

# AGENDA FOR THE JANUARY 28, 2010 EC MEETING

## CASES TO BE CLOSED:

The Afcose Group	#2744	NEDO	Final F&Os	Tom/Bryan
Lehigh Gas Corporation	#2854	NEDO	Final F&Os	Tom/Steve

## PENDING CASES:

Foti Contracting, LLC	#2834	Akron	Prop. F&Os	Tom/Marc
Rollin Cooke, d.b.a. Concord Sunoco, Cooke's Car Care, and Munson Corners Sunoco	#2859	NEDO	Prop. F&Os	Tom/Steve
Murphy Oil USA, Inc.	#2877	NEDO	Prop. F&Os	Tom/Steve

## OTHER BUSINESS:

- (1) Distribute updated schedule of progress for resolving all "old" cases for 2008.
- (2) Distribute updated schedule of progress on resolving all "old" cases for 2009.
- (3) Distribute updated schedule of progress on resolving all "old" cases for 2010.
- (4) **Marc is scheduled to provide food for today's meeting at 3:00 p.m. in DAPC Room C.**
- (5) The next meeting is scheduled for Thursday, February 11, 2010 at 3:00 p.m. in DAPC Room C. Tom is scheduled for food. (Future food schedule: Steve for February 25.)

# ENFORCEMENT COMMITTEE MEETING MINUTES

(January 28, 2010)

<b>Case Number:</b> 2744	<b>Dates:</b>
<b>Entity:</b> The Afcose Group	<b>EAR:</b> 08/06/08
<b>Field Office:</b> NEDO	<b>DWL:</b> N/A
<b>Contact:</b> Jim Kavalec / Tom Kalman	<b>F&amp;Os:</b> 01/20/10
<b>Attorney:</b> Bryan Zima	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** On November 18, 2008, proposed Director's Final Findings and Orders ("F&Os") were sent to The Afcose Group ("Afcose") in care of Ronald Jackson, at 763 Broadway Avenue in Lorain, Ohio, to attempt a settlement of the violations of the asbestos emission control standards associated with Afcose's asbestos abatement of a house for the Elyria City School demolition project located at 511 West Avenue in Elyria, Lorain County, Ohio. The F&Os proposed to require Afcose to pay Ohio EPA a civil penalty of \$19,800 within 14 days after the effective date of the F&Os, of which \$3,960 would be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

During the asbestos abatement of the house, which contained 7,650 square feet of regulated asbestos-containing material ("RACM") in the form of wall and ceiling plaster, the following violations of the asbestos emission control standards were observed on February 14, 2008, on which day the work was completed and some debris was still on site:

- (1) OAC Rule 3745-20-04(A)(6)(a), by failing to adequately wet the RACM that was removed or stripped and was on the first and second floors, on the floor of the basement, and outside the building, and ensure the RACM remained adequately wet until collected and contained for disposal;
- (2) OAC Rule 3745-20-05(B), by failing to use one of the dust control methods specified in OAC Rule 3745-20-05(B)(1) to (B)(4) during the collection and packaging of asbestos-containing waste material; and
- (3) ORC § 3704.05(G), by violating the above-mentioned rules of the Director of Ohio EPA.

Afcoase started to use water to adequately wet the RACM the same day (February 14, 2008) as the inspection by Northeast District Office representatives. On February 18, 2008, Afcoase completed the asbestos removal at the site.

(See the EC Meeting Minutes of November 20, 2008 for additional background information.)

On December 8, 2008, Ronald Jackson was sent a listing of the financial documents Ohio EPA would need to evaluate his reported inability to pay the civil penalty. The financial documents were not submitted and, on March 23, 2009, Ohio EPA's attorney sent Mr. Jackson a letter asking what was going on and giving him until April 10, 2009 to respond or else other enforcement options would be taken.

