



# ENFORCEMENT ORDER

## Allegheny County Health Department

### Air Quality Program

301 39th Street, Bldg. # 7, Pittsburgh, PA 15201

Phone: (412) 578-8103

Address of Alleged Violation  
40th St. Bridge at SR4009/SR2124 (Rt. 28 Ramps)

Name of Alleged Violator #1  
Pittsburgh Water and Sewer Authority

Address of Alleged Violator #1  
1200 Penn Ave., Pittsburgh, PA 15222

Contact Person #1 Frank Sidari	Title	Phone Number 412-529-0217	Email fsidari@pgh2o.com
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Name of Alleged Violator #2  
Structural Preservation Systems, LLC

Address of Alleged Violator #2  
6955 San Tomas Rd., Elkridge, MD 21075

Contact Person #2 Adrian Muela	Title	Phone Number 832-473-8568	Email amuela@structuraltec.com
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#### PART 1: DESCRIPTION OF INSPECTION(s)

On Thursday, May 4, 2023, a representative of Allegheny County Health Department’s (“ACHD” or the “Department”) Air Quality Program contacted a Project Engineer for Pittsburgh Water and Sewer Authority (“PWSA”) via phone regarding Abrasive Blasting activities that were observed on the 40<sup>th</sup> Street Bridge near State Route 28 in Allegheny County. The ACHD representative gave PWSA’s Project Engineer contact information for the ACHD inspector assigned to investigate the project and told them to contact the inspector the next morning with project details. By Friday, May 5, 2023, PWSA had not contacted ACHD. Also on May 5, 2023, two ACHD inspectors undertook an inspection of the 40<sup>th</sup> Street Bridge site. During the inspection, PWSA and the abrasive blasting contractor stated that they were aware of the May 4 phone conversation, and that they had not submitted any project information to ACHD. ACHD then advised PWSA and their abrasive blasting contractor, Structural Preservation Systems, to voluntarily stop work. Work was not stopped. All blasting was completed prior to the submittal of abrasive blasting notification paperwork.

PWSA submitted a retroactive notification on Friday, May 12<sup>th</sup>, 2023, after all blasting work was completed. The notification paperwork indicated that the blasting project ran from May 4<sup>th</sup> through May 8<sup>th</sup>, 2023. PWSA and Structural Preservation Systems completed a regulated abrasive blasting project of greater than 1,000 square feet but less than 10,000 square feet without notifying ACHD prior to the actual start date.

Did the individual/company cooperate with ACHD personnel? If not, explain:	Yes
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Inspection Date(s) May 5 <sup>th</sup> , 2023	Inspector Name(s) Laura Grada, James Bollinger
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**PART 2: YOU ARE IN VIOLATION OF THE FOLLOWING REGULATION(S):**

<b>1</b>	Regulation Section <b>2105.51</b>	Regulation Requirement <b>No person shall conduct abrasive blasting of any surface or structure with a total area greater than 1,000 square feet without properly submitting a notice to the Department. For projects greater than 1000 but less than 10,000 sq ft, the notification must be submitted 30 days prior to the actual start date.</b>
	Description of Violation <b>Notification was received 8 days after the start date, as opposed to the 30 days prior that is required.</b>	
	What You Must Do to Correct the Violation <b>Submit all future required abrasive blasting notifications/permit applications in advance, adhering to requirements of 2105.51</b>	

**PART 3: YOU ARE HEREBY ORDERED AS FOLLOWS:**

**Immediately stop all work and/or cease operations at the following location(s):**  
\_\_\_\_\_

**You are hereby Ordered to correct the violations(s) listed in Part 2 within \_\_\_\_\_ days of the service of this Enforcement Order.**

**You are hereby Ordered to comply with the following requirements within \_\_\_\_\_ days of the service of this Enforcement Order:**  
\_\_\_\_\_

**The Order(s) in this Part is enforceable upon issuance and any appeal shall not act as a stay.** The Order(s) shall remain in effect until you are notified in writing by the Department. Please contact the ACHD Air Quality Program at (412) 578-8103 to arrange for a reinspection or to request that the Order(s) be rescinded.

**Please be advised that failure to comply with this Order within the times specified herein is a violation of Article XXI giving rise to the remedies provided by Article XXI § 2109.02 including civil penalties of up to \$25,000 per violation per day.**

**PART 4: CIVIL PENALTY**

**For the violations listed in Part 2, you are hereby assessed a civil penalty of \$ \$585.00.** The determination of the civil penalty is attached as **Exhibit No. 1** and is incorporated as part of this Enforcement Order.

Please be aware that if the Department did not assess a civil penalty, the Department may issue a subsequent enforcement order in which a civil penalty is assessed.

You shall pay the civil penalty amount within thirty (30) days of receipt of this Order. Payment shall be made by corporate or certified check, or the like, made payable to the "Allegheny County Clean Air Fund", and sent to Air Quality Program Manager, Allegheny County Health Department, 301 39th Street, Bldg. #7, Pittsburgh, PA 15201.

