

## **PART A - GENERAL**

### **§2101.01 SHORT TITLES** *{effective February 1, 1994}*

This ordinance and these rules and regulations shall be known and may be cited as the "Air Pollution Control Regulations" or "Article XXI."

### **§ 2101.02 DECLARATION OF POLICY AND PURPOSE**

a. In recognition of the constitutional right of the citizens of Pennsylvania to clean air and to the preservation of the natural, scenic, historic and aesthetic values of the environment and in recognition of the constitutional duty of the Commonwealth to conserve and maintain Pennsylvania's natural resources for the benefit of all people, it is hereby declared to be the policy of the County of Allegheny to protect the air resources of the County by pollution prevention and pollution control to the degree necessary for the:

1. Protection of the health, safety and welfare of all its citizens;
2. Prevention of injury to plant and animal life and to property;
3. Protection of the comfort and convenience of the public and the protection of the recreational resources of the County; and
4. Development, attraction and expansion of industry, commerce and agriculture.

b. [Not in SIP]

c. When pollution prevention measures are not feasible, it is therefore, the purpose of this Article to establish rules and regulations governing air pollution control in order to:

1. Protect the health, safety and welfare of the citizens of Allegheny County;
2. Achieve and maintain the ambient air quality standards established by this Article;
3. Provide a mechanism to obtain such information as is necessary to determine the current air quality of the County, the factors contributing to that air quality and the current compliance status of any source of air contaminants as it relates to this Article;
4. Require the implementation of Reasonably Available Control Technology on all existing sources of air contaminants as expeditiously as practicable and the application of Best Available Control Technology on all new sources;
5. Establish permit and license procedures for sources of air contaminants which will ensure compliance with this Article and will maximize the potential for continued industrial and economic growth within the County in order to:
  - A. Ensure the attainment and maintenance of the ambient air quality standards established by this Article, the protection of the public health, safety and welfare, and the preservation of the air resources of the County;
  - B. Ensure compliance with the requirements of this Article by preconstruction review of new and modified sources of air contaminants and periodic review of existing sources;
  - C. Ensure that the Department has adequate current information on proposed new and modified and existing sources of air contaminants so that the air pollution control program established by this Article can be efficiently and effectively administered; and

A-2

D. Ensure that the requirements of the Clean Air Act and the Air Pollution Control Act concerning sources of air contaminants are met, so as to maximize the potential for continued industrial and economic growth within the County.

6. Ensure that sources of air contaminants located within Allegheny County will not unreasonably interfere with air pollution control programs of other jurisdictions;
7. Maximize public and governmental understanding of, and participation in, efforts to improve and maintain the air resources of Allegheny County;
8. Provide a mechanism for revising this Article as necessary in light of changed circumstances; and,
9. Establish an air pollution control program which is consistent with the requirements of the Air Pollution Control Act and the Clean Air Act.

**§2101.03 EFFECTIVE DATE AND REPEALER** *{effective February 1, 1994, as amended March 15, 1995, and September 6, 1995, effective October 20, 1995}*

This Ordinance and Article shall become effective February 1, 1994. Upon such effective date, Sections 402, 520, 528, 530, and 602 of this Ordinance and Article XX, Rules and Regulations of the Allegheny County Health Department, Air Pollution Control, which first became effective January 1, 1981, and were last amended on February 3, 1993, are repealed. The first amendments and additions to this Article (all provisions unless otherwise indicated) shall become effective October 20, 1995, and upon such effective date, Sections 1 through 1002 of this Ordinance, and all sections of Article XX, Rules and Regulations of the Allegheny County Health Department, Air Pollution Control, and all figures therein and appendices thereto, which first became effective January 1, 1981, and were last amended on February 3, 1993, are repealed.

**§2101.04 EXISTING ORDERS**

Except as may otherwise be required by law, all orders heretofore issued shall continue in full force and effect, but in no event shall such orders relieve any person from the duty to comply with this Article except as specifically set forth in such orders.