Financial documents were received by Ohio EPA from Afcoase. On June 3, 2009, Ohio EPA's Fiscal Office provided its analysis as to the company's ability to pay the penalty of \$19,800. It was determined that Mrs. Jackson, the Chief Executive Officer of Afcoase, did not have the ability to pay the full amount of the civil penalty. Her ability to pay was limited to a nominal amount of up to \$500. This conclusion was subject to change if new information showed a significant change in financial condition.

More financial statements were provided on August 21, 2009 by the Jacksons. The statements contained separate balance sheets for Ronald Jackson and Ersie Jackson, and showed a negative net worth for each of them.

On December 7, 2009, Ohio EPA's attorney settled the case for \$1,000 with a payment plan. The settlement amount was based on the financial analysis and the financial information obtained in a phone conversation with Mrs. Jackson, which information seemed plausible to the attorney.

**Action:** On January 20, 2010, final F&Os were issued to Afcoase in care of Ersie Jackson of Afcoase. The F&Os require Afcoase to pay a civil penalty of \$1,000 to Ohio EPA in four equal monthly payments of \$250 payable within 30, 60, 90 and 120 days after the effective date of the F&Os.

**Case Closed**



<b>Case Number:</b> 2854	<b>Dates:</b>
<b>Entity:</b> Lehigh Gas Corporation (GDFs At Vermillion Valley and Middle Ridge Service Plazas of the Ohio Turnpike in Amherst)	<b>EAR:</b> 09/03/09
<b>Field Office:</b> NEDO	<b>DWL:</b> N/A
<b>Contact:</b> Jim Kavalec / Tom Kalman	<b>F&amp;Os:</b> 01/20/10
<b>Attorney:</b> Stephen Feldmann	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** On November 3, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Lehigh Gas Corporation ("Lehigh") of 1425 Mountain Drive North in Bethlehem, Pennsylvania, to attempt an administrative settlement of the violations of the Stage II vapor control requirements in OAC Rule 3745-21-09(DDD) at its gasoline dispensing facilities at the Vermillion Valley and Middle Ridge Service Plazas at the Ohio Turnpike in Amherst, Ohio. Lehigh operates the GDFs for the Ohio Turnpike Commission, who are the owners of the GDFs. The proposed F&Os addressed the following violations:

- (1) On July 20, 2007 at the Vermillion Valley Service Plaza, the static leak test failed due to a spill bucket leak on tank #6 and the air-to liquid ("A/L") ratio test was not conducted due to the static leak test failure. Lehigh continued to operate the failing dispensers after the tests were conducted. The failure to properly install, operate and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from stationary storage tanks into motor vehicles were violations of OAC Rules 3745-21-09(DDD)(1)(b) and 3745-21-09(DDD)(1)(c), and ORC § 3704.05(G).
- (2) On September 27, 2007 at the Vermillion Valley Service Plaza, the static leak test passed but the A/L ratio test failed for dispensers 3, 5, 9 and 13. Lehigh continued to operate the failing dispensers after the tests were conducted. The failure to properly install, operate and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from stationary storage tanks into motor vehicles were violations of OAC Rules 3745-21-09(DDD)(1)(b) and 3745-21-09(DDD)(1)(c), and ORC § 3704.05(G). On June 16, 2008, Lehigh conducted and passed the annual Stage II vapor control system tests for the GDF at the Vermillion Valley Service Plaza.

