

# Allegheny County Health Department

## DIRECTOR

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## AIR QUALITY PROGRAM

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April 30, 2012

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Dear Ms. Epps:

Enclosed are a paper copy and an exact duplicate of this paper copy on a computer disk in searchable pdf file format of a revision to Allegheny County's portion of the Pennsylvania State Implementation Plan (SIP) for New Source Review. Changes made to Article XXI, Air Pollution Control Rules and Regulations, and County Ordinance 16782 are related to regulations incorporating New Source Review - Sections 2102.04, 2102.06, and 2102.08, as well as related definitions in Section 2101.20. This SIP revision is being tracked as Allegheny County Tracking Number 66.

This SIP Revision was the subject of a public comment period from August 10, 2011 until September 12, 2011 the date of the public hearing. It was approved by the Board of Health on November 30, 2011, enacted by County Council on March 20, 2012, approved and signed by the Allegheny County Chief Executive on March 23, 2012, and became effective April 3, 2012.

We request that the Pennsylvania Department of Environmental Protection approve this revision and forward it to the U.S. EPA Region III with a recommendation for approval.

If you have any questions, please call me at the number above or email me at [jthompson@achd.net](mailto:jthompson@achd.net).

Sincerely,

James Thompson, Manager  
Air Quality Program

cc: Arlene Shulman, DEP  
Steve Hepler, DEP

Enclosures

**REVISION TO ALLEGHENY COUNTY'S PORTION**  
**of the**  
**PENNSYLVANIA STATE IMPLEMENTATION PLAN**  
**for the**  
**ATTAINMENT AND MAINTENANCE**  
**of the**  
**NATIONAL AMBIENT AIR QUALITY STANDARDS**

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**(Revision Tracking No. 66)**

**Amendment to**  
**Definition of Major Source and the New Source Review Regulations**

**Amendment to Allegheny County Health Department  
Definition of Major Source and the New Source Review  
Regulations**

**(Revision Tracking No. 66)**

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## A Summary of Actions

### A.1. Change in Article XXI Definition of Major Source

The Environmental Protection Agency (EPA) published a "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" in the Federal Register on June 3, 2010 (75 FR 31514). In this action, EPA tailored the applicability criteria that determine which stationary sources and modification projects become subject to permitting requirements for greenhouse gas (GHG) emissions under the Prevention of Significant Deterioration (PSD) and Title V programs of the Clean Air Act (CAA or Act). Without this rule PSD and Title V requirements would have applied, as of January 2, 2011, at the 100 or 250 tons per year (tpy) levels provided under the CAA, greatly increasing the number of required permits, imposing undue costs on small sources, overwhelming the resources of permitting authorities, and severely impairing the functioning of the programs. EPA relieved these resource burdens by phasing in the applicability of these programs to GHG sources, starting with the largest GHG emitters.

The EPA Administrator then requested information concerning the implementation of the Tailoring Rule in state and local permitting programs. Specifically, EPA requested that states explain whether they will apply the meaning of the term "subject to regulation" as established by EPA in the June 3, 2010 rule. For states applying the meaning of the term "subject to regulation," EPA wanted to know whether the states intend to do so without undertaking a regulatory or legislative process." 75 Fed. Reg. 31525.

In Allegheny County's letter of response, the County said

"The Allegheny County Title V program was approved by EPA on November 1, 2001, effective December 17, 2001. (See 66 FR 55112.) All major sources, as defined in Article XXI are required to obtain and operate under a major source operating permit. The definition of "major source" in Article XXI includes, "a stationary source of air pollutants that directly emits or has the potential to emit, 100 tpy or more of any air pollutant." Article XXI does not include a definition of air pollutant, and so has been interpreted to use the Clean Air Act definition, which would include greenhouse gas emissions. Therefore, greenhouse gas emissions could and will be included in future Title V permits.

We do not find in our regulations or our Title V program submission sufficient regulatory authority to limit the Title V program to the limits contained in the Tailoring Rule."

In an December 2010 action, EPA finalized additional rulemaking to narrow EPA's previous approval of state and local Title V operating permit programs that apply (or may

apply) to GHG-emitting sources. [75 fr 82246] Specifically, in this final rule, EPA narrowed its previous approval of certain state or local permitting thresholds for GHG emissions so that only sources that equal or exceed the GHG thresholds established in the final Tailoring Rule would be covered as major sources by the Title V permits. By raising the GHG thresholds that apply title V permitting to major sources in the affected States, this final rule reduced the number of sources that would be issued Title V permits and thereby significantly reduce permitting burdens for permitting agencies and sources alike in those States.

Although the December action by EPA limits the title V requirements of major sources, an ambiguity remains between the Article XXI regulations and the federal program. By making the proposed minor changes to the Article XXI definition of major source, the County would correct this ambiguity. The change is simply to reference the federal definition of "air pollutant" and "subject to regulation."

## **A.2 Change in Article XXI New Source Review Regulations**

The primary goal of the Clean Air Act (CAA) (42 U.S.C.A. §§ 7401--7642) is to ensure the attainment and maintenance of air quality under the National Ambient Air Quality Standard (NAAQS) requirements under section 110 of the CAA (42 U.S.C.A. § 7410). Section 107 of the CAA (42 U.S.C.A. § 7407) and section 110 of the CAA give each state primary responsibility for assuring that air quality within its borders is maintained at a level consistent with the NAAQS. This responsibility is achieved through the establishment of source-specific requirements in SIPs addressing the NAAQS.

A primary means of achieving the NAAQS is through the New Source Review (NSR) program, which places preconstruction review and permitting requirements on certain new and modified sources of air pollution to protect public health and air quality. The nature of the requirements depends on whether the source is to be located in an area that attains, or does not attain, the NAAQS for the pollutant in question.

There are two sets of regulatory requirements that subject new and modified sources to more stringent levels of control--the Prevention of Significant Deterioration (PSD) under Title I, Part C of the CAA (42 U.S.C.A. §§ 7470--7479) and the nonattainment NSR requirements under Title I, Part D of the CAA (42 U.S.C.A. §§ 7501--7515) under the NSR preconstruction permitting program. This submittal affects the Allegheny County nonattainment NSR regulations.

The NSR program subjects major new or "modified" sources of air pollution to preconstruction review and permitting requirements. The purpose of the NSR program is to ensure that the proposed source meets all applicable air quality requirements before it is constructed. The nature of the NSR preconstruction requirements depends upon whether the source is to be located in an area that meets or fails to meet the applicable ambient air quality standards. Major stationary sources located in attainment areas are subject to the PSD permit program.

From December 2002 through September 2006, a number of federal actions were taken that resulted in changes to the NSR requirements. EPA promulgated changes to regulations for reviewing new major sources. These New Source Review regulations made significant changes to the older review program. EPA required states and local agencies to adopt the changes or demonstrate how the state or local regulations were equivalent.

The Pennsylvania Department of Environmental Protection (PADEP) then adopted a set of regulation changes and demonstrated equivalency to the federal rules. On May 19, 2007 Pennsylvania's changes to 25 Pa. Code Chapters 121 and 127 related to NSR were published in the *Pennsylvania Bulletin* at 37 Pa.B. 2365. At the same time, Pennsylvania identified in 37 Pa. B 2365 where the state regulations differed from the federal

requirements and where they were equivalent. Pennsylvania submitted these changes to EPA as a SIP revision on August 9, 2007. To date these regulations have not been approved by the Environmental Protection Agency.

The changes to Article XXI proposed in this document will bring the Allegheny County regulations to equivalency with the state regulations. A table comparing the proposed County regulations to those of Pennsylvania is found in Item C, below.

The most significant changes to this proposed regulation are:

- Using actual and projected actual emission rates to determine whether a source is subject to New Source Review, rather than potential or allowed emission rates,
- Ten years will be used in reviewing "contemporaneous emission changes" to determine a net emissions increase at the facility. A five-year "look back" remains in the regulation when reviewing that specific project alone.
- Some emission offset ratios will be changed,
- Actual emissions calculations (average rate in tons/year) will be based on 24-months, rather than two calendar years, and
- Plantwide Applicability Limits (PALs) may be permitted in accordance with the regulations set by the state.

**B.**

**Allegheny County Health Department  
Changes to New Source Review Regulations and Major Source Definition–**

**2101.20 DEFINITIONS**

...

**"Major source"** means any stationary source, or any group of stationary sources, that is located on one or more contiguous or adjacent properties, is under common control of the same person (or persons under common control), and is described as follows:

- a. For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, ten tons per year (10 tpy) or more of any hazardous air pollutant, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources;
- b. For radionuclides, any "major source" as shall be defined by the Administrator by rule;
- c. A stationary source of air pollutants that directly emits or has the potential to emit, 100 tpy or more of any air pollutant **(as defined in section 302 of the Clean Air Act) subject to regulation in accordance with 40 CFR Part 70** (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of such a stationary source shall not be considered in determining whether it is a major source, unless the source belongs to one of the following categories of stationary source:
  1. Coal cleaning plants (with thermal dryers);
  2. Kraft pulp mills;
  3. Portland cement plants;
  4. Primary zinc smelters;
  5. Iron and steel mills;
  6. Primary aluminum ore reduction plants;
  7. Primary copper smelters;
  8. Municipal incinerators capable of charging more than 250 tons of refuse per day;
  9. Hydrofluoric, sulfuric, or nitric acid plants;
  10. Petroleum refineries;
  11. Lime plants;
  12. Phosphate rock processing plants;

13. Coke oven batteries;
  14. Sulfur recovery plants;
  15. Carbon black plants (furnace process);
  16. Primary lead smelters;
  17. Fuel conversion plant;
  18. Sintering plants;
  19. Secondary metal production plants;
  20. Chemical process plants;
  21. Fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU's/hr. heat input;
  22. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
  23. Taconite ore processing plants;
  24. Glass fiber processing plants;
  25. Charcoal production plants;
  26. Fossil-fuel-fired steam electric plants of more than 250 million BTU's per hour heat input; or
  27. All other stationary source categories regulated by a standard promulgated under Section 111 or 112 of the Clean Air Act, but only with respect to those air pollutants that have been regulated for that category;
- d. For ozone nonattainment areas, sources with the potential to emit, including fugitive emissions, 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and ten (10) tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and ten (10) tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under Section 182(f)(1) or (2) of the Clean Air Act, that requirements under Subsection 182(f) of the Act do not apply;
  - e. For ozone transport regions established pursuant to Section 184 of the Clean Air Act, sources with the potential to emit, including fugitive emissions, 50 tpy or more of volatile organic compounds;
  - f. For carbon monoxide nonattainment areas:
    1. That are classified as "serious;" and
    2. In which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; or
  - g. For PM-10 nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

- h. For the purposes of Part C, Subpart 2, only those stationary source or groups of stationary sources that are part of a single industrial group shall be a major source. A single industrial grouping means that all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the most recent Standard Industrial Classification Manual.