**§2101.05 EXISTING PERMITS AND LICENSES** *{Paragraphs a.1 & 2 renumbered & Subsection b added September 6, 1995, 1995, effective October 20, 1995, Subsection b modified January 22, 1998, effective March 31, 1998}*

a. Except as may otherwise be required by law:

1. All Operating Permits, Non-Complying Source Operating Permits, Open Burning Permits, Waste-Derived Liquid Fuel Operating Permits, Abrasive Blasting Permits, Asbestos Abatement Permits, and Asbestos Abatement Contractor Licenses heretofore issued shall continue in full force and effect until expired, terminated, or revoked in accordance with Part C, D, E, or I of this Article, but in no event shall such permits or licenses relieve any person from the duty to comply with this Article except as specifically set forth in such permits or licenses; and
2. All Installation Permits and Waste-Derived Liquid Fuel Installation Permits heretofore issued shall continue in full force and effect until expired, terminated, or revoked in accordance with Part B, D, E, or I of this Article, but in no event shall such permits relieve any person from the duty to comply with this Article. A-3

b. For purposes of this Section, Operating permits heretofore issued to sources shall not expire until the permit pursuant to Part C of this Article is issued.

## §2101.06 CONSTRUCTION AND INTERPRETATION

a. **Liberal Construction.** This Article is adopted pursuant to the police and Health Department powers of the County of Allegheny and is intended to protect the health, safety and welfare of the citizens of Allegheny County. Therefore, the provisions of this Article shall be liberally construed to give full effect to the purposes of this Article.

b. **Provisions Cumulative.** The provisions of this Article shall be cumulative. Therefore, except as may be otherwise explicitly provided for in this Article, compliance with any provision of this Article shall in no manner relieve any person of the duty to fully comply with any other provision of this Article.

c. **Conflict.** In the event that the provisions of this Article conflict, the provision which results in the lowest permissible emission rate shall prevail, absent clear and convincing evidence that a different provision is intended to prevail.

**d. Ambiguity.**

1. In the event that more than one interpretation is reasonably possible as to which of two or more provisions of this Article apply, the provision which results in the lowest permissible emission rate shall prevail, absent clear and convincing evidence that a different provision is intended to prevail.

2. In the event that more than one interpretation is reasonably possible as to any provision of this Article, the interpretation which results in the lowest permissible emission rate shall prevail, absent clear and convincing evidence that a different interpretation is intended to prevail.

e. **Provisions Severable.** The provisions of this Article shall be severable. If any provision of this Article is found by a court to be unconstitutional or otherwise void, the remaining provisions of this Article shall remain valid unless the court finds that such remaining provisions are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed that the Commissioners would have enacted such provisions without the void provision, or unless the court finds that such remaining provisions, standing alone, are incomplete and incapable of being executed in accordance with the Commissioners' intent.

f. **Burden of Proof.** In any proceeding arising out of the provisions of this Article, or arising out of an order issued or action taken pursuant to this Article, any person who claims entitlement to any exemption which may be provided for in this Article, or in an order issued pursuant to this Article, or who claims that a provision or interpretation other than the one resulting in the lowest permissible emission rate was intended to prevail pursuant to this Section shall bear the burden of proof and the burden of going forward with respect to such claim.

**g. Separate Offenses.**

1. Violations of any requirement of this Article, or any order or permit issued pursuant to this Article, occurring on separate days shall be considered separate offenses.

