

No. 02-22-OR

AN ORDINANCE

An Ordinance of the Council of the County of Allegheny ratifying amendments that revise §2105.90, "Gasoline Volatility," §2107.15, "Methods-Gasoline Volatility and RFG," and §2101.20, "Definitions," 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 §2105.90, "Gasoline Volatility," §2107.15, "Methods-Gasoline Volatility and RFG," and §2101.20, "Definitions," 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Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.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 8th day of February, 2022

Council Agenda No. 12171-22.


~~Patrick Catena~~ John Palmiere
Vice President of Council

Attest: 
Jared Barker
Chief Clerk of Council

Chief Executive Office February 10th, 2022

Approved: 
Rich Fitzgerald
Chief Executive

Attest: 
Jennifer M. Liptak
Chief of Staff

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

**the revision of
§2105.90, “Gasoline Volatility” and
§2107.15, “Methods - Gasoline Volatility and RFG”**

LEGISLATIVE SUMMARY

For many years, Article XXI included regulations that restricted the type of gasoline that could be sold in Allegheny County during the summer months. This gasoline was referred to as “Low Reid Vapor Pressure” or “Low RVP” gasoline and was used to limit the amount of VOC emissions from the gasoline dispensing process.

In 2019, after study and analysis, a determination was made that the requirement for this summer time blend of gasoline was no longer required to be a part of the Allegheny County portion of the Pennsylvania State Implementation Plan (SIP) for the attainment of the national standards for ozone pollution. Article XXI §2105.90, ‘Gasoline Volatility,’ and §2107.15, ‘Gasoline Volatility and RFG,’ were revised by adding language that these two sections would become no longer applicable once the U.S. EPA approved the removal of the low RVP gasoline requirement from the SIP.

The EPA subsequently approved the regulation/SIP revision later in 2019, and with that approval, Article XXI, §2105.90, and §2107.15 are no longer part of the Pennsylvania SIP.

Given EPA’s approval of the SIP change, there is no longer a requirement that low RVP gasoline be supplied in Allegheny County, and now the ACHD Air Quality Program proposes to remove this regulation in its entirety from Article XXI, along with the related §2107.15, and some definitions found in §2101.20, ‘Definitions.’

The proposed revision was the subject of a public comment period from August 27 to September 27, 2021, and a public hearing on the last day of the comment period. No comments were received.

The Allegheny County Board of Health granted final approval of the proposed revision at their regularly scheduled meeting on November 3, 2021.

EXHIBIT “A”

PROPOSED REVISION

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

§2101.20, “Definitions”

§2105.90, “Gasoline Volatility,”

§2107.15, “Methods-Gasoline Volatility and RFG”

Proposed Gasoline Volatility Related Regulations Revisions

Deletions are shown with strikethroughs.

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

PART A- General

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§2101.20 DEFINITIONS

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"Carrier" means a distributor who transports or stores or causes the transportation or storage of commercial fuel oil ~~or gasoline~~ without taking title to or otherwise having ownership of the commercial fuel oil ~~or gasoline~~, and without altering either the quality or quantity of the commercial fuel oil ~~or gasoline~~. The term includes a pipeline, truck or marine vessel distributor. *{Added by May 7, 1998 amendment, effective May 15, 1998. Amended November 28, 2017, effective December 8, 2017.}*

"Compliant Fuel" means Low RVP gasoline. ~~*{added by May 7, 1998 amendment, effective May 15, 1998; amended August 12, 1999, effective September 1, 1999}*~~

"Distributor" means:

- a. ~~for purposes of the gasoline volatility program, means a person who transports, stores or causes the transportation or storage of gasoline at any point between a refinery, an oxygenate blending facility or terminal and a retail outlet or wholesale purchaser-consumer's facility. The term distributor includes a refinery, an oxygenate blending facility or a terminal. *{Added by May 7, 1998 amendment, effective May 15, 1998.}*~~
- b. for purposes of commercial fuel oil under §2104.10, a person who transports, stores or causes the transportation or storage of commercial fuel oil at any point between a refinery, blending facility or terminal and a retail outlet, wholesale purchaser-consumer's facility or ultimate consumer. The term distributor includes a refinery, a blending facility or a terminal. *{Added by November 28, 2017 amendment, effective December 8, 2017.}*

"Importer" means a person who imports gasoline ~~or gasoline blending stocks or components from a foreign country into the United States. *{added by May 7, 1998 amendment, effective May 15, 1998}*~~

