approved and effective state plans. Subsequently, the EPA promulgated a final action that established 40 CFR Part 62, Subpart OOO as the MSW Landfills Federal Plan to implement the 2016 MSW Landfills Emissions Guidelines for those states that do not presently have an approved state plan (86 FR 27756, May 21, 2021).

Allegheny County does not presently have an approved Clean Air Act Section 111(d) plan to implement the 2016 MSW Landfills EG. However, as an alternative to submitting a state plan, EPA allows that a state (or local agency) may meet its CAA

section 111(d) obligations by submitting an acceptable written request for delegation of authority of the federal plan. This is the approach being taken by Allegheny County. In a document separate from this regulation revision, the ACHD is submitting a Request for Delegation of Authority to implement the Federal Plan requirements of 40 CFR Part 62, Subpart OOO.

Now, with this 2022 Article XXI revision, ACHD proposes to update Section 2105.73 to remove the requirements of the old federal regulations and instead incorporate by reference the requirements of the Federal Plan for MSW Landfills codified at 40 CFR 62 Subpart OOO. Under this revision, Allegheny County's existing MSW landfills, those that commenced construction on or before July 17, 2014 and that have not been modified or reconstructed since July 17, 2014, will be regulated in accordance with 40 CFR Part 62 Subpart OOO.

{Note that the Pennsylvania Department of Environmental Protection (DEP) also does not have an approved 111(d) plan to implement the 2016 MSW Landfills EG, and it has also prepared a proposed Request for Delegation of Authority to implement the Federal Plan requirements of 40 CFR Part 62, Subpart OOO. In its request, PA DEP makes clear that its request excludes MSW landfills located in Allegheny and Philadelphia Counties. Thus, the need for Allegheny County's actions described here.}

The proposed Article XXI revision was the subject of a public comment period, including a public hearing held on July 11, 2022. The regulation was approved by the Allegheny County Board of Health at their November 2, 2022, meeting.

Finally, the proposed revision to Article XXI, §2105.73 is not a revision to the Allegheny County portion of the Pennsylvania State Implementation Plan.

EXHIBIT “A”

PROPOSED

Revision to

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

§2105.73, “Municipal Solid Waste Landfills”

Revision Tracking No. 99

(Not a SIP Change)

**Exhibit A –
Proposed Article XXI Revision –**

Municipal Solid Waste Landfills Regulation Revision

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 7 – Miscellaneous VOC Sources

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§2105.73 MUNICIPAL SOLID WASTE LANDFILLS

{Adopted July 15, 1997, Effective August 15, 1997. Amended mm/dd/2022, effective mm/dd/2022.}

- a. Applicability. The provisions of this subsection apply to each municipal solid waste landfill that commenced construction, reconstruction or modification **on or** before ~~May 30, 1991~~ **July 17, 2014** and has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition. Physical or operational changes made to an existing municipal solid waste landfill solely to comply with this subsection are not considered construction, reconstruction, or modification and would not subject an existing municipal solid waste landfill to the requirements of New Source Performance Standards for Municipal Solid Waste Landfills.
- b. **Each municipal solid waste landfill meeting the conditions of Subsection a shall comply with all of the applicable standards, requirements and provisions of 40 CFR Part 62 Subpart OOO, as amended, which are herein incorporated by reference.**
- ~~cb.~~ The provisions of this subsection are in addition to any applicable New Source Performance Standards for Municipal Solid Waste Landfills, or any other Pennsylvania Department of Environmental Protection or Allegheny County permit requirements.
- ~~de.~~ Definitions of all terms used, but not defined in this subsection, have the meaning given them in 40CFR ~~Part 60 Subpart WWW~~ **Part 62 Subpart OOO**, as amended. Terms not defined therein shall have the meaning given to them in the federal Clean Air Act, 40CFR Part 60 Subparts A and B, or this Article. For the purposes of these rules, “Administrator” shall **also** mean the Director of the Allegheny County Health Department of **or** his **or her** designated representative.
- ~~d.~~ ~~Each municipal solid waste landfill meeting the conditions of paragraph 1 of this subsection shall comply with all of the applicable standards, requirements and provisions of 40CFR Part 60 Subpart WWW, as amended, which are herein incorporated by reference with the exceptions as follows:~~
- ~~1.~~ ~~Standards for air emissions from municipal solid waste landfills. The provisions of 40 CFR 60.752 are applicable with the exception of the following:~~
- ~~A.~~ ~~In lieu of 40CFR 60.752(a)(2), the following provision applies: When an increase in the maximum design capacity of a landfill exempted from the provisions of 40CFR 60.752(b) through 40CFR 60.759 on the basis of the design capacity exemption in 40CFR 60.752(a) results in a revised maximum design capacity equal to or greater than 2.5 million~~

megagrams and 2.5 million cubic meters, the owner or operator shall comply with the provisions of 40CFR60.752(b) through 40CFR60.759

B. In lieu of 40CFR 60.752(b)(2)(i)(B), the following provision applies: The collection and control system design plan shall include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping or reporting provisions of 40CFR60.753 through 40CFR60.758 proposed by the owner or operator. In addition, the collection and control design plan must specify: (1) the date by which contracts for control system/process modifications shall be awarded, (which shall be no later than 20 months after the date the NMOC emissions rate is first calculated to meet or exceed 50 megagrams per year); (2) the date by which on-site construction or installation of the air pollution control device(s) or process changes will begin (which shall be no later than 24 months after the date the NMOC emission rate is first calculated to meet or exceed 50 megagrams per year); and (3) the date by which the construction or installation of the air pollution control devices or process changes will be complete.

C. In lieu of 40CFR60.752(b)(2)(ii), the provisions of paragraphs i and ii below shall apply:

i. Install and operate a collection and control system capable of meeting the requirements of 40 CFR60.752(b)(2) within 30 months after the date the NMOC emission rate is first calculated to meet or exceed 50 megagrams per year, unless Tier 2 or Tier 3 calculations demonstrate that the NMOC emission rate is less than 50 megagrams per year, as specified in 40CFR 60.757(c)(1) or (2).

ii. The provisions of 40CFR60.752(b)(2)(ii)(A) and (B) apply as stated therein.

2. Operational standards for collection and control systems. The provisions of 40CFR60.753 apply as stated therein.

3. Test methods and procedures. The provisions of 40CFR60.754 apply as stated therein with the exception of 40CFR60.754(c), which does not apply.

4. Compliance provisions. The provisions of 40CFR60.755 apply as stated therein.

5. Monitoring of operations. The provisions of 40CFR60.756 apply as stated therein.

6. Reporting requirements. The provisions of 40CFR60.757 apply as stated therein with the exception of the following:

A. In lieu of 40CFR60.757(a)(1) the following provision applies: The initial design capacity report shall be submitted by the effective date of this Subsection plus 90 days.

B. In lieu of 40CFR60.757(b)(1)(i), the following provision applies: The initial NMOC emission rate report shall be submitted by the effective date of this Subsection plus 90 days and may be combined with the initial design capacity report required in 40CFR60.757(a). Subsequent NMOC emission rate reports shall be submitted annually thereafter, except as provided for in 40CFR60.757(b)(1)(ii) and 40CFR60.757(b)(3).

7. Recordkeeping requirements. The provisions of 40CFR60.758 apply as stated therein.

8. Specifications for active collection systems. The provisions of 40CFR60.759 apply as stated therein.

End of Regulation Changes

