

ALLEGHENY COUNTY HEALTH DEPARTMENT

Rules and Regulations

ARTICLE XVI. ENVIRONMENTAL HEALTH CIVIL PENALTIES

1601: PURPOSE

The purpose of this Article is to create an ACHD mechanism to accept and expend funds generated by activities of the Bureau of Environmental Quality in the areas of Solid Waste, Water Pollution, and Drinking Water as well as to create a county health department mechanism to deal with violations of certain county environmental health regulations and state laws expeditiously and without resorting to litigation where circumstances dictate and law or regulation allows such action.

1602: INTENT

The intent of this regulation is to provide additional cumulative remedies and processes and in no way is to be construed as replacing, revoking, or supplanting any existing remedy, law or regulation.

1603: DEFINITION

- A) Department. The term "Department" shall mean the Allegheny County Health Department.
- B) Director. The term "Director" shall mean the Director of the Allegheny County Health Department or his/her authorized representative.
- C) Person. The term "Person" shall mean a natural person, corporation, municipality, partnership association, institution, cooperative enterprise of legal entity.
- D) Date of Notification. "Date of Notification" shall mean the actual date of receipt of a notice from the Department or either the date of mailing via the United States postal service, whichever is earlier.

1604: This article shall apply to all civil penalties initiated by ACHD under Article II, "Health Department Permit"; Article III, "Restaurants and Eating Establishments"; Article IV, "General Food"; Article VI, "Houses and Rooming Houses"; Article VIII, "Solid Waste Management"; Article IX, "Lifeguards"; Article XII, "Prevention of Sale, Installation, and Use of Unventable Gas Room Heaters and Unapproved Gas Appliances"; Article XIV, "Sewage Disposal"; and Article XV, "Plumbing".

- A) This article may be utilized to assess and utilize civil penalties initiated and obtained via ACHD enforcement and administration under state environmental statutes and minimum program standards, 28 PA Code, Chapter 17.

1605: A) The Director may assess a civil penalty against any person for a violation of any ACHD Article as provided herein.

- B) The Director may assess a civil penalty against such person whether or not the violation is willful. The penalty so assessed shall not exceed ten thousand dollars (\$10,000.00) plus up to two thousand five hundred dollars (\$2,500.00) for each day of continued or repeated violation.

- C) Penalty Determination: In determining the amount of civil penalties to be assessed, the Director shall consider the economic benefit gained by such person by failing to comply with the Article, the willfulness of the violation, the actual and potential harm to the public health, safety and welfare and to the environment, the nature, frequency and magnitude of the violation, and any other relevant factors.

D) Penalty Payments. Civil penalties assessed by the Director shall be payable to Allegheny County and shall be collectable in any manner provided at law for the collection of debt. If any person fails to pay such penalty after such assessment has become final, the amount of such penalty together with interest from the date of demand and any costs which may accrue shall be a lien in favor of Allegheny County upon the real and personal property of such person, but only after the penalty has been entered and docketed of record by the Prothonotary of the County in which such property is situated.

1606: Any appeal from penalty assessment by the Director shall be taken in accordance with Article XI, ACHD Rules and Regulations, "Hearings and Appeals".

1607: Any penalty assessment imposed by the Director under this Article shall be final thirty (30) days from date of notification or upon written acceptance of such assessment by the person against whom the penalty was issued.

1608: ALLEGHENY COUNTY ENVIRONMENTAL HEALTH FUND

A) The purpose of Allegheny County Environmental Health Fund is to support activities related to the improvement of environmental health within Allegheny County and to support activities which will increase or improve knowledge of the environment as it relates to public health and its control so as to benefit public health.

B) Disposition of Monies Collected. All funds received by the County as a result of consent orders, civil penalty actions, consent decrees, or civil penalties relating to actions taken by the Department in conjunction or cooperation with the Pennsylvania Department of Environmental Resources under State statutes or regulations relating to water pollution, drinking water, sewage or solid waste, shall be paid into a special fund known as the Allegheny County Environmental Health Fund which is hereby established.

1) This fund shall be administered in accordance with the provisions of the Second Class County Code and other applicable laws. The County Treasurer shall invest monies deposited in the Fund and in such manner as not to impair the liquidity of the Fund and shall credit all interest accruing on such monies to the Fund.

2) The Director shall report on the status of the Fund to the Board of Health on a semi-annual basis, or at such other intervals as the Board may require.

3) Audits of the Fund shall be performed as required by law.

C) Disbursements.

1) Disbursements of monies from the Allegheny County Environmental Health Fund shall be utilized for the improvement of environmental health within the County and for increasing or improving knowledge concerning the relationship between environment and health and regulation thereof.

Funds may therefore be disbursed for such purposes:

a) The support of research and development;

b) Health effects studies and surveys concerning environmental health;

c) Public/staff education and professional development concerning environmental health;

d) The acquisition of consulting or other services from persons with special experience and/or expertise; or,

- e) The purchase of equipment, materials, or services to supplement the County's environmental health enforcement programs.
 - 2) Disbursement of monies from the Environmental Health Fund shall not be used to replace the normal operating funds of the Allegheny County Bureau of Environmental Quality.
- D) Procedures for Disbursement of Funds. Procedures for disbursement of monies paid into the Environmental Health Fund shall be as follows:
- 1) The Director shall prepare requests for disbursements upon consultation with the Board of Health.
 - 2) The Director shall present requests for disbursements to the Board of County Commissioners. The request shall include a statement as to the results of the consultation with the Board of Health.
 - 3) The Board of County Commissioners shall approve or disapprove requests for disbursement made by the Director. If approved, the Board of County Commissioners shall authorize disbursement of funds in the manner provided by law.

1609: UNCONSTITUTIONALITY CLAUSE

Should any section, paragraph, sentence, clause, or phrase of this Article be declared unconstitutional or invalid for any reason, the remainder of said Article shall not be affected thereby.

1610: EFFECTIVE

The provisions of this Article shall become effective on September 1, 1990.