

December 6, 2018

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*Via Hand Delivery*

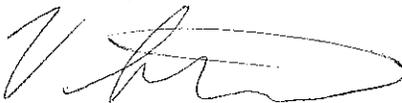
Allegheny County Health Department  
Attn: Karen Hacker  
Office of the Director  
542 Fourth Avenue  
Pittsburgh, PA 15219

**RE: Neville Chemical Company  
Notice of Appeal of Enforcement Order No. 181103**

Dear Director Hacker:

Pursuant to Article XI of the Rules and Regulations of the Allegheny County Health Department, Neville Chemical Company submits for filing the enclosed Notice of Appeal regarding the above-referenced order dated November 6, 2018. Included with the enclosures is a check in the amount of \$3,935.00, equal to the civil penalty assessed by the above-referenced order, to be held in escrow. If you have any questions or wish to discuss this matter further, please contact me at [vshekhar@babstcalland.com](mailto:vshekhar@babstcalland.com) or (412) 394-5679.

Sincerely,



Varun Shekhar, Esq.  
Counsel for Neville Chemical Company

Enclosures

cc: Max Slater, Esq. (via e-mail: [max.slater@alleghenycounty.us](mailto:max.slater@alleghenycounty.us))  
Jason Willis, Esq. (via e-mail: [jason.willis@alleghenycounty.us](mailto:jason.willis@alleghenycounty.us))  
Michael Winek, Esq. (via e-mail: [mwinek@babstcalland.com](mailto:mwinek@babstcalland.com))  
Meredith Odato Graham, Esq. (via e-mail: [mgraham@babstcalland.com](mailto:mgraham@babstcalland.com))

BEFORE THE ALLEGHENY COUNTY HEALTH DEPARTMENT

542 FOURTH AVENUE  
PITTSBURGH, PA 15219

NEVILLE CHEMICAL	)	
COMPANY,	)	
	)	
Appellant,	)	
	)	
v.	)	Appeal of Enforcement Order
	)	#181103
ALLEGHENY COUNTY HEALTH	)	
DEPARTMENT,	)	
	)	
Appellee.	)	

**NOTICE OF APPEAL**

Consistent with Sections 1103 and 1104 of Article XI of the Rules and Regulations of the Allegheny County Health Department (“ACHD”), Appellant Neville Chemical Company (“Neville”) appeals the Enforcement Order issued by the ACHD on November 6, 2018 (“Order”). A copy of the Order is attached to this Notice of Appeal as Exhibit A. This submission constitutes timely filing of a Notice of Appeal of an ACHD action, and properly specifies the manner in which Neville is aggrieved by the ACHD’s action, the nature of Neville’s direct interest in the action and the grounds for appeal.

**A. Manner in which Neville is Aggrieved and Grounds for Appeal**

1. Neville owns and operates a resin manufacturing facility located at 2800 Neville Road, Pittsburgh, PA 15225, with telephone number (412) 331-4200.
2. The ACHD issued the Order dated November 6, 2018, and it was received by Neville on November 13, 2018.

3. The Order alleges that Neville violated Operating Permit Condition #0060b, V.E.2.a, regarding emissions testing.

4. Neville objects to the Order. For the following reasons, the ACHD has abused its discretion and acted unreasonably, arbitrarily, capriciously, contrary to fact and law and in a manner not supported by evidence:

- a. Neville submitted a stack test report to the ACHD pursuant to Operating Permit Condition #0060b, V.E.2.a, and the ACHD determined that the stack test was compliant;
- b. The Order requires Neville to pay within 30 days of receiving the Order a civil penalty of \$3,935.00. See Exhibit A, p. 1. This penalty is inappropriate under the circumstances;
- c. The ACHD has not provided a detailed explanation for the basis of the penalty assessed by the Order;
- d. The Order is vague and insufficiently specific; and
- e. The ACHD did not provide an opportunity for Neville to discuss the matter before unilaterally issuing the Order.