"Low RVP gasoline" means gasoline that has an RVP of 7.8 pounds per square inch or less as determined in accordance with the appropriate sampling and testing methodologies in 40 CFR Part 80, Appendix E (relating to test for determining Reid Vapor Pressure (RVP) of gasoline and gasoline-oxygenate blends). ~~*{added by May 7, 1998 amendment, effective May 15, 1998}*~~

"Oxygenate" means a substance which, when added to gasoline, increases the amount of oxygen in that gasoline blend. Lawful use of a combination of these substances requires that they be "substantially similar" under section 211(f)(1) of the Clean Air Act, or be permitted under a waiver granted by the Administrator of the EPA under the authority of section 211(f)(1) of the Clean Air Act. *{added by May 7, 1998 amendment, effective May 15, 1998}*

Keep>

"Refiner" means a person who owns, leases, operates, controls or supervises a refinery. *{added by May 7, 1998 amendment, effective May 15, 1998}*

Keep>

"Refinery" means a plant which produces petroleum products, including gasoline. *{added by May 7, 1998 amendment, effective May 15, 1998}*

~~**"Reseller"** means a person who purchases gasoline identified by the corporate, trade or brand name of a refiner or a distributor and resells or transfers the gasoline to retailers or wholesale purchaser consumers displaying the refiner's or distributor's brand, and whose assets or facilities are not owned, leased or controlled by the refiner or distributor. *{added by May 7, 1998 amendment, effective May 15, 1998}*~~

"Retail Outlet" means an establishment at which commercial fuel oil ~~or gasoline~~ is sold or offered for sale to the ultimate consumer for use in 'fuel-burning or combustion equipment' ~~or motor vehicles, respectively~~. *{Added by May 7, 1998 amendment, effective May 15, 1998. Amended November 28, 2017, effective December 8, 2017.}*

Keep>

"Retailer" means a person who owns, leases, operates, controls or supervises a retail outlet. *{added by May 7, 1998 amendment, effective May 15, 1998}*

~~**"RFG"** means federal reformulated gasoline—gasoline that meets the requirements for RFG as specified in 40 CFR Part 80 Subpart D (relating to reformulated gasoline). *{added by May 7, 1998 amendment, effective May 15, 1998}*~~

~~**"RVP"**, Reid Vapor Pressure, means the measure of pressure exerted on the interior of a special container as determined by the appropriate methodologies in 40 CFR Part 80 Appendix 3. *{added by May 7, 1998 amendment, effective May 15, 1998}*~~

"Terminal" means:

- a. ~~a facility at which gasoline is sold, or dispensed into trucks for transportation to retail outlets or wholesale purchaser-consumer facilities. *{Added by May 7, 1998 amendment, effective May 15, 1998}*~~
- b. For purposes of commercial fuel oil under §2104.10, a facility which is capable of receiving commercial fuel oil in bulk, that is by pipeline, barge, ship or other transport, and at which commercial fuel oil is sold or transferred into trucks for transportation to retail outlets or wholesale purchaser-consumer's facilities or ultimate consumers. *{Added by November 28, 2017 amendment, effective December 8, 2017.}*

"Wholesale purchaser-consumer" means an entity or individual that is an ultimate consumer of gasoline which purchases or obtains gasoline from a supplier for use in motor vehicles and receives delivery of that product into a storage tank of at least 550-gallon capacity substantially under the control of that entity or individual. *{added by May 7, 1998 amendment, effective May 15, 1998}*

PART E- Source Emission and Operating Standards

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§2105.90 GASOLINE VOLATILITY **[Reserved]**

*{This section added by May 7, 1998 amendment, effective May 15, 1998; Paragraph e renumbered, paragraphs c & d renumbered and amended August 12, 1999, effective September 1, 1999. Paragraph b.3 added mm/dd/2018, effective mm/dd/2018. **This contents of this section were deleted and the section marked as “Reserved” mm/dd/20yy, effective mm/dd/20yy.**}*