\* \* \* \* \*

**"Major modification"** means any physical change or change in the method of operation of a major source that, **determined through the requirements of 25 Pa. Code §127.203a and 127.204,** would result in an increase in emissions equal to or exceeding an emission rate threshold or significance level specified in 25 Pa. Code §127.203. A physical change or change in the method of operation does not include routine repairs and maintenance, a change in the hours of operation, or an increase in the rate of production unless prohibited by a permit condition. *{amended September 6, 1995, effective October 20, 1995}*

\* \* \* \* \*

#### **2102.04 INSTALLATION PERMITS**

...

g. **Term.** An Installation Permit shall expire in 18 months if construction has not commenced within such period or shall expire ~~one (1) year~~ **18 months** after such construction has been suspended, if construction is not resumed within such period. ~~In any event, an Installation Permit shall expire upon completion of construction, except that~~ Installation Permits shall authorize temporary operation to facilitate shakedown of sources and air cleaning devices, to permit operations pending issuance of a related subsequent Operating Permit, or to permit the evaluation of the air contamination aspects of the source. Such temporary operation period shall be valid for a limited time, not to exceed 180 days, but may be extended for additional limited periods, each not to exceed 120 days, except that no temporary operation shall be authorized or extended which may circumvent the requirements of this Article.

**For major sources, if the construction, modification or installation is not commenced within 18 months of the issuance of an installation permit or if there is more than an 18-month lapse in construction, modification, or installation, a new installation permit application shall be submitted. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified.**

\* \* \* \* \*

**§2102.06 MAJOR SOURCES LOCATING IN OR IMPACTING A NONATTAINMENT AREA**

- a. **Applicability.** This Section shall apply to any ~~major new source~~ **new major facility, as defined by 25 PA Code 121.1** and to any major modification of an existing source which is located in a nonattainment area or transport region of the County or which will have a significant air quality impact on any nonattainment area or transport region. ~~The requirements of this Section shall apply only with regard to those air contaminants for which such source or modification is a major source or modification and for which such area is a nonattainment area or transport region. This Section shall also apply with respect to emissions of volatile organic compounds and nitrogen oxides for those areas which are nonattainment with respect to ozone. This Section shall also apply with respect to emissions of sulfur dioxide, nitrogen oxides, and volatile organic compounds for those areas which are nonattainment with respect to PM-10.~~ **Procedures in 25 Pa. Code 127.203a shall be followed in determining whether any modification at a major source is determined to be a major modification.**

~~1. 4. Application Consistent with State Regulations.~~ Except as otherwise specifically provided under this Section, this Section shall be applied consistent with the provisions of the state regulation for New Source Review Applicability Determination promulgated under the Air Pollution Control Act at 25 Pa. Code §~~127.211~~ **127.203 (except 127.203(b)), 127.203a, and 127.204**, which is ~~are~~ hereby incorporated by reference into this ~~Article~~ **Subsection. All terms used in 25 PA Code 127.203 (except 127.203(b)), 127.203a, and 127.204, and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein.** Additions, revisions, or deletions to such regulation by the Commonwealth are incorporated into this ~~Article~~ **Subsection** and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.

**2. For purposes of this Subsection:**

A. **"Department" shall mean Department as defined under this Article;**  
**and**

B. **"Plan approval" shall mean Installation Permit.**

~~1. — Reconstructed Sources. For purposes of this Section, reconstructed sources shall be considered new sources. For purposes of this Section, reconstruction triggering the application of this Section will be presumed to have taken place when the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new stationary source. Any final determination as to whether such a reconstruction has occurred shall be made by the Department based on:~~

- ~~A. Fixed capital cost of the new components in comparison to the fixed capital cost that would be required to construct a comparable entirely new source.~~
- ~~B. Estimated life of the source after the replacements compared to the life of a comparable entirely new source.~~
- ~~C. The extent to which the components being replaced cause or contribute to the emissions from the source.~~

~~For those reconstructed sources which are subject to the requirements of this Section, the Department shall take into account technical or economic limitations which are inherent in the particular reconstruction in determining the LAER standard for such sources.~~

- 3.2. Incremental Construction.** ~~Where a source is constructed or modified in increments which individually have not met the requirements of this Section, this Section shall apply to all such increments when the sum of emissions from such increments for which an Installation Permit was issued after July 1, 1979, cause such source or modification to become a major source or modification.~~ **Circumvention. Regardless of the exemptions provided in this section, an owner or other person may not circumvent this section by causing or allowing a pattern of ownership or development, including the phasing, staging, delaying or engaging in incremental construction, over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a permit or submission of an installation permit application.** In determining the LAER standard for such increments, the Department shall consider the stage of construction of each increment and the feasibility of installing additional air pollution controls on each.

~~3. **Secondary Emissions.** Secondary emissions shall not be considered in determining whether this Section applies to a new or modified source. If, however, this Section otherwise applies to such source, the requirements of this Section shall also apply to all secondary emissions which impact the same general nonattainment area as emissions from the source, except that Paragraphs b.1 and 2 shall not apply to any secondary emissions which are not under the control of the applicant.~~

- b. Conditions for Approval.** The Department shall not issue an Installation Permit, or issue, amend, modify, or reissue a related Operating Permit, for any source to which this Section applies unless the applicant demonstrates that all of the following conditions are met:

**1. Except as otherwise specifically provided under this Subsection, conditions for approval of an installation permit shall be applied consistent with the provisions of the state regulation for New Source Review promulgated under the Air Pollution Control Act at 25 Pa. Code §127.201 through 127.205 (except 127.201(f)), which are hereby incorporated by reference into this Subsection. All terms used in 25 PA Code§127.201 through 127.205 (except 127.201(f), and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein. Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.**

**2. For purposes of this Subsection:**

- A. "Department" shall mean Department as defined under this Article;**
- B. "Plan approval" shall mean Installation Permit;**
- C. "Title V Permit" shall mean an Operating Permit issued under Subpart C;**
- D. "Responsible official" shall mean Responsible Official as defined under this Article;**
- E. Public notification procedures shall follow the requirements of §2102.03, 2103.04, 2102.05, and 2102.06; and**
- F. "EHB" shall mean the "Department under Article XI".**

~~1. — **Lowest Achievable Emission Rate.** The applicant shall agree to meet an emission limitation which specifies the LAER standard for such source.~~

~~2. — **Other Sources.** The applicant shall demonstrate that all major existing sources within the Commonwealth which are owned, operated, or allowed to be operated, by the applicant or by any person controlling, controlled by, or under common control with the applicant are in compliance with all applicable requirements of the SIP and the Clean Air Act, or are in compliance with enforceable permit conditions or an enforceable compliance order or court decree for compliance with such Plan and Act. A responsible official of the applicant shall certify as to the sources' compliance in writing on a form provided by the Department.~~

~~3. — **Net Air Quality Benefit.** In addition to complying with all other applicable requirements, the applicant shall demonstrate that the emission reductions secured under Paragraph b.4 below will result in a net air quality benefit in the affected nonattainment area(s) and that emissions from the new or modified source will not have a more adverse health, ambient air quality, and environmental impact than the emissions from the existing source(s) which are reduced pursuant to Paragraph b.4.~~

34. **Emission Offsets.**

The applicant shall demonstrate that it has secured either emission reduction credits from the state ERC registry system ~~or emission reductions from existing sources in the County~~ to offset allowable emissions and fugitive dust emissions from the proposed new source or the proposed modification by at least the ratios set forth below; ~~provided that, in the case of a source to which this Section applies solely because of a significant air quality impact in a nonattainment area, offsets resulting in a net air quality benefit in the affected nonattainment area shall be sufficient.~~

- A. **Incorporation by Reference. Except as otherwise specifically provided under this Subsection, the state regulations for the use of Emission Reduction Credits and offset ratios promulgated under the Air Pollution Control Act at 25 Pa. Code §§127.206 through 127.210 inclusive, are hereby incorporated by reference into this Subsection. All terms used in 25 PA Code 127.206 through 127.210 inclusive, and defined in 25 PA Code Section 121.1, are incorporated by reference except as explicitly set forth herein. Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.**
- B. **For purposes of this Subsection:**
1. **"Plan approval" shall mean Installation Permit; and**
  2. **For 25 Pa. Code §§ 127.206 through 127.210 (except 127.206(d)(2), 127.207(3)(vii), 127.208 (5), 127.209(a) and 127.209 (e)), "Department" shall mean Department as defined under this Article.**
- C. ~~Such emission reductions shall be made legally binding by a court decree, order, or permit condition by no later than the date on which the proposed new source or the proposed modification either is approved to commence, or actually commences, operation, whichever is sooner, and such reductions shall be maintained throughout the operating life of the source for which such permit was issued. Such emissions reductions, if not created from the same source premises as the proposed new source or proposed modification, shall be approved by the EPA as a revision to the SIP.~~

B. ~~The ratio of actual emission reductions to new emissions shall be greater than or equal to the applicable ratio specified in the following table:~~

<del>Type of New Emissions</del>	<del>Type of Emission Reductions</del>	<del>Ratio of Required Emission Reduction to New Emissions</del>
<del>Flue Emissions</del>	<del>Flue Emissions</del>	
	<del>for: VOCs and Nitrogen Oxides</del>	<del>1.15 to 1</del>
	<del>All other air contaminants</del>	<del>1 to 1</del>
<del>Flue Emissions</del>	<del>Fugitive Emissions</del>	<del>2 to 1</del>
<del>Fugitive Emissions</del>	<del>Fugitive Emissions</del>	<del>1.3 to 1 (where emissions are quantified by the same technique);</del>
		<del>2 to 1 (where emissions are not quantified by the same technique).</del>

C. ~~**Calculation of Offsets.** Offset credit for emission reductions shall be calculated based on the emission characteristics for the actual operating conditions of the source(s) affected averaged over the two calendar years immediately preceding the emission reduction, or if such two-year period is not representative, such other two-year period, within the past five years, as is specified by the Department, but shall not be greater than the allowable emissions at the time the emission reductions are created or such credit is used, whichever is less. In no event shall offset credit be available for emission reductions which:~~ *{iii & iv amended, & xii added September 6, 1995, effective October 20, 1995}*

- ~~i. Are not surplus, or would be required by any applicable proposed federal, state, or local regulation which has been published for public comment prior to the time such credit is used; provided, however, that if such regulation is not adopted, offset credit shall again become available, but any such period(s) of unavailability shall in no manner operate to extend the life of the offsets;~~
- ~~ii. Are part of a proposed or approved Alternative Emission Reduction Plan authorized by Part C of this Article prior to the time such credit is used;~~
- ~~iii. Take credit for emissions which are inherently less than actual emissions, if such lesser emissions were used by the Department in the air quality demonstration submitted in support of its portion of the SIP at any time prior to the use of such credit;~~
- ~~iv. Are not quantifiable at the time that they are created, or are not permanent and federally enforceable at the time that they are created, either by the applicable SIP, by an Installation Permit~~