2. Violations of any ambient air quality standard established by this Article occurring on the same day but at separate locations shall be considered separate offenses.

h. **Absolute Liability.** Insofar as permitted by law, this Article is intended to impose absolute liability for violations of the provisions of this Article. A-4

## §2101.07 ADMINISTRATION AND ORGANIZATION

*[Subsection c amended May 7, 1998 effective May 15, 1998. Subsections a & c amended May 8, 2015, effective June 19, 2015.]*

a. **Administration.** This Article shall be administered and enforced by the Allegheny County Health Department Bureau of Environmental Health, by the Director of the Allegheny County Health Department, and by the County of Allegheny pursuant to authority granted in the Local Health Administration Law, 1951, Aug. 24, P.L. 1304, 16 P.S. §§12001 et seq. and the Second Class County Code, 1953, July 28, P.L. 723, 16 P.S. §§3101 et seq.

b. **Amendments.** Amendments to this Article shall be made in conformity with the Local Health Administration Law, 1951, Aug. 24, P.L. 1304, and the Second Class County Code, 1953, July 28, P.L.

723. A public hearing and a 30 day public comment period shall be conducted by the Board of Health prior to its consideration of any significant amendment or additions to this Article or any amendment or additions to this Article which constitute a proposed amendment to the County's portion of any SIP required under the Clean Air Act.

**c. Air Pollution Control Advisory Committee.** There is hereby established an Air Pollution Control Advisory Committee which may recommend to the Board of Health additions and changes to this Article and advise the Bureau of Environmental Health and the Board of Health on matters relative to the control of air pollution which are brought to its attention by any person.

1. The Air Pollution Control Advisory Committee shall consist of at least 9 and up to 15 individuals appointed by the County Executive. Each member may identify an alternate in writing to vote in his/her stead. The member shall provide the name, address, and phone number of the alternate to the Chair of the Advisory Committee. The term of the alternate shall be that of the member or until the member identifies another alternate.

2. All members of the Advisory Committee shall be appointed for a term of three (3) years or until the next appointment, whichever is longer. Not in SIP

3. The Director, Deputy Director Bureau of Environmental Health, and Air Program Manager shall be ex-officio members of the Committee but shall not have the right to vote on matters before the Committee.

4. Advisory Committee members may include both residents of Allegheny County and non-residents who have been deemed by the County Executive to have pertinent expertise. The Advisory Committee shall consist of a balance of representatives of industry, environmental organizations, academia, small business, and general citizenry, who maintain credentials in, or experience in, or knowledge of the field of air pollution.

5. A member or his/her alternate is expected to be in attendance at all Advisory Committee meetings. If a member or his/her alternate is not in attendance at more than 3 out of any six (6) consecutive meetings, he/she will be notified by the County that his/her membership has been forfeited. A member may petition the Director for reinstatement at the next Advisory Committee meeting.

6. The Advisory Committee shall elect from its members a Chair and a Vice Chair of the Committee. The election shall be for one year terms and held at the first meeting after September 1 of each year.

7. The Advisory Committee shall meet at the call of the Chair, or at the request of the Director of the Allegheny County Health Department or the Board of Health, or upon the written request of any three (3) members of the Advisory Committee.

8. The Advisory Committee shall adopt such procedures as it deems necessary to conduct its business and shall adopt such provisions as are necessary in order to consider matters which are brought to its attention by any person or group.

9. A quorum shall be required to conduct the business of the Advisory Committee. A quorum shall consist of not less than a majority of the voting members of the Advisory Committee.

Not in SIP

**d. Right to Information.**

1. All records, reports, and other information in the possession of the Allegheny County Health Department relevant to the issuance of administrative orders, the issuance, revocation, or rejection of permits, the reporting of shutdowns or breakdowns, the determination of permissible, potential, or actual emission rates, or air quality data shall be retained by the Department for at least five (5) years following its receipt or generation, or five (5) years following the expiration of any related permit, whichever is longer. All such records, reports, and other information shall be open to inspection by any person except that any such record, reports, other information, or part thereof which would disclose methods or processes protected as trade secrets under the laws of the United States shall not be disclosed to any person other than:

A. Officers, employees, and authorized representatives of Allegheny County, the PA DEP, or the U.S. EPA; provided that, such disclosure shall be made only upon such terms and conditions which ensure that such protected information will not be disclosed to other persons; or,

B. Courts of the Commonwealth or of the United States in such manner as the court may direct.

2. The Department may establish policies and procedures regarding the time, place, and manner of inspection, and may establish reasonable fees for any material furnished by the Department upon request. All such fees shall be payable to the Allegheny County Air Pollution Control Fund.