- a. ~~Applicability.~~ This Section applies to gasoline which is sold or transferred into or within Allegheny County during the period May 1 through September 15, 1998, and continuing during the same period every year thereafter.
- b. ~~Compliant Fuel Requirements.~~
 - 1. ~~No refiner, importer, distributor, reseller, or carrier may:~~
 - A. ~~Sell, exchange or supply gasoline that is not a compliant fuel during the period described in Subsection (a).~~
 - B. ~~Blend, mix, store or transport or allow blending, mixing, storing or transporting of compliant fuel with noncompliant fuel during the period described in Subsection (a).~~
 - 2. ~~No retailer or wholesale purchaser-consumer may sell, exchange, or supply gasoline that is not a compliant fuel during the period June 1 through September 15, 1998, and continuing during the same period every year thereafter.~~
 - 3. ~~This Section will no longer be applicable upon the effective date of approval by the EPA of the removal, suspension or replacement of this Section as part of Allegheny County's portion of the Pennsylvania SIP.~~
- c. ~~Record-keeping and reporting.~~
 - 1. ~~Beginning with the terminal owner or operator who sells or transfers gasoline intended for use in Allegheny County during the period described in §2105.90(a), each time the physical custody of or title to a shipment of gasoline changes hands other than when gasoline is sold or transferred for use in motor vehicles at a retail outlet or wholesale purchaser-consumer's facility, the transferor shall provide to the transferee a copy of the record described in this subsection. Said record shall legibly and conspicuously contain, at a minimum, the following information:~~
 - (A) ~~The date of the sale or transfer.~~
 - (B) ~~The name and address of the transferor.~~
 - (C) ~~The name and address of the transferee.~~
 - (D) ~~The location of the gasoline at the time of transfer.~~
 - (E) ~~The volume of gasoline which is being sold or transferred.~~
 - (F) ~~A statement or grade code certifying that the gasoline has an RVP of 7.8 pounds per square inch or less per gallon.~~
 - 2. ~~Any person who transports, stores, or sells compliant fuel that is intended for use in Allegheny County during the period described in §2105.90(a) shall segregate the compliant fuel from~~

noncompliant fuel and the documentation described in §2105.90.c(1) shall accompany the compliant fuel at all times.

3. — Each person in the gasoline distribution network shall maintain records containing the compliance information listed in §2105.90.c(1). These records shall be retained for at least 2 years from the date of the sale or transfer of compliant fuel. All records shall be kept on-site at each point in the distribution network, except for retail outlets. Retail outlets shall retain records on-site for at least the current compliance period (June 1 through September 15). The remaining records may be kept off-site, but they must be made available to the Department within 48 hours upon request.
 - d. — **Labeling.** During the period from June 1 to September 15 each year, and at all times when dispensing of clean fuels is required under this section, all retail gasoline dispensing facilities shall prominently display on each gasoline pump a label with the following statements and conditions:
 1. — “Cleaner Gas”, and “JUNE 1 – SEPT 15”.
 2. — “RVP”.
 3. — The letters “RVP” shall be a minimum of 5/16 inches in height; all other letters and numbers shall be a minimum of 1/4 inches in height.
 4. — The letters “RVP” shall be printed in green and all the other letters shall be printed in black. The label background shall be white.
 - e. — **Sampling and test methods.** Sampling and testing for the volatility of gasoline shall be performed according to the applicable procedures established §2107.15.
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PART G - Methods

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§2107.15 GASOLINE VOLATILITY and RFG [Reserved]

{This section added by May 7, 1998 amendment, effective May 15, 1998.

Subsection c added mm/dd/2018, effective mm/dd/2018. The content of this Section was deleted and the section was marked as “Reserved” mm/dd/20yy.}

- a. — **Volatility.** Any sampling or testing of gasoline required by Section 2105.90 shall be performed according to the following methods as specified in Chapter 61 of the Allegheny County Source Testing Manual:
 1. — Sampling of gasoline for the purpose of determining compliance with §2105.90 shall be conducted in accordance with 40 CFR Part 80, Appendix D (relating to sampling procedures for fuel volatility).
 2. — Testing of gasoline for purposes of determining compliance with §2105.90 shall be conducted in accordance with 40 CFR Part 80, Appendix E (relating to test for determining the RVP of gasoline and gasoline-oxygenate blend).
- b. — **RFG.** RFG shall be certified and tested in accordance with the requirements listed in 40 CFR Part 80 Subpart D (relating to reformulated gasoline) as specified in Chapter 61 of the Allegheny County Source Testing Manual.
- e. — This Section will no longer be applicable upon the effective date of approval by the EPA of the removal, suspension or replacement of this Section as part of Allegheny County’s portion of the Pennsylvania SIP.

End of regulation changes

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: January 20, 2022

RE: Proposed Ordinance

Attached is an Ordinance of the Council of the County of Allegheny ratifying amendments that revise §2105.90, "Gasoline Volatility," §2107.15, "Methods-Gasoline Volatility and RFG," and §2101.20, "Definitions," 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.