~~issued pursuant to this Article, by an Enforcement Order or Operating Permit issued pursuant to this Article, or by the revocation of an Operating Permit pursuant to this Article.~~

- ~~v. Have been traded off against civil penalties payable to any governmental unit at any time prior to the use of such credit;~~
- ~~vi. Are required by a consent order or court decree issued prior to the time such credit is used, unless such order or decree specifically allows such reductions to be used as offsets;~~
- ~~vii. Occurred in an area for which a current EPA approvable attainment plan or demonstration has not been submitted to EPA, unless such emission reductions are created on or after the date such credit is used, or, the applicant can establish that the Installation Permit application using such credit is for a proposed new source that is a replacement source for the shutdown or curtailed source from which the emission reductions were created;~~
- ~~viii. Occurred before the date of the most recent emissions inventory used in the applicable EPA approved attainment plan's demonstration of attainment, except the Department may consider a prior shutdown or curtailment to have occurred after the date of the most recent emissions inventory if the inventory explicitly includes as current "existing" emissions the emissions from such previously shutdown or curtailed sources;~~
- ~~ix. Are from replacing one hydrocarbon compound with another of lesser reactivity;~~
- ~~x. Are generated from emissions in excess of either those previously identified in required actual emission statements or those for which applicable emission fees have been paid;~~
- ~~xi. Are from emission reductions previously used in an applicability determination for netting purposes; or~~
- ~~xii. Are not entitled to offset credit under the state regulations for Emission Reduction Credits promulgated under the Air Pollution Control Act and incorporated by reference into this Article under §2102.08.e below. *{Added September 6, 1995, effective October 20, 1995}*~~

~~The applicant and the Department shall follow the procedures relating to the permissible location of offsetting~~

emissions set out in 40 CFR Part 51 Appendix S Section IV.D. as amended by Section 173(c) of the Clean Air Act.

~~D. Use of Offsets.~~ For purposes of this Part, an offset shall be considered used when either:

~~i. It is committed to a specific new or modified source in an Installation Permit application; or~~

~~ii. It is considered used under the state regulations for Emission Reduction Credits promulgated under the Air Pollution Control Act and incorporated by reference into this Article under §2102.08.e below.~~  
*{Added September 6, 1995, effective October 20, 1995}*

~~If the Department rejects an Installation Permit application using offsets, or such application is withdrawn by the applicant, or the permit is issued but is canceled or expires before the permit and the offsets are ever used, the offsets so committed shall again become available for use, but in no event shall any such period(s) of unavailability operate to extend the life of any registered offsets.~~

c. **Temporary Sources.** Temporary sources shall not be required to comply with Paragraphs b.3 and b.4 above **net air quality benefit and offsets requirements.**

d. **Fuel Switches.** ~~Notwithstanding the failure of the applicant to comply with Paragraph b.4 above,~~ The Department may issue an Installation Permit for the modification of an existing source which is required to switch fuels pursuant to a federal order or fuel curtailment plan if:

1. The applicant demonstrates that it has used all best efforts to secure all available offsets; and,

2. The applicant is made subject to a permit condition requiring it to use all best efforts to secure additional offsets until the requirements of Paragraph b.3 are met.

**e. Portable facilities. Incorporation by Reference. The state regulations for portable facilities under the Air Pollution Control Act at 25 Pa. Code §§127.212 are hereby incorporated by reference into this Subsection. All terms used in 25 PA Code §§127.212 and defined in 25 PA Code Section 121.1 are incorporated by reference. Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.**

~~e. Analysis of Alternatives.~~ The Department shall not issue an Installation Permit for any source to which this Section applies unless, in addition to meeting all other requirements of this Section, the applicant submits to the Department an

analysis of alternative sites, sizes, production processes, and environmental control techniques which demonstrates that the benefits of the source significantly outweigh the environmental and social costs imposed by the source.

~~f. **Economic Development Zones.** In the case of a new or modified source which is located in a nonattainment area, and within a zone, identified by the EPA Administrator, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted, emissions of a pollutant resulting from the proposed new or modified source may not cause or contribute to emission levels which exceed the allowance permitted for the pollutant for the area from new or modified sources in the SIP.~~

**f.g. Requirements for Modeling.** Where air quality models are used to meet the provisions of this Section, modeling shall be based on the applicable models and other requirements specified in 40 CFR Part 51 Appendix W (Guideline on Air Quality Models). Where an air quality model specified in the Guideline on Air Quality Models is inappropriate, the model may be modified or another model may be substituted only on a case-by-case basis at the Department's discretion upon written approval by the Administrator of EPA. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures set forth in 40 CFR 51.102.

**g. PLANTWIDE APPLICABILITY LIMIT (PALs)**

**The Plantwide Applicability Limits (PALs) regulations in 25 Pa. Code § 127.218 are hereby incorporated by reference into this Subsection. All terms used in 25 PA Code § 127.218 and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein. Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.**

**For purposes of this Subsection:**

- 1. Public notification procedures shall follow the requirements of §2102.03, 2103.04, 2102.05, and 2102.06;**
- 2. "Plan approval" shall mean Installation Permit; and**
- 3. "Department" shall mean the Allegheny County Health Department.**

**§2102.07 PREVENTION OF SIGNIFICANT DETERIORATION**

**{Subsection a amended September 6, 1995, effective October 20, 1995, Subsection a modified January 22, 1998 effective March 31, 1998}**

- a. General Provisions.** The Prevention of Significant Deterioration (PSD) requirements as promulgated in 40 CFR §52.21 by the Administrator of the EPA

pursuant to Section 161 of the Clean Air Act are hereby adopted in their entirety and incorporated herein by reference. For the purposes of this Section all of the definitions adopted by the federal regulations in this subsection are hereby incorporated by reference, including those of source and major source. Additions, revisions, or deletions to the PSD requirements adopted by EPA are incorporated into this Article and are effective on the date established by the Federal regulations, unless otherwise established by regulation of the Department.

- b. **Permits.** Notwithstanding the issuance of any Installation Permit pursuant to this Article, no person shall commence the construction of, and no Operating Permit shall be issued pursuant to this Article for, any new or modified major source in an attainment or unclassified area of the County until such person has obtained a PSD Permit from the Department or has obtained a written determination from the Department that a PSD Permit is not required for such source under the applicable statutes, regulations, or other laws.
- c. **Exemption.** The PSD provisions of this Article shall not apply to sources of hazardous air pollutants as defined in Part A of this Article.
- d. **Violation.** It shall be a violation of this Article giving rise to the remedies provided by Section 2109.02 of this Article for any person to commence construction of or to allow construction to commence on, or to own, operate, or allow to be operated, any new or modified major source in an attainment or unclassified area of the County in a manner that does not comply with all PSD requirements as promulgated by the EPA and incorporated herein, except if such person is lawfully temporarily relieved of the duty to comply with such requirements.

## **§2102.08 EMISSION OFFSET REGISTRATION**

*{Paragraph a.2 & Subsection e amended September 6, 1995, effective October 20, 1995}*

- a. ~~e.~~ **Incorporation by Reference.** Except as otherwise specifically provided under this Subsection, ~~Paragraph a.2 and Subsection e of this Section~~, the state regulations for **registration of** Emission Reduction Credits promulgated under the Air Pollution Control Act at 25 Pa. Code §§127.206 through 127.209 inclusive are hereby incorporated by reference into this Article Subsection. All terms used in 25 PA Code §§127.206 through 127.209 and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein. Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Article Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.
- b. **For purposes of this Subsection:**
  - 1. **"Plan approval" shall mean Installation Permit; and**

**2. For 25 Pa. Code §§ 127.206 through 127.209 (except 127.206(d)(2), 127.207(3)(vii), 127.208 (5), 127.209 ((a) and 127.209 (e)), "Department" shall mean Department as defined under this Article.**

**c. d. Reports.** Copies of all **All applications,** notices and reports required to be submitted to the Commonwealth under the applicable state emission reduction credit regulations shall be submitted to the **Allegheny County Health** Department by the same deadline set forth in such regulations.

**a. Registration.**

**1.** No later than one (1) year after the creation of an emission reduction for which offset credit is sought, the owner or operator of the source affected shall notify the Department in writing of all facts necessary to determine the availability and amount of offset credit from the emission reduction, except that for the creation of an emission reduction on or after January 1, 1991, but prior to the effective date of this Section, the owner or operator of the source affected may notify the Department in writing of all facts necessary to determine the availability and amount of offset credit from the emission reduction by no later than March 15, 1996. Emission offset credits registered with the Department as of the effective date of this Section shall be immediately submitted by the Department to the air quality permitting agency for the Commonwealth of Pennsylvania for registration under the state Emission Reduction Credit registry system. The County shall no longer maintain an emission offset credit registration system separate from the state system.

**2.** For purposes of this Section and §2102.06.b.4.C, an emission reduction achieved by shutting down or curtailing a source shall be considered to be "created" on the date on which a decision is made to permanently shut down or curtail such source, but in no event later than one year after the actual shutdown or curtailment, except that, any provisions to the contrary notwithstanding, upon approval of the Department and the Commonwealth under the requirements of 25 Pa. Code Chapter 127 Subchapter E, §§127.201 et seq., for an emission reduction achieved by shutting down or curtailing public utility power generating sources which have been in "cold reserve" or temporarily shutdown for more than three years:

**A.** Such emission reduction shall be considered to be "created" on the expiration or termination date of the last Operating Permit for such source, whichever is later; and

**B.** The last five years prior to such "cold reserve" or temporary shutdown shall constitute the last five years for purposes of calculating actual emissions.

**d. 3.** The notice required by this Section **Applications for registration of emission reduction credits** shall be accompanied by the payment of a non-

refundable verification fee ~~in the amount of \$250~~ payable to the Allegheny County Air Pollution Control Fund. **The amount of the fee shall be set by the Board of Health and approved by Allegheny County Council.** The Department may prepare a form required to be used in providing the notice required by this Section

- ~~4. Failure to provide the timely notice required by this Subsection may cause the affected emission reductions to be unavailable for use as offsets.~~
- e.** ~~5.~~ Within 180 days of receipt of a properly completed notice, with the appropriate fee, the Department shall verify the amount of offsets available, if any, setting forth the amount, location, pollutant characteristics, and the creation date of such offsets, and provide notice to the owner or operator of such verification. The owner or operator of the source affected shall provide the Department with all information, and shall bear the cost of such tests, studies, and the like, as are necessary for such verification.
- f.** ~~6.~~ The Department shall then forward such notice and verification to the air quality permitting agency for the Commonwealth of Pennsylvania for registration in the state Emission Reduction Credit registry system.
- g.** ~~7.~~ Emission offset credits under this Section shall not be available for use until registered in the state registry system, at which time the existence and availability of such credits becomes subject to the state regulations for registered Emission Reduction Credits promulgated under the Air Pollution Control Act.
- ~~b. **Life of Offsets.** Registered offsets shall only be available for use as provided for under the applicable state regulations and §2102.06.b.4 above.~~
- h.** ~~e.~~ **Transfers.** Registered offsets shall only be transferable as provided for under the applicable state regulations, except that offsets created in Allegheny County or to be used in Allegheny County shall be transferable to and from 501(c)(3) non-profit corporations and governmental bodies and authorities for the purpose of facilitating the use of such credits.

