



# ENFORCEMENT ORDER

## Allegheny County Health Department

### Air Quality Program

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

Phone: (412) 578-8103

Address of Alleged Violator 621 – 623 Lincoln Ave, Pittsburgh, PA 15206			
Name of Alleged Violator Hepler Acquisitions, LLC			
Address of Alleged Violator 476 Weaver Mill Road, Rector, PA 15677-1641			
Contact Person Clayton Hepler	Title Owner	Phone Number 724-708-6677	Email claytonhepler96@gmail.com

#### PART 1: DESCRIPTION OF INSPECTION(S)

Allegheny County Health Department (ACHD) Representatives responded to a complaint regarding renovations in a NESHAP regulated building at 621-623 Lincoln Ave, Pittsburgh, PA 15206. On 4/28/2022, ACHD Representatives conducted an inspection and determined that renovations were occurring at 621-623 Lincoln Ave. ACHD Representatives requested the facility’s asbestos survey from the workers on site, who contacted a representative from the facility’s contractor, Family Decorations, Inc. who reported that the facility did not have an asbestos survey for 621-623 Lincoln Ave. An Administrative Field Order was issued to the contractor and the building owner on May 11, 2022, requiring renovation work to stop, completion of an asbestos survey including bulk sampling, dusk samples, air samples, a scope of planned and completed renovations, and a copy of waste manifests be submitted to ACHD by May 18, 2022. The facility’s owner, Clayton Hepler, communicated to ACHD on May 26, 2022, that a firm was contracted to perform sampling. The required samples were taken May 31, 2022. The required report was submitted June 22, 2022, after multiple requests from the Department. The survey showed the presence of asbestos containing building materials that were not disturbed as part of the renovation. The renovation was permitted to proceed as the requirements of the Administrative Field Order were completed.

Did the individual/company cooperate with ACHD personnel? If not, explain:	No. Owner and contractor questioned process, required analysis, and timeframe. The final survey was submitted more than a month past the required date after multiple requests and a warning of another order to submit the documentation.
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Inspection Date(s) 04/28/2022	Inspector Name(s) Aaron Makatura
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#### PART 2: YOU ARE IN VIOLATION OF THE FOLLOWING REGULATION(S):

	Regulation Section	Regulation Requirement
	<b>2105.62.b 40 CFR §61.145(b)</b>	<b>Failure to perform an asbestos survey prior to demolition or renovation. No asbestos survey/report is available upon request during renovations.</b>
<b>1</b>	Description of Violation <b>Survey requested 04/28/2022 during inspection. No survey was available. Stop Work Order issued 05/11/2022 requiring of a through asbestos report for bulk sampling of remaining materials, three (3) interior dust samples, analysis of five (5) representative air TEM samples, scope of completed demolition/renovation work and copies of waste manifests from all removed material withing seven (7) days of this order.</b>	
	What You Must Do to Correct the Violation <b>Asbestos bulk, air and dust samples were collected. Abate asbestos containing building materials if they will be disturbed by renovation. Perform asbestos survey prior to any future commercial renovations.</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 \$ 1,625.00.** 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>.



\_\_\_\_\_  
Air Quality Program Manager

03/08/2023

\_\_\_\_\_  
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 violator's 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**

<b>Violation</b>	<b>Gravity Based Penalty</b>	<b>Violation Days</b>	<b>Total Gravity Penalty</b>
Failure to perform asbestos survey prior to renovation (§2105.62.b.5)	\$2,500.00	1	\$2,500.00
	\$		\$
	\$		\$
	\$		\$
<b>Gravity Component Total</b>			<b>\$2,500.00</b>

<b>B. Adjustment Factors</b>	<b>Factor</b>	<b>Adjustment Amount</b>
Degree of Cooperation: Failed to meet any deadlines in Field Order	0.1	250.00\$
Compliance History:		\$
Degree of Willfulness:		\$
Size of Violator: 2 employees, 3 properties	-0.45	-1,125.00\$
Title V source or a Synthetic Minor source:		
<b>Adjustment Factors Total</b>		<b>-\$875.00</b>

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

<b>TOTAL CIVIL PENALTY</b>	<b>\$1,625.00</b>
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