3. The Department may refuse such inspections which create an undue burden or unreasonably interfere with the administration of the Department or when disclosure of the information sought may prejudice or interfere with the County's position in pending or anticipated litigation.

4. **Confidential Information.** All records, reports, or information obtained by the Department or referred to at public hearings under the provisions of this Article shall be available to the public as herein provided, except as provided for in this paragraph. Upon cause shown by any person that the records, reports, or information, or a particular portion thereof, but not emission data or any portions of any draft, proposed, or issued permits under this Article:

A. To which the Department has access under the provisions of this Article; and

B. Which, if made public, would divulge production or sales figures or methods, processes, or production unique to such person or would otherwise tend to affect adversely the competitive position of such person by revealing trade secrets, including intellectual property rights,

the Department shall consider such record, report, or information, or particular portion thereof confidential in the administration of this Article. The Department shall implement this paragraph consistent with Subsections 112(d) and 114(c) of the Clean Air Act. Nothing herein shall be construed to prevent disclosure of such report, record, or information to Federal, State or local government representatives as necessary for purposes of administration of any Federal, State, or

local laws or regulations, or when relevant in any proceeding under this Article.

5. Any information obtained or used by the County in the administration of the provisions of this Article shall be available to the U.S. EPA and PA DEP upon request and without restriction. If the information has been submitted to the County under a claim of confidentiality, upon request the source shall submit this information to the U.S. EPA and PA DEP directly.

**e. Annual Report.** The Department shall publish an annual air quality report detailing the progress of the County towards the attainment and maintenance of the ambient air quality standards established by this Article.

**f. Disclosure Statements.** On or before April 15 of each year, the Director of the Allegheny County Health Department, the Deputy Director, Bureau of Environmental Quality, and the head of the Division of Air Quality Engineering Section, Bureau of Environmental Quality, shall file with the Chief Clerk of the County of Allegheny a Disclosure Statement covering the preceding calendar year. The Director, the Deputy Director, Bureau of Environmental Quality, and the head of the Engineering Section, Bureau of Environmental Quality Division of Air Quality shall promptly update the Disclosure Statement whenever necessary to reflect materially changed circumstances.

The Disclosure Statement required by this Subsection shall include at a minimum an identification of all persons subject to this Article and/or all trade or business associations of which such person is a member in which the Director, the Deputy Director, Bureau of Environmental Quality, or the head of the Engineering Section, Bureau of Environmental Quality Division of Air Quality:

1. Owns a controlling interest;
2. Has five percent (5%) or more of his total assets invested; or
3. Serves as officer, director, attorney or consultant or has any other official or contractual relationship. The Disclosure Statement shall also include a listing of the amounts and sources of all income received from persons subject to this Article.

**g. Citizen Complaints.**

1. The Department shall receive, record and retain complaints made concerning air pollution. To the extent possible, the record made by the Department shall include the name and address of the complainant, the nature of the complaint, the source to which the complainant attributes the air pollution, and the date and time of the complaint.
2. To the extent possible, the Department shall investigate all complaints and shall make and retain a record of such investigation.

3. It shall be unlawful for any person to knowingly make a false complaint to the Department

### **§2101.10 AMBIENT AIR QUALITY STANDARDS**

*{Amended as to PM2.5 May 14, 2010, effective May 24, 2010. Amended August 29, 2013, effective September 23, 2013.}*

The values specified below shall be considered as representing minimum quality, but not necessarily desirable quality. Nothing contained in this Section shall be construed to preclude the Department from enforcing or applying any provision of this Article in areas where the ambient air quality is, or will be, at concentrations less than those specified in this Section.