C.

**Comparison of Article XXI changed NSR regulations to PADEP Title 25 NSR regulations**

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
<p><b>§ 127.201. General requirements.</b>            (a) A person may not cause or permit the construction or modification of an air contamination facility in a nonattainment area or having an impact on a nonattainment area unless the Department or an approved local air pollution control agency has determined that the requirements of this subchapter have been met.</p>	<p>2102.04.c <b>Major Sources.</b> The Department shall not issue any Installation Permit for a major source unless, in addition to meeting the requirements of Subsection b above, the application demonstrates compliance with all applicable requirements of this Part.</p> <p>102.06.a <b>Applicability.</b> This Section shall apply to any <del>major new source</del> <b>new major facility, as defined by 25 PA Code 121.1</b> and to any major modification of an existing source which is located in a nonattainment area or transport region of the County or which will have a significant air quality impact on any nonattainment area or transport region. <del>The requirements of this Section shall apply only with regard to those air contaminants for which such source or modification is a major source or modification and for which such area is a nonattainment area or transport region. This Section shall also apply with respect to emissions of volatile organic compounds and nitrogen oxides for those areas which are nonattainment with respect to ozone. This Section shall also apply with respect to emissions of sulfur dioxide, nitrogen oxides, and volatile organic compounds for those areas which are nonattainment with respect to PM 10.</del> <b>Procedures in 25 Pa. Code 127.203a shall be followed in determining whether any modification at a major source is determined to be a major modification.</b></p>
<p>(b) The nonattainment area classification that applies for offset trading and offset ratio selection shall be the highest classification designated by the EPA Administrator in 40 CFR 81.339 (relating to Pennsylvania) or by operation of law.</p>	<p>2101.06. 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.</p>
<p>(c) The NSR requirements of this subchapter also apply to a facility located in an attainment area for ozone and within an ozone transport region that emits or has the potential to emit at least 50 TPY of VOC or 100 TPY of NOx. A facility within either an unclassifiable/attainment area for ozone or within a marginal or incomplete data nonattainment area for ozone or within a basic nonattainment area for ozone and located within an ozone transport region will be considered a major facility and shall be subject to the requirements applicable to a major facility located in a moderate nonattainment area.</p>	<p>102.06.a <b>Applicability.</b> This Section shall apply to any <del>major new source</del> <b>new major facility, as defined by 25 PA Code 121.1</b> and to any major modification of an existing source which is located in a nonattainment area or transport region of the County or which will have a significant air quality impact on any nonattainment area or transport region. <del>The requirements of this Section shall apply only with regard to those air contaminants for which such source or modification is a major source or modification and for which such area is a nonattainment area or transport region. This Section shall also apply with respect to emissions of volatile organic compounds and nitrogen oxides for those areas which are nonattainment with respect to ozone. This Section shall also apply with respect to emissions of sulfur dioxide, nitrogen oxides, and volatile organic compounds for those areas which are nonattainment with respect to PM 10.</del> <b>Procedures in 25 Pa. Code 127.203a shall be followed in determining whether any modification at a major source is determined to be a major modification.</b></p>
<p>(d) The NSR requirements of this subchapter apply to an owner or operator of a facility</p>	<p>§2102.06 MAJOR SOURCES LOCATING IN OR IMPACTING A NONATTAINMENT AREA</p>

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
<p>at which a net emissions increase that is significant would occur as determined in accordance with § 127.203a (relating to applicability determination). If an emissions increase meets or exceeds the applicable emissions rate that is significant as defined in § 121.1 (relating to definitions), the facility is subject to the permitting requirements under § 127.205 (relating to special permit requirements). An emissions increase subject to this subchapter must also be offset through the use of ERCs at the offset ratios specified in § 127.210 (relating to offset ratios). The generation, use, transfer and registration requirements for ERCs are listed in §§ 127.206—127.209.</p>	<p>102.06.a <b>Applicability.</b> This Section shall apply to any <del>major new source</del> <b>new major facility, as defined by 25 PA Code 121.1</b> and to any major modification of an existing source which is located in a nonattainment area or transport region of the County or which will have a significant air quality impact on any nonattainment area or transport region. <del>The requirements of this Section shall apply only with regard to those air contaminants for which such source or modification is a major source or modification and for which such area is a nonattainment area or transport region. This Section shall also apply with respect to emissions of volatile organic compounds and nitrogen oxides for those areas which are nonattainment with respect to ozone. This Section shall also apply with respect to emissions of sulfur dioxide, nitrogen oxides, and volatile organic compounds for those areas which are nonattainment with respect to PM 10.</del> <b>Procedures in 25 Pa. Code 127.203a shall be followed in determining whether any modification at a major source is determined to be a major modification.</b></p>
<p>(e) In the event of an inconsistency between this rule and any other rule promulgated by the Department, the inconsistency must be resolved by the application of the more stringent provision, term, condition, method or rule.</p>	<p>2101.06. 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.</p>
<p>(f) A facility located in Bucks, Chester, Delaware, Montgomery or Philadelphia Counties that emits or has the potential to emit at least 25 TPY of VOC or NOx will be considered a major facility and shall be subject to the requirements applicable to a major facility located in a severe nonattainment area for ozone.</p>	<p><del>2102.06.a.1 Application Consistent with State Regulations.</del> Except as otherwise specifically provided under this Section, this Section shall be applied consistent with the provisions of the state regulation for New Source Review Applicability Determination promulgated under the Air Pollution Control Act at 25 Pa. Code §<del>127.211</del> <b>127.203 (except 127.203(b)), 127.203a, and 127.204</b>, which is <b>are</b> hereby incorporated by reference into this Article <b>Subsection. All terms used in 25 PA Code 127.203 (except 127.203(b)), 127.203a, and 127.204, and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein.</b> Additions, revisions, or deletions to such regulation by the Commonwealth are incorporated into this Article <b>Subsection</b> and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.</p>

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
§ 127.201a. Measurements, abbreviations and acronyms.	Defined where used.
§ 127.202. Effective date.	( The new rules will be effective upon promulgation and posting.)
<p>§ 127.203. Facilities subject to special permit requirements.  AND  § 127.203a. Applicability determination.  AND  § 127.204. Emissions subject to this subchapter.</p>	<p>§2102.06a. Applicability...</p> <p><b>1. <del>4. Application Consistent with State Regulations.</del></b> Except as otherwise specifically provided under this Section, this Section shall be applied consistent with the provisions of the state regulation for New Source Review Applicability Determination promulgated under the Air Pollution Control Act at 25 Pa. Code §<del>127.211</del> <b><u>127.203 (except 127.203(b)), 127.203a, and 127.204</u></b>, which is <b><u>are</u></b> hereby incorporated by reference into this Article <b><u>Subsection</u></b>. <b><u>All terms used in 25 PA Code 127.203 (except 127.203(b)), 127.203a, and 127.204, and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein.</u></b> Additions, revisions, or deletions to such regulation by the Commonwealth are incorporated into this Article <b><u>Subsection</u></b> and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.</p> <p><b>2. For purposes of this Subsection:</b></p> <p>A. <b><u>"Department" shall mean Department as defined under this Article; and</u></b></p> <p>B. <b><u>"Plan approval" shall mean Installation Permit.</u></b></p>
§ 127.205. Special permit requirements.	<p>2102.06.b <del>a.</del> <b>Conditions for Approval.</b> The Department shall not issue an Installation Permit, or issue, amend, modify, or reissue a related Operating Permit, for any source to which this Section applies unless the applicant demonstrates that all of the following conditions are met:</p> <p><b><u>1. Except as otherwise specifically provided under this Subsection, conditions for approval of an installation permit shall be applied consistent with the provisions of the state regulation for New Source Review promulgated under the Air Pollution Control Act at 25 Pa. Code §127.201 through 127.205 (except 127.201(f)), which are hereby incorporated by reference into this Subsection. All terms used in 25 PA Code §127.201 through 127.205 (except 127.201(f), and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein. Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.</u></b></p> <p><b>2. For purposes of this Subsection:</b></p>

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
	<ul style="list-style-type: none"><li>a. <u>"Department" shall mean Department as defined under this Article;</u></li><li>b. <u>"Plan approval" shall mean Installation Permit;</u></li><li>c. <u>"Title V Permit" shall mean an Operating Permit issued under Subpart C;</u></li><li>d. <u>"Responsible official" shall mean Responsible Official as defined under this Article;</u></li><li>e. <u>Public notification procedures shall follow the requirements of §2102.03, 2103.04, 2102.05, and 2102.06; and</u></li><li>f. <u>"EHB" shall mean the "Department under Article XI".</u></li></ul>

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
<p>§ 127.206. ERC general requirements.</p>	<p><b>§2102.08 EMISSION OFFSET REGISTRATION</b></p> <p><b>a. e. Incorporation by Reference.</b> Except as otherwise specifically provided under <b>this Subsection</b>, Paragraph a.2 and Subsection c of this Section, the state regulations for <b>registration of</b> Emission Reduction Credits promulgated under the Air Pollution Control Act at 25 Pa. Code §§127.206 through 127.209 inclusive are hereby incorporated by reference into this Article <b>Subsection</b>. <b>All terms used in 25 PA Code §§127.206 through 127.209 and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein.</b> Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Article <b>Subsection</b> and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.</p> <p><b>b. For purposes of this Subsection:</b></p> <ol style="list-style-type: none"> <li><b>1. "Plan approval" shall mean Installation Permit; and</b></li> <li><b>2. For 25 Pa. Code §§ 127.206 through 127.209 (except 127.206(d)(2), 127.207(3)(vii), 127.208 (5), 127.209 (a) and 127.209 (e)), "Department" shall mean Department as defined under this Article.</b></li> </ol> <p><b>c. d. Reports.</b> Copies of all <b>All applications</b>, notices and reports required to be submitted to the Commonwealth under the applicable state emission reduction credit regulations shall be submitted to the <b>Allegheny County Health</b> Department by the same deadline set forth in such regulations.</p> <p><b>d.</b> <del>3.</del> The notice required by this Section <b>Applications for registration of emission reduction credits</b> shall be accompanied by the payment of a non-refundable verification fee <del>in the amount of \$250</del> payable to the Allegheny County Air Pollution Control Fund. <b>The amount of the fee shall be set by the Board of Health and approved by Allegheny County Council.</b> The Department may prepare a form required to be used in providing the notice required by this Section</p> <p><b>e. 5.</b> Within 180 days of receipt of a properly completed notice, with the appropriate fee, the Department shall verify the amount of offsets available, if any, setting forth the amount, location, pollutant characteristics, and the creation date of such offsets, and provide notice to the owner or operator of such verification. The owner or operator of the source affected shall provide the Department with all information, and shall bear the cost of such tests, studies, and the like, as are necessary for such verification.</p> <p><b>f. 6.</b> The Department shall then forward such notice and verification to the air quality permitting agency for the Commonwealth of Pennsylvania for registration in the state Emission Reduction Credit registry system.</p>