**B. Neville's Direct Interest in the Action**

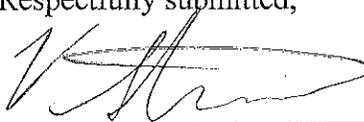
5. Neville is a named entity to which the Order was issued, and whose activities are restricted by the Order. As a result, Neville is negatively impacted by the Order and has a direct interest in the Order and this Appeal.

**C. Conclusion**

6. Neville has identified its objections to the Order through this Notice of Appeal but reserves the right to amend or supplement the factual and legal basis of its appeal as authorized by the ACHD's Rules and Regulations.

7. For the foregoing reasons, Neville respectfully requests that the Hearing Officer vacate the Order, or alternatively, vacate and remand the Order to the ACHD for consideration consistent with the Hearing Officer's opinion.

Respectfully submitted,



Varun Shekhar, Esq. (PAID#317151)  
Michael H. Winek, Esq. (PAID#69464)  
Meredith Odato Graham, Esq. (PAID#311664)  
Babst, Calland, Clements and Zomnir, P.C.  
Two Gateway Center, 6<sup>th</sup> Floor  
Pittsburgh, Pennsylvania 15222  
Telephone: (412) 394-5400  
Email: [vshekhar@babstcalland.com](mailto:vshekhar@babstcalland.com)  
[mwinek@babstcalland.com](mailto:mwinek@babstcalland.com)  
[mgraham@babstcalland.com](mailto:mgraham@babstcalland.com)

*Counsel for Neville Chemical Company*

Dated: December 6, 2018

**EXHIBIT A**

Enforcement Order  
November 6, 2018

COUNTY OF



ALLEGHENY

RICH FITZGERALD  
COUNTY EXECUTIVE



November 6, 2018

**CERTIFIED MAIL – 9489 0090 0027 6037 6666 11**

Dan Kokoski  
Neville Chemical Company  
2800 Neville Road  
Pittsburgh, PA 15225

**RE: Enforcement Order #181103** – Neville Chemical, 2800 Neville Road, Pittsburgh, PA 15225 – Operating Permit #0060b, V.E.2.a Testing Requirements

Dear Mr. Kokoski,

Please see the attached Enforcement Order.

Sincerely,

A handwritten signature in cursive script that reads "Dean DeLuca".

Dean DeLuca  
Enforcement Chief  
Air Quality Program

CC: Dan Morgan, ACHD Enforcement Engineer  
File



KAREN HACKER, MD, MPH, DIRECTOR  
ALLEGHENY COUNTY HEALTH DEPARTMENT  
AIR QUALITY PROGRAM  
301 39<sup>TH</sup> STREET • CLACK HEALTH CENTER • BUILDING 7  
PITTSBURGH, PA 15201-1811  
PHONE (412) 578-8103 • FAX (412) 578-8144  
24-HR (412) 687-ACHD (2243) • WWW.ACHD.NET



**ALLEGHENY COUNTY HEALTH DEPARTMENT  
AIR QUALITY PROGRAM**

In the Matter of:

Neville Chemical Company  
2800 Neville Road  
Pittsburgh, PA 15225

Violation No. 181103

Violations of Article XXI ("Air  
Pollution Control") at property:

Neville Chemical Company  
2800 Neville Road  
Pittsburgh, PA 15122

**ENFORCEMENT ORDER**

**NOW**, this 6<sup>th</sup> day of November, 2018, the Allegheny County Health Department (hereinafter "ACHD" or "Department") issues this Enforcement Order after it has found and determined the following:

**FINDINGS**

On December 22, 2017, the ACHD issued Major Source Operating Permit #0060b for Neville Chemical Company. In August 2018 an ACHD representative found that a stack test for the #2 Packaging Center Flaking Belt was last completed on July 25, 2012. The Operating Permit states stack testing for this process is to be completed every five (5) years. The Department determined that Neville Chemical was in violation of Operating Permit Condition #0060b, V.E.2.a. Neville Chemical has since submitted a final stack test report to the Department and the Department has determined this stack test was compliant with emission limitations.

**NOW THEREFORE**, pursuant to the authority granted to the ACHD by Article XXI § 2109.03.a.1 and the Local Health Administration Law, 19 P.S. § 12010, it is hereby **ORDERED** that:

Within thirty (30) days of receipt of this Order, Neville Chemical Company shall pay an assessed civil penalty of **\$3,935.00**. Payment shall be made by corporate 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.

