

No. 27-25-OR

AN ORDINANCE

An Ordinance of the Council of the County of Allegheny ratifying amendments to §2105.62, “Asbestos Abatement Applicability, Federal Requirements, Notices, and Permits,” and §2109.07, “Penalties, Fines and Interest,” 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 September 11, 2024, during its regularly scheduled public meeting, the Allegheny County Board of Health adopted by affirmative vote the attached amendments to §2105.62, “Asbestos Abatement Applicability, Federal Requirements, Notices, and Permits,” and §2109.07, “Penalties, Fines and Interest,” 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Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.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 18th day of November, 2024.

Council Agenda No. 132078-24.



Patrick Catena
President of Council

Attest:



Jared Barker
Chief Clerk of Council

Chief Executive Office November 24, 2025, 2024

Approved:



Sara Innamorato
Chief Executive

Attest:



Grant Gittlen
Chief of Staff

EXHIBIT “A”

PROPOSED REVISION

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

§2105.62, “Asbestos Abatement Applicability, Federal Requirements, Notices, And Permits”

§2109.07, “Penalties, Fines, And Interest”

(Note: The portion of this proposed revision related to §2109.07, “Penalties, Fines, And Interest” will also be submitted to the Pennsylvania DEP and U.S. EPA as a revision to the Allegheny County Partial Operating Permit (Title V) Program.
Revision Tracking No. 105.)

Department a Demolition Notice Fee payable to the Allegheny County Air Pollution Control Fund, in an amount to be set by the Board of Health. Any fees approved by the Board of Health under the terms of this section shall not become effective until approved by the Allegheny County Council.

- g. Undersized Project Notice. No person shall conduct, or allow to be conducted, the removal, encasement, or encapsulation of ACM on less than 260 linear feet of pipe and a total of less than 160 square feet of ACM at any facility, unless the owner of the facility has submitted to the Department a properly completed notice under this Section, **with the appropriate fee under Paragraph 12 of this subsection,** and such notice has been received by the Department either at least 10 days prior to the start of such proposed abatement project or, for a project involving less than seven (7) square feet of ACM, no later than 10 days after the completion of the project, or for a facility with a current Operating & Maintenance (O&M) Plan approved by the Department under this Subpart, as part of the appropriate O&M Plan quarterly report, and includes, at a minimum, the following information about the facility and the proposed abatement project or the completed project:

12. Undersized Project Notice Fees. For each notice required under this Section, the applicant shall submit to the Department an Undersized Project Notice Fee payable to the Allegheny County Air Pollution Control Fund, in an amount to be set by the Board of Health. Any fees approved by the Board of Health under the terms of this section shall not become effective until approved by Allegheny County Council.

{The following section, §2109.06, is provided for informational purposes only.}

§2109.06 CIVIL PROCEEDINGS *{Paragraph a.1 amended September 6, 1995, effective October 20, 1995.}*

b. **Penalty Determination.**

1. In determining the amount of the penalty, the Department shall consider: the wilfulness of the violation; the actual and potential harm to the public health, safety, and welfare; the damage to the air, soil, water, and other natural resources of the County and their uses; the economic benefit gained by such person by failing to comply with this Article; the deterrence of future violations; the costs of the Department; the size of the source or facility; the compliance history of the source; the nature, frequency, severity, and duration of the violation; the degree of cooperation in resolving the violation; the speed with which compliance is ultimately achieved; whether or not the violation was voluntarily reported; other factors unique to the owners, operators, or other responsible parties of the source or facility; and other relevant factors.

§2109.07 PENALTIES, FINES, AND INTEREST {Subsection b amended September 15, 2021, effective September 25, 2021. Subsection b amended mm/dd/year, effective mm/dd/year.}

- a. **Fees.** In the event a A source that fails to pay any fee required under this Article when due, the Department will compute a civil penalty shall pay a civil penalty of 50% of the fee amount, plus interest on the fee amount computed in accordance with Paragraph a.4 of §2109.06 of this Article from the date the fee was required to be paid. In addition, the source may have its permit revoked. The County will allow up to a fifteen (15) calendar day “grace period” from the due date of fees required under this Article prior to assessing the above referenced civil penalty and interest.
- b. **Disposition of Monies Collected.**
1. All interest received by the County under this Article as a result of fees under Sections 2102.10.h, 2103.40.i, and 2103.41.a.1 of this Article shall be paid into the Allegheny County Air Quality Fund for the major operating permit program.
 2. All interest received by the County under this Article as a result of fees, other than the fees under Sections 2102.10.h, 2103.40.i, and 2103.41.a.1 of this Article, shall be paid into the Allegheny County Air Pollution Control Fund.
 3. Except as provided by Paragraph b.4 below, all All penalties, fines, interest, and other funds received by the County under this Article as a result of consent orders, noncompliance penalties, civil penalty actions, consent decrees, civil penalties, or summary proceedings, other than such funds provided for under paragraph 1 above, shall be paid into the Allegheny County Clean Air Fund.
 4. Funds related to “costs of the Department” pursuant to §2109.06.b.1. for penalty determinations for major sources shall be paid into the Allegheny County Air Quality Fund; for all other sources, such funds shall be paid into the Allegheny County Air Pollution Control Fund.

End of regulation changes

LEGISLATIVE SUMMARY

The Allegheny County Health Department (ACHD) Air Quality Program is proposing to:

1. Amend its regulations with language:
 - a.) adding a “demolition notice fee” and an “undersized project notice fee” related to asbestos permitting;
 - b.) allowing the Program to recover enforcement costs;
 - c.) adding a 15-day grace period for receiving permit fees.

See Exhibit “A” and the related Ordinance documentation.

2. Revise both its Air Program Permit Fee Schedule and its Asbestos/Abrasive Blasting Permit Fee Schedule - After evaluating the 2023 collected work metrics and conducting an overall review of the 2023 and aspects of the 2024 budget, the Air Quality Program is proposing fee changes so that the Air Quality program, specifically both the Air Quality Fund (Title V fund) and the Air Pollution Control Fund (APCF) will remain supportive of a fully effective and staffed program.

See Exhibit “B” and the related Resolution documentation.

The proposed regulation revisions and revisions to the permit fee schedules were the subject of a 30-day public comment period, and a public hearing held on August 19, 2024. Comments were received. The Board of Health granted final approval to both the regulation changes and permit fee changes on September 11, 2024.

Upon approval of the proposed regulations by County Council and the Chief Executive, and after the rules are made effective, the revision to the section of Article XXI noted below will be submitted to PA DEP and the U.S. EPA as a revision to the Allegheny County Partial Operating Permit (Title V) Program.