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	<p><b>g. 7.</b> Emission offset credits under this Section shall not be available for use until registered in the state registry system, at which time the existence and availability of such credits becomes subject to the state regulations for registered Emission Reduction Credits promulgated under the Air Pollution Control Act.</p> <p><b>h. e. Transfers.</b> Registered offsets shall only be transferable as provided for under the applicable state regulations, except that offsets created in Allegheny County or to be used in Allegheny County shall be transferable to and from 501(c)(3) non-profit corporations and governmental bodies and authorities for the purpose of facilitating the use of such credits.</p> <p>And</p> <p><b>2102.06.b.3 Emission Offsets.</b> The applicant shall demonstrate that it has secured either emission reduction credits from the state ERC registry system or emission reductions from existing sources in the County to offset allowable emissions and fugitive dust emissions from the proposed new source or the proposed modification by at least the ratios set forth below; provided that, in the case of a source to which this Section applies solely because of a significant air quality impact in a nonattainment area, offsets resulting in a net air quality benefit in the affected nonattainment area shall be sufficient.</p> <p><b><u>A. Incorporation by Reference.</u></b> Except as otherwise specifically provided under this Subsection, the state regulations for the use of Emission Reduction Credits and offset ratios promulgated under the Air Pollution Control Act at 25 Pa. Code §§127.206 through 127.210 inclusive, are hereby incorporated by reference into this Subsection. All terms used in 25 PA Code 127.206 through 127.210 inclusive, and defined in 25 PA Code Section 121.1, are incorporated by reference except as explicitly set forth herein. Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.</p> <p><b><u>B. For purposes of this Subsection:</u></b></p> <ol style="list-style-type: none"> <li>1. "Plan approval" shall mean Installation Permit; and</li> <li>2. For 25 Pa. Code §§ 127.206 through 127.210 (except 127.206(d)(2), 127.207(3)(vii), 127.208 (5), 127.209(a) and 127.209 (e)), "Department" shall mean Department as defined under this Article.</li> </ol>

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
§ 127.207. Creditable emissions decrease or ERC generation and creation.	<p>§2102.08 EMISSION OFFSET REGISTRATION</p> <p><b>a. e. Incorporation by Reference.</b> Except as otherwise specifically provided under <b>this Subsection</b>, Paragraph a.2 and Subsection c of this Section, the state regulations for <b>registration of</b> Emission Reduction Credits promulgated under the Air Pollution Control Act at 25 Pa. Code §§127.206 through 127.209 inclusive are hereby incorporated by reference into this Article <b>Subsection</b>. <b>All terms used in 25 PA Code §§127.206 through 127.209 and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein.</b> Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Article <b>Subsection</b> and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.</p> <p><b>b. For purposes of this Subsection:</b></p> <ol style="list-style-type: none"> <li><b>1. "Plan approval" shall mean Installation Permit; and</b></li> <li><b>2. For 25 Pa. Code §§ 127.206 through 127.209 (except 127.206(d)(2), 127.207(3)(vii), 127.208 (5), 127.209 (a) and 127.209 (e)), "Department" shall mean Department as defined under this Article.</b></li> </ol> <p><b>c. d. Reports.</b> <del>Copies of all</del> <b>All applications</b>, notices and reports required to be submitted to the Commonwealth under the applicable state emission reduction credit regulations shall be submitted to the <b>Allegheny County Health</b> Department by the same deadline set forth in such regulations.</p> <p><b>d. 3.</b> <del>The notice required by this Section</del> <b>Applications for registration of emission reduction credits</b> shall be accompanied by the payment of a non-refundable verification fee <del>in the amount of \$250</del> payable to the Allegheny County Air Pollution Control Fund. <b>The amount of the fee shall be set by the Board of Health and approved by Allegheny County Council.</b> The Department may prepare a form required to be used in providing the notice required by this Section</p> <p><b>e. 5.</b> Within 180 days of receipt of a properly completed notice, with the appropriate fee, the Department shall verify the amount of offsets available, if any, setting forth the amount, location, pollutant characteristics, and the creation date of such offsets, and provide notice to the owner or operator of such verification. The owner or operator of the source affected shall provide the Department with all information, and shall bear the cost of such tests, studies, and the like, as are necessary for such verification.</p> <p><b>f. 6.</b> The Department shall then forward such notice and verification to the air quality permitting agency for the</p>

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
	<p data-bbox="1045 297 2043 329">Commonwealth of Pennsylvania for registration in the state Emission Reduction Credit registry system.</p> <p data-bbox="951 362 2074 451"><u>g.</u> 7. Emission offset credits under this Section shall not be available for use until registered in the state registry system, at which time the existence and availability of such credits becomes subject to the state regulations for registered Emission Reduction Credits promulgated under the Air Pollution Control Act.</p> <p data-bbox="951 483 2074 605"><u>h.</u> e. <b>Transfers.</b> Registered offsets shall only be transferable as provided for under the applicable state regulations, except that offsets created in Allegheny County or to be used in Allegheny County shall be transferable to and from 501(c)(3) non-profit corporations and governmental bodies and authorities for the purpose of facilitating the use of such credits.</p>

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
<p>§ 127.208. ERC use and transfer requirements.</p>	<p><b>2102.06.b.3 Emission Offsets.</b> The applicant shall demonstrate that it has secured either emission reduction credits from the state ERC registry system or emission reductions from existing sources in the County to offset allowable emissions and fugitive dust emissions from the proposed new source or the proposed modification by at least the ratios set forth below; provided that, in the case of a source to which this Section applies solely because of a significant air quality impact in a nonattainment area, offsets resulting in a net air quality benefit in the affected nonattainment area shall be sufficient.</p> <p><b><u>A. Incorporation by Reference.</u></b> Except as otherwise specifically provided under this Subsection, the state regulations for the use of Emission Reduction Credits and offset ratios promulgated under the Air Pollution Control Act at 25 Pa. Code §§127.206 through 127.210 inclusive, are hereby incorporated by reference into this Subsection. All terms used in 25 PA Code 127.206 through 127.210 inclusive, and defined in 25 PA Code Section 121.1, are incorporated by reference except as explicitly set forth herein. Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.</p> <p><b><u>B. For purposes of this Subsection:</u></b></p> <ol style="list-style-type: none"> <li>1. "Plan approval" shall mean Installation Permit; and</li> <li>2. For 25 Pa. Code §§ 127.206 through 127.210 (except 127.206(d)(2), 127.207(3)(vii), 127.208 (5), 127.209(a) and 127.209 (e)), "Department" shall mean Department as defined under this Article.</li> </ol>
<p>§ 127.209. ERC registry system.</p> <p>...</p>	<p><b>§2102.08 EMISSION OFFSET REGISTRATION</b></p> <p><b><u>a. e. Incorporation by Reference.</u></b> Except as otherwise specifically provided under <b>this Subsection</b>, Paragraph a.2 and Subsection c of this Section, the state regulations for <b>registration of</b> Emission Reduction Credits promulgated under the Air Pollution Control Act at 25 Pa. Code §§127.206 through 127.209 inclusive are hereby incorporated by reference into this Article <b>Subsection</b>. <b>All terms used in 25 PA Code §§127.206 through 127.209 and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein.</b> Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Article <b>Subsection</b> and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.</p> <p><b><u>b. For purposes of this Subsection:</u></b></p> <ol style="list-style-type: none"> <li>1. "Plan approval" shall mean Installation Permit; and</li> <li>2. For 25 Pa. Code §§ 127.206 through 127.209 (except 127.206(d)(2), 127.207(3)(vii), 127.208 (5), 127.209 ((a) and 127.209 (e)), "Department" shall mean Department as defined under this</li> </ol>

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
	<p style="text-align: center;"><u>Article.</u></p> <p><del>c. d.</del> <b>Reports.</b> Copies of all <u>All applications</u>, notices and reports required to be submitted to the Commonwealth under the applicable state emission reduction credit regulations shall be submitted to the <u>Allegheny County Health</u> Department by the same deadline set forth in such regulations.</p> <p><del>d.</del> <u>3.</u> The notice required by this Section <b>Applications for registration of emission reduction credits</b> shall be accompanied by the payment of a non-refundable verification fee <del>in the amount of \$250</del> payable to the Allegheny County Air Pollution Control Fund. <b>The amount of the fee shall be set by the Board of Health and approved by Allegheny County Council.</b> The Department may prepare a form required to be used in providing the notice required by this Section</p> <p><del>e.</del> <u>5.</u> Within 180 days of receipt of a properly completed notice, with the appropriate fee, the Department shall verify the amount of offsets available, if any, setting forth the amount, location, pollutant characteristics, and the creation date of such offsets, and provide notice to the owner or operator of such verification. The owner or operator of the source affected shall provide the Department with all information, and shall bear the cost of such tests, studies, and the like, as are necessary for such verification.</p> <p><del>f.</del> <u>6.</u> The Department shall then forward such notice and verification to the air quality permitting agency for the Commonwealth of Pennsylvania for registration in the state Emission Reduction Credit registry system.</p> <p><del>g.</del> <u>7.</u> Emission offset credits under this Section shall not be available for use until registered in the state registry system, at which time the existence and availability of such credits becomes subject to the state regulations for registered Emission Reduction Credits promulgated under the Air Pollution Control Act.</p> <p><del>h.</del> <u>e.</u> <b>Transfers.</b> Registered offsets shall only be transferable as provided for under the applicable state regulations, except that offsets created in Allegheny County or to be used in Allegheny County shall be transferable to and from 501(c)(3) non-profit corporations and governmental bodies and authorities for the purpose of facilitating the use of such credits.</p>