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.

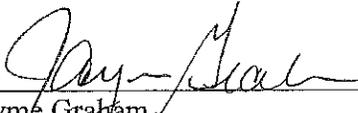
The ACHD determined the above penalty in accordance with Article XXI § 2109.06.b. reflecting relevant factors including, but not limited to: the nature, severity and frequency of the alleged violations; the maximum amount of civil and criminal penalties authorized by law; the willfulness of such violations; the impact of such violations on the public and the environment; the actions taken by Neville Chemical to minimize such violations and to prevent future violations; the economic benefit gained by failing to comply with the Department's regulations; and Neville Chemical's compliance history.

Pursuant to Article XI ("Hearings and Appeals") of the Allegheny County Health Department Rules and Regulations, you are notified that if you are aggrieved by this Order you have thirty (30) days in which to file an appeal from the receipt 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, 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. 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>.

Thank you for your anticipated prompt attention to this matter and future increased efforts to comply with all applicable regulations. Any questions concerning this Order should be directed to the ACHD's representatives, Nicholas Caito, at 412-578-7963 or e-mail [nicholas.caito2@alleghenycounty.us](mailto:nicholas.caito2@alleghenycounty.us).

**DONE** and **ENTERED** this 6<sup>th</sup> day of November 2018, in Allegheny County, Pennsylvania.

  
\_\_\_\_\_  
Jayme Graham  
Air Quality Program Manager

11/6/2018  
Date

cc: Dean DeLuca, Enforcement Section Chief (via email)  
Nicholas Caito, Air Quality Engineer (via email)  
File

BEFORE THE ALLEGHENY COUNTY HEALTH DEPARTMENT

542 FOURTH AVENUE  
PITTSBURGH, PA 15219

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NEVILLE CHEMICAL	)	
COMPANY,	)	
	)	
Appellant,	)	
	)	
v.	)	Appeal of Enforcement Order
	)	#181103
ALLEGHENY COUNTY HEALTH	)	
DEPARTMENT,	)	
	)	
Appellee.	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on the 6th day of December, 2018, a true and correct copy of the foregoing Notice of Appeal was served via hand delivery and addressed as follows:

Karen Hacker  
Office of the Director  
Allegheny County Health Department  
542 Fourth Avenue  
Pittsburgh, PA 15219

The following individuals were served by electronic mail:

Max Slater, Esq.  
Administrative Hearing Officer  
Allegheny County Health Department  
542 Fourth Avenue  
Pittsburgh, PA 15219  
[max.slater@alleghenycounty.us](mailto:max.slater@alleghenycounty.us)

Jason Willis, Esq.  
Assistant Solicitor  
Allegheny County Health Department  
301 39<sup>th</sup> Street, Bldg. No. 7  
Pittsburgh, PA 15201  
[jason.willis@alleghenycounty.us](mailto:jason.willis@alleghenycounty.us)

Respectfully submitted,



---

Varun Shekhar, Esq.  
Counsel for Neville Chemical Company

THIS DOCUMENT HAS A COLORED BACKGROUND AND INVISIBLE FLUORESCENT FIBERS - VIEW UNDER BLACK LIGHT



# Neville Chemical Company

2800 Neville Road, Pittsburgh, PA 15225-1496

PNC Bank, N.A.  
New Jersey

55-760  
312

060

291871

PAY  
EXACTLY

PAY TO THE  
ORDER OF:

ALLEGHENY COUNTY CLEAN AIR FUND  
301 39TH STREET  
PITTSBURGH, PA 15201

Three Thousand Nine Hundred Thirty Five Dollars and 00 Cents

DATE  
12/03/18

AMOUNT  
\$ \*\*\*\*\*3,935.00

*Dennis J. Butler*  
*Thomas F. McKnight*

AUTHORIZED SIGNATURE

MICROPRINT SIGNATURE LINE - MAGNIFY TO VIEW

⑈ 291871⑈ ⑆031207607⑆ 8026227226⑈