

COUNTY OF



ALLEGHENY

RICH FITZGERALD
COUNTY EXECUTIVE

November 13, 2020

VIA CERTIFIED MAIL – 9489 0090 0027 6037 6752 31

Jessica M. Ford
Senior Property Manager
UPMC Forbes Tower
3600 Forbes Avenue, Office 7073
Pittsburgh, PA 15213

RE: Enforcement Order #201101 - UPMC Forbes Tower, 3600 Forbes Avenue, Pittsburgh, PA 15213, Article XXI §2103.12.h.5 and §2103.12.k. and Operating Permit #0832.

Dear Ms. Ford,

Enclosed please find a copy of the Enforcement Order pertaining to the failure to submit the semi-annual report that was due by July 31, 2020 and the annual certification of compliance that was due by May 30, 2020.

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 representative, Erick Vail, at (412) 578-8118 or e-mail at Erick.Vail@AlleghenyCounty.US.

Sincerely,

Shannon Sandberg
Air Quality Program Manager

Enclosure



DEBRA BOGEN, MD, DIRECTOR
ALLEGHENY COUNTY HEALTH DEPARTMENT
AIR QUALITY PROGRAM
301 39TH 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.ALLEGHENYCOUNTY.US/HEALTHDEPARTMENT



To: Jessica M. Ford
Senior Property Manager
UPMC Forbes Tower
3600 Forbes Avenue, Office 7073
Pittsburgh, PA 15213

Re: November 13, 2020 Enforcement Order

IMPORTANT NOTICE

An Enforcement Order dated November 13, 2020, was mailed to you by the Allegheny County Health Department (ACHD) notifying of the possibility that a Civil Penalty will be levied by virtue of your failure to take certain action.

If you fail to take action pursuant to said enforcement order, a judgment may be entered against you in the Court of Common Pleas of Allegheny County. The sheriff may take your money or other property to pay the judgment any time after the judgment is entered.

YOU ARE WARNED THAT IF YOU FAIL TO CORRECT VIOLATIONS AND/OR PAY FINES OR PENALTIES LEVIED AGAINST YOU IN THE ENFORCEMENT ORDER THAT THE ALLEGHENY COUNTY HEALTH DEPARTMENT MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT FURTHER NOTICE. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

Allegheny County Health Department
Air Quality Program
301 39th Street, Building #7
Pittsburgh, PA 15201-1811

**ALLEGHENY COUNTY HEALTH DEPARTMENT
AIR QUALITY PROGRAM**

In the Matter of:

UPMC Forbes Tower
3600 Forbes Avenue
Pittsburgh, PA 15213

Violation No. **201101**

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

UPMC Forbes Tower
3600 Forbes Avenue
Pittsburgh, PA 15213

ENFORCEMENT ORDER

Now, this 13th day of November, 2020, the Allegheny County Health Department (ACHD) issues this Enforcement Order after having found and determined the following:

1. The Director of the ACHD has been delegated authority pursuant to the federal Clean Air Act, 42 U.S.C. Sections 7401-7671a (hereinafter "CAA"), and the Pennsylvania Air Pollution Control Act, 35 P.S. Sections 4001-4014 (hereinafter "APCA"), and the ACHD is a local health agency organized under Local Health Administration Law, 19 P.S. §§12001-12028, whose powers and duties include the enforcement of laws relating to public health within Allegheny County, including the ACHD'S Rules and Regulations, Article XXI, Air Pollution Control (Allegheny County Code of Ordinances Chapters 505, 507, and 535) ("Article XXI").

2. UPMC Forbes Tower (hereinafter "UPMC") is a healthcare facility located at 3600 Forbes Avenue, Pittsburgh, PA 15213.

3. On October 11, 2018, the ACHD issued Operating Permit #0832 to UPMC for the facility located at 3600 Forbes Avenue.

4. Operating Permit #0832, Condition III.12, requires UPMC to submit by May 30, 2020, an annual compliance certification for the period beginning April 1, 2019 and ending March 31, 2020.

5. As of the date of this Order, the ACHD has not received the annual compliance certification for the period beginning April 1, 2019 and ending March 31, 2020. Failure to submit the annual compliance certification by May 30, 2020 constitutes a violation of Article XXI §2103.12.h.5.

6. Operating Permit #0832, Condition III.15, requires UPMC to submit by July 31, 2020, a semi-annual report for the period January 1, 2020 through June 30, 2020.

7. As of the date of this order, the ACHD has not received the semi-annual report for the reporting period January 1, 2020 through June 30, 2020. Failure to submit the semi-annual report by July 31, 2020 constitutes a violation of Article XXI §2103.12.k.

ORDER

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:

8. UPMC shall submit by December 14, 2020 the annual compliance certification for the reporting time period beginning April 1, 2019 and ending March 31, 2020 and shall include, at a minimum, the following:

- 1) The identification of each term or condition of the permit that is the basis of the certification;
- 2) The compliance status;
- 3) Whether any noncompliance was continuous or intermittent;
- 4) The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with the provisions of this permit; and
- 5) Such other facts as the ACHD may require to determine the compliance status of the source.

9. UPMC shall submit the semi-annual reports for the reporting period beginning January 1, 2020 through June 20, 2020 by December 14, 2020.

10. For the violations set forth in the preceding paragraphs, UPMC is herein found to be liable and is hereby assessed a civil penalty of ONE THOUSAND TWO HUNDRED FOURTY DOLLARS (\$1,240.00). The civil penalty is as follows:

A. Gravity Based Component

Violation	Gravity Based Penalty	Violation Days	Total Gravity Penalty
Failure to submit Certification of Compliance (§2103.12.h.5)	\$400	1	\$400
Failure to submit semi-annual report (§2103.12.k)	\$400	1	\$400
Gravity Component Subtotal			\$800

B. Adjustment Factors

Degree of Cooperation The reports were requested 3 times	\$200
Degree of Willfulness The reports were requested 3 times	\$240

TOTAL CIVIL PENALTY	\$1,240.00
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11. UPMC 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.

12. The ACHD has determined the above 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 UPMC to minimize such violations and to prevent future violations; and UPMC's compliance history.

13. The gravity based component of the civil penalty reflects the severity of the violation and the potential harm to the public or environment from the violation. The gravity based component may be adjusted for factors and circumstances unique to the violator.

14. The above civil penalty is adjusted to reflect UPMC's lack of cooperation in failing to submit the annual compliance certification and the semi-annual report that were requested on August 5, 18, and 20, 2020.

15. 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.

16. 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 from the date of issuance or receipt of this Order in which to file an appeal. 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 ACHD so orders. In the absence of a timely appeal, the terms of this Order shall become final.

17. 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 of 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>.

DONE and **ENTERED** this 13th day of November 2020, in Allegheny County,
Pennsylvania.

For: Dean DeLuca
Dean DeLuca
Air Quality Program Manager

11/13/2020
Date