- a. All final national ambient air quality standards, promulgated by EPA under the Clean Air Act at 40 CFR part 50, are hereby incorporated by reference into this Article.
- b. [Not in SIP]

### **§2101.11 PROHIBITION OF AIR POLLUTION**

a. It shall be a violation of this Article to fail to comply with, or to cause or assist in the violation of, any requirement of this Article, or any order or permit issued pursuant to authority granted by this Article. No person shall willfully, negligently, or through the failure to provide and operate necessary control equipment or to take necessary precautions, operate any source of air contaminants in such manner that emissions from such source:

1. Exceed the amounts permitted by this Article or by any order or permit issued pursuant to this Article;
2. Cause an exceedance of the ambient air quality standards established by §2101.10 of this Article; or
3. May reasonably be anticipated to endanger the public health, safety, or welfare.

b. It shall be a violation of this Article for any person to:

1. Operate, or allow to be operated, any source in such manner as to allow the release of air contaminants into the open air or to cause air pollution as defined in this Article, except as is explicitly permitted by this Article;
2. In any manner hinder, obstruct, delay, resist, prevent, or in any way interfere or attempt to interfere with the Department or its personnel in the performance of any duty hereunder, including the Department's inspection of any source;
3. Violate the provisions of 18 Pa.C.S. §4903 (relating to false swearing) or §4904 (relating to unsworn falsification to authorities) in regard to any submittals to the Department under this Article; or

4. Submit any application form, report, compliance certification, or any other submittal to the Department under this Article which is, in whole or in part, false, inaccurate, or incomplete.
- c. It shall be a violation of this Article for any person to cause a public nuisance, or to cause air, soil, or water pollution resulting from any air pollution emission. No person who operates, or allows to be A-8 operated, any air contaminant source shall allow pollution of the air, water, or other natural resources of the Commonwealth and the County resulting from such source.

#### **§2101.12 INTERSTATE AIR POLLUTION**

- a. **General.** It shall be a violation of this Article giving rise to the remedies provided by §2109.02 of this Article for any person to operate, or allow to be operated, any source in such manner that emissions from such source:
  1. Prevent the attainment or maintenance by any other state of any primary or secondary National Ambient Air Quality Standard; or
  2. Interfere with any measure required to be included in the applicable implementation plan for any other state under Part C of the Clean Air Act relating to prevention of significant deterioration of air quality or protection of visibility.
- b. **Findings by EPA.** It shall be a violation of this Article giving rise to the remedies provided by §2109.02 of this Article for any person to:
  1. Construct or operate, or allow to be constructed or operated, any major new or modified source after a finding has been made by the U.S. EPA pursuant to Subsection 126(b) of the Clean Air Act that emissions from such source will have the effect described in Subsection a above; or
  2. Operate, or allow to be operated, any existing major source for more than three (3) months after such a finding has been made, except if such operation has been permitted by U.S. EPA pursuant to Subsection 126(c) of the Clean Air Act.

#### **§2101.13 NUISANCES**

Any violation of any requirement of this Article shall constitute a nuisance.

#### **§2101.14 CIRCUMVENTION**

For purposes of determining compliance with the provisions of this Article, no credit shall be given to any person for any device or technique, including but not limited to the operation of any source with unnecessary amounts of air, the combining of separate sources except as specifically permitted by this Article, the use of stacks exceeding Good Engineering Practice height as defined by regulations promulgated by the U.S. EPA, at 40 C.F.R. §§51.100 and 51.110 and Subpart I, and other dispersion techniques, which, without reducing the amount of air contaminants emitted, conceals or dilutes an emission of air contaminants which would otherwise violate the provisions of this Article; except that, for purposes of determining compliance with §2104.04 of this Article concerning odors, credit for such devices or techniques, except for the use of a masking agent, may be given