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
<p>§ 127.210. Offset ratios.</p>	<p><b>2102.06.b.3 Emission Offsets.</b> The applicant shall demonstrate that it has secured either emission reduction credits from the state ERC registry system or emission reductions from existing sources in the County to offset allowable emissions and fugitive dust emissions from the proposed new source or the proposed modification by at least the ratios set forth below; provided that, in the case of a source to which this Section applies solely because of a significant air quality impact in a nonattainment area, offsets resulting in a net air quality benefit in the affected nonattainment area shall be sufficient.</p> <p><b><u>A. Incorporation by Reference.</u></b> Except as otherwise specifically provided under this Subsection, the state regulations for the use of Emission Reduction Credits and offset ratios promulgated under the Air Pollution Control Act at 25 Pa. Code §§127.206 through 127.210 inclusive, are hereby incorporated by reference into this Subsection. All terms used in 25 PA Code 127.206 through 127.210 inclusive, and defined in 25 PA Code Section 121.1, are incorporated by reference except as explicitly set forth herein. Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.</p> <p><b><u>B. For purposes of this Subsection:</u></b></p> <ol style="list-style-type: none"> <li>1. "Plan approval" shall mean Installation Permit; and</li> <li>2. For 25 Pa. Code §§ 127.206 through 127.210 (except 127.206(d)(2), 127.207(3)(vii), 127.208 (5), 127.209(a) and 127.209 (e)), "Department" shall mean Department as defined under this Article.</li> </ol>
<p>§ 127.211. [Reserved]</p>	<p>2102.06.a.4 reference to 127.211 removed.</p>

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
<p><b>§ 127.212. Portable facilities.</b></p> <p>(a) An owner or operator of a portable SO<sub>x</sub>, PM-10, lead or CO facility subject to this subchapter which will be relocated within 6 months of the commencement of operation to a location within an attainment area which does not have an impact on a nonattainment area at or above the significance levels contained in § 127.203 (relating to facilities subject to special permit requirements) shall be exempt from this subchapter. An owner or operator of a facility which subsequently returns to a location where it is subject to this subchapter shall comply with this subchapter.</p> <p>(b) An owner or operator of a portable VOC or NO<sub>x</sub> facility subject to this subchapter which will be relocated outside of this Commonwealth within 6 months of the commencement of operation shall be exempt from this subchapter. An owner or operator of a facility which subsequently returns to a location in this Commonwealth where it is subject to this subchapter shall comply with this subchapter.</p>	<p><b><u>2102.06.e. Portable facilities. Incorporation by Reference. The state regulations for portable facilities under the Air Pollution Control Act at 25 Pa. Code §§127.212 are hereby incorporated by reference into this Subsection. All terms used in 25 PA Code §§127.212 and defined in 25 PA Code Section 121.1 are incorporated by reference. Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.</u></b></p> <p>2102.06.c. <b>Temporary Sources.</b> Temporary sources shall not be required to comply with <del>Paragraphs b.3 and b.4 above-</del> <b><u>net air quality benefit and offsets requirements.</u></b></p> <p><b>"Temporary source"</b> means a new or modified source whose operating life is limited by a permit condition to no more than two years.</p>
<p><b>§ 127.213. Construction and demolition.</b></p> <p>(a) Emissions from construction or demolition activities will be exempt from § 127.205 (relating to special permit requirements) if BACT is used during the construction or demolition period.</p> <p>(b) Emissions from construction and demolition activities may not be considered under § 127.203a (relating to applicability determination).</p>	<p>2102.04. d. <b>Construction Activities.</b> If construction activities associated with the installation, modification, replacement, reconstruction, or reactivation of any source of air pollution control equipment to which this Article applies involves the grading, excavating, or deposition of earth on one half (0.5) acre of land or more, the application required by this Section shall include a plan for the implementation of all reasonable actions to prevent fugitive dust from becoming airborne. Such plan shall include at a minimum, a description of the nature and scope of the activities involved, fugitive dust control measures to be implemented, and a time schedule on which these measures will be implemented. Such plan shall be reviewed by the Department as part of the permit application review provided for by this Part and, once approved, shall be considered part of the permit issued by the Department.</p> <p><i>(Note: this is required for all installation permits, not just NSR sources.)</i></p>
<p><b>§ 127.214. [Reserved].</b></p>	

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
<p><b>§ 127.215. Reactivation.</b></p> <p>(a) A facility which has been out of operation or production for 1 year or more during the term of its operating permit may be reactivated within the term of its operating permit and will not be considered a new facility subject to this subchapter if the following conditions are satisfied:</p> <p>(1) The permittee shall within 1 year of the deactivation submit in writing to the Department and implement a maintenance plan which includes the measures to be taken, including maintenance, upkeep, repair or rehabilitation procedures, which will enable the facility to be reactivated in accordance with the terms of the permit.</p> <p>(2) The permittee shall submit a reactivation plan at least 30 days prior to the proposed date of reactivation. The reactivation plan shall include sufficient measures to ensure that the facility will be reactivated in compliance with the permit requirements. The permittee may submit a reactivation plan to the Department at any time during the term of its operating permit. The reactivation plan may also be submitted to and approved in writing by the Department as part of the plan approval or permit application process.</p> <p>(3) The permittee shall notify the Department in writing within 1 year of deactivation requesting preservation of the emissions in the inventory and indicating the intent to reactivate the facility.</p> <p>(4) The permittee shall comply with the terms and conditions of the following:</p> <p>(i) Maintenance plan while the facility is deactivated.</p> <p>(ii) Reactivation plan and the operating permit upon reactivation.</p> <p>(5) The permittee with an approved reactivation plan shall notify the Department in writing at least 30 days prior to reactivation of the facility.</p> <p>(b) The Department will approve or disapprove in writing the complete reactivation plan within 30 days of plan submission, unless additional time is required based on the size or complexity of the facility.</p>	<p><b>§2103.13 EXPIRATION, RENEWALS, REACTIVATIONS (This section is written for all operating permits)</b></p> <p>...</p> <p>d. <b>Existing Source Reactivations.</b> During the term of a permit under this Part, a permittee shall not reactivate any source under the permit that has been out of operation or production for a period of one year or more unless the permittee has submitted a reactivation plan request to, and received a written reactivation plan approval from, the Department.</p> <p>1.A reactivation plan request may only be submitted during the term of the applicable operating permit and must be either:</p> <p>A. If the source is reactivated within five (5) years after deactivation, accompanied by the submission to the Department of a Reactivation Plan Request fee in the amount of 25% of the annual application/permit administration fees required for said permit by this Part, but not less than \$50 per permit; or</p> <p>B. If the source is reactivated more than five (5) years after deactivation, accompanied by the submission to the Department of the applicable Installation Permit application fee required by §2102.10.b of this Article; or</p> <p>C. Submitted as part of another application for the same source under Part B or Part C of this Article.</p> <p>2. A reactivation plan may only be approved during the term of the applicable operating permit and shall describe the measures that will be taken to ensure the source will be reactivated in compliance with all applicable permit requirements.</p> <p>3. Unless submitted under subparagraph d.1.B above, the Department shall take action on any reactivation plan request within 30 days of receipt of a complete written request, with the applicable fees, unless the Department determines that additional time is necessary based on the size or complexity of the reactivated source.</p> <p>4. A reactivation plan approval shall automatically expire upon the expiration of the operating permit during the term of which such approval was issued, or ten (10) years after actual deactivation, whichever comes first.</p> <p>5. The reactivation of a source that has been deactivated for more than ten (10) years shall constitute a new source under this Article requiring the issuance of a new source Installation Permit under Part B of this Article prior to reactivation.</p> <p>6. Upon proper application, Operating Permits may be renewed for a source that is deactivated, so long as such source is in compliance with all applicable provisions of this Section. Such renewal shall not constitute authorization to reactivate.</p> <p>7. All sources deactivated for more than one (1) year shall constitute new sources upon reactivation unless such</p>

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
<p>(c) For a facility which is deactivated in accordance with subsection (a), ERCs may be created only if an ERC registry application is filed within 2 years of deactivation.</p>	<p>source:</p> <p>A. By no later than one (1) year following actual deactivation, submits a maintenance plan for the source to be implemented during the period of deactivation and continues to fully comply with all requirements of such plan during deactivation;</p> <p>B. Is in compliance with all other applicable provisions of this Subsection.</p> <p>8. Any reactivation plan issued for a source which has been deactivated for more than five (5) years shall require the implementation of BACT at such source prior to actual reactivation.</p> <p>9. Deactivated sources as of the effective date of this Section shall comply with Subparagraph 7.A of this Subsection by no later than one (1) year after such effective date.</p> <p>AND</p> <p><b>2102.04 INSTALLATION PERMITS</b></p> <p>...</p> <p>g. <b>Term.</b> An Installation Permit shall expire in 18 months if construction has not commenced within such period or shall expire <del>one (1) year</del> <b>18 months</b> after such construction has been suspended, if construction is not resumed within such period. <del>In any event, an Installation Permit shall expire upon completion of construction, except that</del> Installation Permits shall authorize temporary operation to facilitate shakedown of sources and air cleaning devices, to permit operations pending issuance of a related subsequent Operating Permit, or to permit the evaluation of the air contamination aspects of the source. Such temporary operation period shall be valid for a limited time, not to exceed 180 days, but may be extended for additional limited periods, each not to exceed 120 days, except that no temporary operation shall be authorized or extended which may circumvent the requirements of this Article.</p> <p><b><u>For major sources, if the construction, modification or installation is not commenced within 18 months of the issuance of an installation permit or if there is more than an 18-month lapse in construction, modification, or installation, a new installation permit application shall be submitted. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified.</u></b></p>

