



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			
1010 Delafield Road, Pittsburgh, PA 15215			
Name of Alleged Violator			
D&M Painting Corporation			
Address of Alleged Violator			
1500 Amity Ridge Road, Washington, PA 15301			
Contact Person	Title	Phone Number	Email
Stephanie Holland	General Manager	724-229-0440	stephanie@dmpaintingcorp.com

PART 1: DESCRIPTION OF INSPECTION(S)

On February 18, 2022, the Allegheny County Health Department (“ACHD”) issued abrasive blasting permit AB22-07 approving the removal of 18,900 square feet of paint and rust from a 250,000 gallon pedestal water tank located at 1010 Delafield Road, Pittsburgh, PA 15215. AB22-07 contained permit conditions stating “Class 2 Containment permitted. If fugitive emissions are observed from the partially sealed entryway, a class 1a containment will be required. Any fugitive emissions observed by ACHD shall result in a fugitive emissions control equipment action/ compliance plan. Air monitoring results shall be sent to ACHD on a two week rolling basis. Lead in soil test required prior to abrasive blasting work commencing. Any fugitive emissions observed by ACHD shall result in a fugitive emissions control equipment action/ compliance plan. Owner/ contractor shall notify ACHD for setup.”

On May 13, 2022, ACHD emailed a representative from D&M Painting Corporation requesting verification that the abrasive blasting work in the permit had been conducted. Justee Kinney of D&M Painting Corporation (“D&M”) reported that the project was complete and provided post soil testing results. ACHD determined that D&M had completed the work without properly notifying ACHD of setup or conducting the ambient air monitoring as required by permit conditions listed in AB22-07.

Did the individual/company cooperate with ACHD personnel? If not, explain:	Yes
Inspection Date(s)	Inspector Name(s)

PART 2: YOU ARE IN VIOLATION OF THE FOLLOWING REGULATION(S):

	Regulation Section	Regulation Requirement
1	§2105.51.i.1	No person shall conduct any abrasive blasting activities requiring a permit under this Subpart unless, following completion of the full set-up and preparation of the work area, the Department is notified of such completion of set-up and preparation
	Description of Violation D&M Painting Corporation failed to notify ACHD of set-up for abrasive blasting activities.	
	What You Must Do to Correct the Violation Notify ACHD of the start of any future permitted abrasive blasting work.	
2	§2105.51.i.2	The owner or operator shall notify the Department of the date on which all abrasive blasting and clean-up activities have been finally completed at a site no later than 24 hours after such date.

	Description of Violation D&M Painting Corporation failed to notify ACHD of completion of abrasive blasting activities.	
	What You Must Do to Correct the Violation Notify ACHD of completion of any future permitted abrasive blasting projects.	
3	Regulation Section §2105.51.j	Regulation Requirement If the Department determines, on the basis of any information available to it, that emissions or potential emissions from any proposed or existing abrasive blasting operation may be reasonably anticipated to have a potentially adverse impact upon public health, safety, or welfare, the Department may, by order or permit condition, require the owner or operator to implement ambient air quality monitoring programs during the abrasive blasting operation and to submit the monitoring results to the Department as expeditiously as possible.
	Description of Violation D&M Painting Corporation failed to conduct the ambient air monitoring required in the permit conditions.	
	What You Must Do to Correct the Violation Follow all future permit conditions including use of air monitoring if required.	

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 violation(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 \$ 1,485.00.
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. 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

10/11/2023

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
Failure to notify ACHD of abrasive blasting set-up (§2105.51.i.1)	\$400.00	1	\$400.00
Failure to notify ACHD of abrasive blasting completion (§2105.51.i.2)	\$400.00	1	\$400.00
Ambient air monitoring noted in conditions not conducted (§2105.51.j)	\$2,500.00	1	\$2,500.00
Gravity Component Total			\$3,300.00

B. <u>Adjustment Factors</u>	Factor	Adjustment Amount
Degree of Cooperation:	0.3	-\$990.00
Compliance History:	0	\$0
Degree of Willfulness:	0	\$0
Size of Violator:	0.25	-\$825.00
Title V source or a Synthetic Minor source:	0	\$0
Adjustment Factors Total		-\$1,815.00

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

TOTAL CIVIL PENALTY	\$1,485.00
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