**PART 5: REQUEST FOR ADMINISTRATIVE HEARING**

Pursuant to Article XI, § 1104.A ("Hearings and Appeals"), of the Allegheny County Health Department Rules and Regulations, you are notified that if you are aggrieved by this Order, a Notice of Appeal shall be filed no later than thirty (30) days after receipt of written notice or issuance of this Order. Such a Notice of Appeal shall be filed in the Office of the Director at 542 Fourth Avenue, Pittsburgh, PA 15219.

This Order is enforceable upon issuance and any appeal of this Order shall not act as a stay unless the Director of the ACHD so orders. In the absence of a timely appeal, the terms of this Order shall become final.

Please be aware that if you wish to appeal this Order and a civil penalty has been assessed under Part 4, you are required within 30 days of receipt of this Order to either forward the penalty amount to the ACHD for placement in an escrow account or post an appeal bond to the ACHD in the amount of the penalty. Failure to forward the money or the appeal bond at the time of the appeal shall result in a waiver of all legal rights to contest the violation or the amount of the civil penalty unless you allege financial inability to prepay the penalty or to post the appeal bond. If you allege financial inability to prepay or post, then you have the burden to prove it. Please review the specific requirements for prepaying the penalty or posting the appeal bond found in Article XXI § 2109.06.a.2-3.

A copy of Article XXI and Article XI may be found at <https://www.alleghenycounty.us/Health-Department/Health-Department-Regulations.aspx>.



\_\_\_\_\_  
Allason Holt  
Air Quality Program Manager

\_\_\_\_\_  
11/1/2023

\_\_\_\_\_  
Date

## EXHIBIT NO. 1

### CIVIL PENALTY DETERMINATION AND CALCULATION

**PURPOSE:** The primary purpose for assessing civil penalties is to deter future violations not only at the specific facilities that are involved in the enforcement actions taken by the Department, but also at all the facilities within Allegheny County that are subject to the Article XXI regulations. In order to achieve the goal of deterrence, a civil penalty should remove any significant economic benefit resulting from noncompliance and include an amount beyond recovery of the economic benefit to reflect the seriousness of the violation.

**CIVIL PENALTY FACTORS:** The ACHD has determined the civil penalty to be in accordance with Article XXI, § 2109.06.b, reflecting relevant factors including, but not limited to: the nature, severity and frequency of the alleged violations; the maximum amount of civil and criminal penalties authorized by law; the willfulness of such violations; the impact of such violations on the public and the environment; the actions taken by the violator to minimize such violations and to prevent future violations; and the violator's compliance history.

**CIVIL PENALTY FORMULA:** The following calculation is used to assess the civil penalty:

$$\text{Civil Penalty} = (\text{Gravity Based Component} \times \text{Adjustment Factor}) + \text{Economic Benefit} + \text{Cost to the Department} + \text{Additional Deterrent Penalty}$$

**Gravity Based Component:** A gravity based component reflects the potential harm that the violation may have on the public or environment and the severity of the violation.

**Adjustment Factor:** The gravity based component may be adjusted for factors and circumstances unique to the violator. These adjustment factors include the violators degree of cooperation with the ACHD during the investigation, the compliance history of the violator, the degree of willfulness that violator exhibited with regard to the violation, the size of the violator, and whether the violator is a Title V source or a Synthetic Minor source.

**Economic Benefit:** This component is a measure of the economic benefit gained by the violator as a result of noncompliance with the regulatory, statutory, or permit requirements.

**Cost to the Department:** Extra monetary costs for the investigation and preparation of the case, such as source sampling costs and laboratory costs, may be identified and added to the adjusted civil penalty.

**Additional Deterrent Penalty:** An additional deterrent penalty may be assessed if justified by the circumstances of the case.

**CIVIL PENALTY CALCULATION**

**A. Gravity Based Component**

Violation	Gravity Based Penalty	Violation Days	Total Gravity Penalty
Article XXI § 2105.51	\$900.00	5	\$900.00
	\$		\$
	\$		\$
	\$		\$
<b>Gravity Component Total</b>			<b>\$900.00</b>

B. <u>Adjustment Factors</u>	Factor	Adjustment Amount
Degree of Cooperation: <i>Work not voluntarily stopped when notified. Notification submitted after work was finished.</i>	0.1	\$90.00
Compliance History:		\$
Degree of Willfulness:		\$
Size of Violator: Governmental Agency	-0.45	-\$405.00
Title V source or a Synthetic Minor source:		\$
<b>Adjustment Factors Total</b>		<b>\$315.00</b>

C. <u>Other Adjustments</u>		
Economic Benefit:	\$	
Cost to the Department:	\$	
Additional Deterrent Penalty:	\$	
<b>Other Adjustments Total</b>		<b>\$</b>

<b>TOTAL CIVIL PENALTY</b>	<b>\$585.00</b>
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