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
<p><b>§ 127.216. Circumvention.</b></p> <p>Regardless of the exemptions provided in this subchapter, an owner or other person may not circumvent this subchapter by causing or allowing a pattern of ownership or development, including the phasing, staging, delaying or engaging in incremental construction, over a geographic area of a facility which, except for the pattern of ownership or development, would otherwise require a permit or submission of a plan approval application.</p>	<p><del>§2102.06.a.3. -2. Incremental Construction.</del> Where a source is constructed or modified in increments which individually have not met the requirements of this Section, this Section shall apply to all such increments when the sum of emissions from such increments for which an Installation Permit was issued after July 1, 1979, cause such source or modification to become a major source or modification. <b>Circumvention. Regardless of the exemptions provided in this section, an owner or other person may not circumvent this section by causing or allowing a pattern of ownership or development, including the phasing, staging, delaying or engaging in incremental construction, over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a permit or submission of an installation permit application.</b> In determining the LAER standard for such increments, the Department shall consider the stage of construction of each increment and the feasibility of installing additional air pollution controls on each.</p>
<p><b>§ 127.217. Clean Air Act Titles III—V applicability.</b></p> <p>Compliance with this subchapter does not relieve a source or facility from complying with Titles III—V of the Clean Air Act (42 U.S.C.A. § § 7601—7627; 7641, 7642, 7651—7651c; and 7661—7661f), applicable requirements of the act or regulations adopted under the act.</p>	<p>2101.06. b. <b>Provisions Cumulative.</b> 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.</p>
<p><b>§ 127.218. PALs.</b></p>	<p>2102.06 <b>g. PLANTWIDE APPLICABILITY LIMIT (PALs)</b></p> <p><b><u>The Plantwide Applicability Limits (PALs) regulations in 25 Pa. Code § 127.218 are hereby incorporated by reference into this Subsection. All terms used in 25 PA Code § 127.218 and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein. Additions, revisions, or deletions to such regulations by the Commonwealth are incorporated into this Subsection and are effective on the date established by the state regulations, unless otherwise established by regulation under this Article.</u></b></p> <p><b>For purposes of this Subsection:</b></p> <ol style="list-style-type: none"> <li>1. <b><u>Public notification procedures shall follow the requirements of §2102.03, 2103.04, 2102.05, and 2102.06;</u></b></li> <li>2. <b><u>“Plan approval” shall mean Installation Permit; and</u></b></li> <li>3. <b><u>“Department” shall mean the Allegheny County Health Department.</u></b></li> </ol>
<p>Not in Title 25. Requires federal order or fuel curtailment plan to activate.</p>	<p>2102.06.d. <b>Fuel Switches.</b> <del>Notwithstanding the failure of the applicant to comply with Paragraph b.4 above,</del> The Department may issue an Installation Permit for the modification of an existing source which is required to switch fuels pursuant to a federal order or fuel curtailment plan if:</p> <ol style="list-style-type: none"> <li>1. The applicant demonstrates that it has used all best efforts to secure all available offsets; and,</li> </ol>

Pennsylvania Title 25 Subchapter E: New Source Review	ACHD Article XXI Comparable regulations
	2. The applicant is made subject to a permit condition requiring it to use all best efforts to secure additional offsets until the requirements of Paragraph <del>b-4</del> <b>b.3</b> are met.
Not in Title 25. Required by EPA 40CFR51.160.	2102.06.g. <b>Requirements for Modeling.</b> Where air quality models are used to meet the provisions of this Section, modeling shall be based on the applicable models and other requirements specified in 40 CFR Part 51 Appendix W (Guideline on Air Quality Models). Where an air quality model specified in the Guideline on Air Quality Models is inappropriate, the model may be modified or another model may be substituted only on a case-by-case basis at the Department's discretion upon written approval by the Administrator of EPA. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures set forth in 40 CFR 51.102.

**D.**

**Documentation of Public Hearing and Certifications**

1. Public Hearing Notice
2. Proof of Publication of Hearing
3. Notices to US EPA and PA DEP
4. Certification of Hearing
5. Summary of Comments and Responses
6. Certification of Approval and Adoption

NOTICE OF PUBLIC HEARING  
FOR PROPOSED AMENDMENTS TO  
ALLEGHENY COUNTY HEALTH DEPARTMENT RULES AND REGULATIONS  
ARTICLE XXI, AIR POLLUTION CONTROL

The Allegheny County Board of Health will hold a public hearing on **Monday, September 12, 2011**, at **10:00 AM**, Building #7 First Floor Conference Room, Clack Health Center, 301 39th Street, Pittsburgh, PA 15201 to take testimony on the following proposed modifications to Allegheny County Health Department Article XXI and County Ordinance 16782:

Revisions or additions to the Article XXI Sections  
§2101.10 Definitions of major source and major modification  
§2102.04 Installation Permits  
§2102.06 Major Sources Locating in or Impacting a Nonattainment Area  
§2102.08 Emission Offset Registration  
§2105.88 Consumer Products  
§2105.101 Control Of NOx Emissions From Glass Melting Furnaces

As well as a letter modifying Allegheny's County's review of Reasonably Available Control Technology (RACT) plans for the eight-hour ozone standard.

**The proposed changes to §2101.10, §2102.04, §2102.06, and §2102.08 will be incorporated as a revision to Allegheny County's portion of the Pennsylvania State Implementation Plan for New Source Review.**

**The proposed changes to §2105.88 and §2105.101 and the RACT letter will be incorporated as a revision to Allegheny County's portion of the Pennsylvania State Implementation Plan for the control of ozone and particulate matter.**

Copies of the proposed amendments may be examined beginning Wednesday, August 10, 2011, at the Allegheny County Health Department Document Room, Building 7, Clack Health Center, from 8:30 AM until 3:30 PM Monday thru Friday; on the Allegheny County Health Department web site: [www.achd.net](http://www.achd.net); or by calling 412-578-8120 to request a mailed printed copy.

Oral testimony must be pre-scheduled by calling 412-578-8008 no less than 24 hours in advance of the public hearing. Speakers will be limited to five minutes and should bring a written copy of their comments.

The Board will accept written testimony beginning **Wednesday, August 10, 2011**, and concluding **Monday, September 12, 2011**, by mail to:

Board of Health  
3333 Forbes Avenue  
Pittsburgh, PA 15213  
By email to BOH@achd.net  
By Fax to 412-578-8325

No. \_\_\_\_\_ Term, \_\_\_\_\_

**Proof of Publication of Notice in Pittsburgh Post-Gazette**

Under Act No 587, Approved May 16, 1929, PL 1784, as last amended by Act No 409 of September 29, 1951

Commonwealth of Pennsylvania, County of Allegheny, ss K. Flaherty, being duly sworn, deposes and says that the Pittsburgh Post-Gazette, a newspaper of general circulation published in the City of Pittsburgh, County and Commonwealth aforesaid, was established in 1993 by the merging of the Pittsburgh Post-Gazette and Sun-Telegraph and The Pittsburgh Press and the Pittsburgh Post-Gazette and Sun-Telegraph was established in 1960 and the Pittsburgh Post-Gazette was established in 1927 by the merging of the Pittsburgh Gazette established in 1786 and the Pittsburgh Post, established in 1842, since which date the said Pittsburgh Post-Gazette has been regularly issued in said County and that a copy of said printed notice or publication is attached hereto exactly as the same was printed and published in the regular editions and issues of the said Pittsburgh Post-Gazette a newspaper of general circulation on the following dates, viz:

**08 of August, 2011**

Affiant further deposes that he/she is an agent for the PG Publishing Company, a corporation and publisher of the Pittsburgh Post-Gazette, that, as such agent, affiant is duly authorized to verify the foregoing statement under oath, that affiant is not interested in the subject matter of the afore said notice or publication, and that all allegations in the foregoing statement as to time, place and character of publication are true.

**COPY OF NOTICE OR PUBLICATION**

**NOTICE OF PUBLIC HEARING FOR PROPOSED AMENDMENTS TO ALLEGHENY COUNTY HEALTH DEPARTMENT RULES AND REGULATIONS ARTICLE XXI AIR POLLUTION CONTROL**

The Allegheny County Board of Health will hold a public hearing on Monday, September 12, 2011, at 10:00 AM, Building #7 First Floor Conference Room, Clack Health Center, 301 39th Street, Pittsburgh, PA 15201 to take testimony on the following proposed modifications to Allegheny County Health Department Article XXI and County Ordinance 1678Z:

Revisions or additions to the Article XXI Sections:

- \$2101.10 Definitions of major source and major modification
- \$2102.04 Installation Permits
- \$2102.06 Major Sources Locating in or Impacting a Nonattainment Area
- \$2102.08 Emission Offset Registration
- \$2105.98 Consumer Products
- \$2105.101 Control Of Air Emissions From Glass Melting Furnaces

As well as a letter modifying Allegheny's County's review of Reasonably Available Control Technology (RACT) plans for the eight-hour ozone standard.

The proposed changes to § 2101.10, § 2102.04, § 2102.06, and § 2102.08 will be incorporated as a revision to Allegheny County's portion of the Pennsylvania State Implementation Plan for New Source Review.

The proposed changes to § 2105.98 and § 2105.101 and the RACT letter will be incorporated as a revision to Allegheny County's portion of the Pennsylvania State Implementation Plan for the control of ozone and particulate matter.

Copies of the proposed amendments may be examined beginning Wednesday, August 10, 2011, at the Allegheny County Health Department Document Room, Building 7, Clack Health Center, from 8:30 AM until 3:30 PM Monday thru Friday; on the Allegheny County Health Department web site: [www.achd.net](http://www.achd.net); or by calling 412-578-8120 to request a mailed printed copy.

Oral testimony must be pre-scheduled by calling 412-578-8008 no less than 24 hours in advance of the public hearing. Speakers will be limited to five minutes and should bring a written copy of their comments.

The Board will accept written testimony beginning Wednesday, August 10, 2011, and concluding Monday, September 12, 2011, by mail to:

Board of Health  
3333 Forbes Avenue  
Pittsburgh, PA 15213  
By email to: [BOH@achd.net](mailto:BOH@achd.net)  
By Fax to: 412-578-8325

K. Flaherty  
PG Publishing Company  
Sworn to and subscribed before me this day of August 08, 2011

Linda M. Gaertner  
COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Linda M. Gaertner, Notary Public  
City of Pittsburgh, Allegheny County  
My Commission Expires Jan. 31, 2015  
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

**STATEMENT OF ADVERTISING COSTS**  
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To PG Publishing Company  
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**Publisher's Receipt for Advertising Costs**

PG PUBLISHING COMPANY, publisher of the Pittsburgh Post-Gazette, a newspaper of general circulation, hereby acknowledges the receipt of the aforesaid advertising and publication costs and certifies that the same have been fully paid.

PG Publishing Company, a Corporation, Publisher of Pittsburgh Post-Gazette, a Newspaper of General Circulation

By \_\_\_\_\_

I hereby certify that the original Proof of Publication and receipt for the Advertising costs in the subject matter of said notice.

\_\_\_\_\_  
Attorney For

# Allegheny County Health Department

## DIRECTOR

Bruce W. Dixon, M.D.



## AIR QUALITY PROGRAM

301 39<sup>th</sup> Street – Bldg. #7  
Pittsburgh, PA 15201-1891

Phone: (412) 578-8115  
Fax: (412) 578-8144

## BOARD OF HEALTH

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Hon. Joan Cleary, R.N.  
James M. Flynn, Jr.  
William Youngblood

August 3, 2011

Ms. Joyce Epps, Director  
Department of Environmental Protection  
Bureau of Air Quality  
Rachel Carson Building  
400 Market Street, P.O. Box 8468  
Harrisburg, PA 17105-8468

Dear Ms. Epps:

Enclosed is a Notice of Public Hearing scheduled to occur on September 12, 2011, regarding proposed revisions to Allegheny County's portion of the Pennsylvania State Implementation Plans (SIPs), for (1) New Source Review and (2) the control of ozone and particulate matter. These SIP revisions are being tracked as our Revision Tracking Numbers 66 and 70, respectively.

Item (1) related regulatory changes include revising the definition of "major source" in light of the EPA Greenhouse Gas Tailoring Rule, and revising Article XXI non-attainment NSR regulations in response to EPA promulgated NSR regulation changes.

Item (2) related regulatory changes include the addition of new regulations in Article XXI for the control of VOC content in consumer products, and the control of NOx emissions from glass melting furnaces. Additionally, Item (2) includes a letter modifying Allegheny County's review of Reasonably Available Control Technology (RACT) for the 8-hr ozone standard.

Your comments are welcome.

Sincerely,

James E. Thompson  
Manager

cc: Arleen Shulman  
Steve Hepler

## Enclosures

- Public Hearing Notice
- Proposed SIP Revisions 66 and 70

# Allegheny County Health Department

## DIRECTOR

Bruce W. Dixon, M.D.



Ms. Diana Esher, Director  
Air Protection Division  
Region III (3AP00)  
U.S. Environmental Protection Agency  
1680 Arch Street  
Philadelphia, PA 19103-2029

## AIR QUALITY PROGRAM

301 39<sup>th</sup> Street – Bldg. #7  
Pittsburgh, PA 15201-1891

Phone: (412) 578-8115  
Fax: (412) 578-8144

August 4, 2011

## BOARD OF HEALTH

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Al M. Ahmed, P.E.  
Rev. Ricky V. Burgess  
Donald S. Burke, M.D.  
Hon. Joan Cleary, R.N.  
James M. Flynn, Jr.  
William Youngblood

Dear Ms. Esher:

Enclosed is a Notice of Public Hearing scheduled to occur on September 12, 2011, regarding proposed revisions to Allegheny County's portion of the Pennsylvania State Implementation Plans (SIPs), for (1) New Source Review and (2) the control of ozone and particulate matter. These SIP revisions are being tracked as our Revision Tracking Numbers 66 and 70, respectively.

Item (1) related regulatory changes include revising the definition of "major source" in light of the EPA Greenhouse Gas Tailoring Rule, and revising Article XXI non-attainment NSR regulations in response to EPA promulgated NSR regulation changes.

Item (2) related regulatory changes include the addition of new regulations in Article XXI for the control of VOC content in consumer products, and the control of NOx emissions from glass melting furnaces. Additionally, Item (2) includes a letter modifying Allegheny County's review of Reasonably Available Control Technology (RACT) for the 8-hr ozone standard.

Your comments are welcome.

Sincerely,

James E. Thompson  
Manager

## Enclosures

- Public Hearing Notice
- Proposed SIP Revision 66
- Proposed SIP Revision 70

Revision 66

SIP Submittal for  
Definition of Major Source and New Source Review Regulations (NSR)

Certification of Hearing

Alaina Conner deposes and says that she is the Pollution Prevention and Outreach Coordinator for the Air Quality Program of the Allegheny County Health Department and hereby certifies that a Public Hearing was held on September 12, 2011 on the proposed amendment to the County's portion of the Pennsylvania State Implementation Plan that would revise the Article XXI definition of Major Source found at §2101.20, and the Article XXI New Source Review regulations of §§2102.04, 2102.06 & 2102.08; that the opportunity for written comments was given in accordance with the requirements of 40 CFR 51.102; that notice of such hearing was given by publication in a newspaper of general circulation on August 8, 2011; and to the best of her knowledge, belief and understanding, such proceedings were in full compliance with all applicable State and Federal laws, regulations, and other requirements.



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Alaina Conner,  
Pollution Prevention & Outreach Coordinator  
Air Quality Program  
Allegheny County Health Department

\_\_\_\_\_  
4/30/12  
Date

**Comment and Response Document For  
Amendment to Definition of Major Source and the New Source Review  
Regulations**

**Comment 1:**

The change to Article XXI regarding the definition of major source is not correct. Correct language must mirror the definition of major source in 40 CFR 70.2 .

**Commentator: Paul T. Wentworth P.E., Environmental Protection Agency.**

**Response:**

**ACHD will be no longer be using this term for New Source Review (see the response to comment 4.) The ACHD definition and EPA definition are in parallel for the purposes of operating permits. The only significant difference is for the purpose of the proposed change, to clarify that ACHD may access the Tailoring Rule.**

**Comment 2:**

Pennsylvania Department of Environmental Protection (PADEP) revised their regulation, section 127.201 (relating to general requirements), which contains a subparagraph providing that facilities located in Bucks, Chester, Delaware, Montgomery or Philadelphia County that emit or have the potential to emit at least 25 TPY of VOCs or NOx will be considered a major facility and be subject to the requirements applicable to a major facility located in a "severe" nonattainment area of ozone. Allegheny County Health Department (the Department) has incorporated the entire regulation by reference. ACHD must explicitly state that this subparagraph does not apply and cite the location.

**Commentator: Paul T. Wentworth P.E., Environmental Protection Agency.**

**Response:**

**Article XXI has no authority beyond the boundaries of Allegheny County. Specifically excluding the reference to this subparagraph from the larger referenced PA Title 25 section may raise difficulties in the future, if the state adds or subtracts from the subparagraph, or if the County would become a "severe" nonattainment area in the future. However, in the interest of clarity, ACHD will state that this subparagraph does not apply.**

**Comment 3:**

25 PA Code, Section 127.203 was revised by PADEP and includes provisions that would apply to an owner or operator of a facility located in Bucks, Chester, Delaware, Montgomery or Philadelphia County. ACHD has incorporated the entire regulation by reference. ACHD must explicitly state that this subparagraph does not apply and cite the location.

**Commentator: Paul T. Wentworth P.E., Environmental Protection Agency.**

**Response:**

**Article XXI has no authority beyond the boundaries of Allegheny County. Specifically excluding this subparagraph from the larger referenced PA Title 25 section may raise difficulties in the future, if the state adds or subtracts from the subparagraph. However, in the interest of clarity, ACHD will state that this subparagraph does not apply.**

**Comment 4:**

The proposed ACHD regulation 2102.06 contains language which uses the term "major source". Regulation 2102.06 incorporates by reference the procedures in 25 PA Code Section 127.203 which must be followed to determine if the modification is a major source. The term "major source" is defined in ACHD regulation 2101.20 but is not defined in 25 PA Code 121.1. 127.203 refers to the term: "major facility" as defined in 25 PA Code 121.1. The definitions of "major facility" and "major source" are different. The language in this proposed regulation must make clear that the term "major facility" will be used in place of "major source".

**Commentator: Paul T. Wentworth P.E., Environmental Protection Agency.**

**Response:**

**ACHD agrees. The term "major source" in 2102.06 will be replaced with "major facility, as defined by 25 PA Code 121.1."**

**Comment 5:**

ACHD regulation 2102.06.a uses the term "major new source" which is not defined in any part of Article XXI. ACHD has a definition for "major source". The language must be changed to "new major source".

**Commentator: Paul T. Wentworth P.E., Environmental Protection Agency.**

**Response:**

**ACHD agrees. The term "major new source" will now read "new major facility." See comment 4.**

**Comment 6:**

In general EPA cannot approve the language throughout the proposed regulation that incorporates PADEP's NSR regulations as it stands because it is ambiguous. ACHD must specify in their regulatory language what related terms are incorporated by reference with PADEP regulations. ACHD must make it clear up front that the terms associated with the specific PADEP regulatory section are incorporated by reference and are used in lieu of similar terms found in Article XXI, Chapter 2101.20.

**Commentator: Paul T. Wentworth P.E., Environmental Protection Agency.**

**Response:**

**In each instance that the proposed regulation references a state regulation, the redirection to state definitions have been changed to read similar to the following:**

**“All terms used in 25 PA Code 127.203, and defined in 25 PA Code Section 121.1 are incorporated by reference, except as explicitly set forth herein.” statements. By this statement, all definitions used by the reference sections are to be defined by the definitions found in the Pennsylvania regulations, rather than those definitions found within Article XXI, excepting the few that are specifically listed.**

**If, instead, a list of words to be defined were included, an affected source would find the need to search the entire regulation for any words not included in the list. By making the reference inclusive, this is not necessary. In addition, each time the state were to make changes in the referenced regulation, ACHD would need to correct the list, delaying implementation of the changes and causing confusion in the duration.**

**ACHD agrees that there may be some confusion with part of the proposed regulation that says “which are hereby incorporated by reference into this Article.” ACHD will replace “into this Article” with “into this Subsection.” This will clarify that the referenced regulation and its related definitions only apply for the specific subsection, and do not supercede Article XXI regulations and definitions elsewhere.**

**Comment 7:**

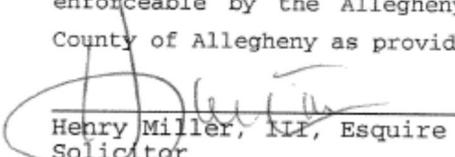
25 PA Code 127.13(b) has been amended to provide that the Department may extend the 18-month period to construct, modify or install an air contamination source under a valid plan approval upon a satisfactory showing that an extension is justified. This revision has been made to ensure consistency between the Pennsylvania and Federal programs. ACHD did not address this in this proposed SIP revision.

**Commentator: Paul T. Wentworth P.E., Environmental Protection Agency.**

**Response: A change has been made to add the 18-month extension.**

**CERTIFICATION of APPROVAL and ADOPTION**

To the best of my knowledge, information, and belief, I the undersigned hereby certify that the amendments to Sections 2101.10, 2102.04, 2102.06 and 2102.08 of Article XXI, Rules and Regulations of the Allegheny County Health Department, Air Pollution Control, and Ordinance No. 16782 of the County of Allegheny, adopted by the Allegheny County Board of Health on November 30, 2011, enacted by the Allegheny County Council on March 20, 2012 (Ordinance 05-12-OR), approved by the Allegheny County Chief Executive on March 23, 2012, and effective April 3, 2012, as a revision to the County's Portion of the Pennsylvania State Implementation Plan for the Attainment and Maintenance of the National Ambient Air Quality Standards, was duly and properly enacted as prescribed by the Local Health Administration Law and the Second Class Charter Law, and as such, are fully and legally enforceable by the Allegheny County Health Department and the County of Allegheny as provided for by the within authority.

  
Henry Miller, III, Esquire  
Solicitor  
Allegheny County Health Department

COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF ALLEGHENY ) S.S. \_\_\_\_\_

On the 27th day of April, 2012,

Henry Miller, III personally appeared before me, the undersigned authority, satisfactorily proven to me to be the person whose name appears above, and did in my presence execute the above certification for the purposes contained therein.

WHEREFORE, I have hereunto set my hand and official seal the 27th day of April, 2012.