- (3) On May 20, 2009 at the Vermillion Valley Service Plaza, the static leak test passed but the A/L ratio test failed for dispensers 4, 5 and 6 due to low or no vacuum. Lehigh continued to operate the failing dispensers after the tests were conducted. The failure to properly install, operate and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from stationary storage tanks into motor vehicles were violations of OAC Rules 3745-21-09(DDD)(1)(b) and 3745-21-09(DDD)(1)(c), and ORC § 3704.05(G). On July 29, 2009, Lehigh conducted and passed a retest for the GDF at the Vermillion Valley Service Plaza.
- (4) On June 16, 2008 at the Middle Ridge Service Plaza, the static leak test failed due to leaking drop tubes and the A/L ratio test failed for dispensers 9, 10, 18 and 25. Lehigh continued to operate the failing dispensers after the tests were conducted. The failure to properly install, operate and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from stationary storage tanks into motor vehicles were violations of OAC Rules 3745-21-09(DDD)(1)(b) and 3745-21-09(DDD)(1)(c), and ORC § 3704.05(G). On July 14, 2008, Lehigh conducted and passed a retest for the GDF at the Vermillion Valley Service Plaza.
- (5) On May 19, 2009 at the Middle Ridge Service Plaza, the static leak test failed due to leaks in the Stage II vapor control system and the A/L ratio test was not attempted due to these leaks. In addition, hoses on nine dispensers were in poor condition and needed to be replaced and several dry break caps had no gaskets. Lehigh continued to operate the failing dispensers after the tests were conducted. The failure to properly install, operate and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from stationary storage tanks into motor vehicles were in violation of OAC Rules 3745-21-09(DDD)(1)(b) and 3745-21-09(DDD)(1)(c), and ORC § 3704.05(G). On July 14, 2008, Lehigh conducted and passed a retest for the GDF at the Middle Ridge Service Plaza.
- (6) On July 28, 2009 at the Middle Ridge Service Plaza, Lehigh attempted to retest the Stage II vapor control system, but was not able to perform the retest because additional repairs were needed. Lehigh continued to operate the failing dispensers after the tests were conducted. The failure to properly install, operate and maintain the vapor control system and the failure to successfully pass the

testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from stationary storage tanks into motor vehicles were in violation of OAC Rules 3745-21-09(DDD)(1)(b) and 3745-21-09(DDD)(1)(c), and ORC § 3704.05(G). On July 14, 2008, Lehigh conducted and passed a retest for the GDF at the Middle Ridge Service Plaza.

The F&Os proposed to require Lehigh to do the following:

- (1) Conduct weekly inspections of the Stage II vapor control systems at the GDFs for the next two ozone seasons (2010 and 2011), checking for leaks, malfunctions or damage to the systems. Copies of records of these inspections and any repairs made must be submitted to Ohio EPA.
- (2) During the next two ozone seasons (2010 and 2011), perform static leak and A/L ratio tests at the GDFs prior to the beginning (during March) of each ozone season and during August of each ozone season. The results of these tests must be submitted to Ohio EPA.
- (3) Pay Ohio EPA a civil penalty in the amount of \$15,000, of which \$12,000 of the civil penalty is due to Ohio EPA within 14 days after the effective date of the F&Os and \$3,000 is to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os.

(See the EC Meeting Minutes of November 5, 2009 for additional background information.)

After applying 20 percent mitigation of the penalty for Lehigh's cooperation with the Northeast District Office of Ohio EPA, a settlement was reached through correspondence and phone calls.

**Action:** On January 20, 2010, final F&Os were issued to Lehigh. The F&Os require Lehigh to do the following:

- (1) Conduct weekly inspections of the Stage II vapor control systems at both GDFs for the next two ozone seasons (2010 and 2011), checking for leaks, malfunctions or damage to the systems. Copies of records of these inspections and any repairs made must be submitted to Ohio EPA by August 14 of each year for the period from March 15 through July 31, and by November 14 of each year for the period from August 1 through October 31.

- (2) During the next two ozone seasons (2010 and 2011), perform static leak and A/L ratio tests at both GDFs prior to the beginning (during March) of each ozone season and during August of each ozone season. The results of these tests must be submitted to Ohio EPA within 14 days after completion of the tests.
- (3) Pay Ohio EPA a civil penalty in the amount of \$12,000, of which \$9,600 of the civil penalty is due to Ohio EPA within 14 days after the effective date of the F&Os and \$2,400 is to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os.

**Case Closed**



<b>Case Number:</b> 2834	<b>Dates:</b>
<b>Entity:</b> Foti Contracting, LLC	<b>EAR:</b> 06/29/09
<b>Field Office:</b> Akron	<b>DWL:</b> N/A
<b>Contact:</b> Felix Udeani / Tom Kalman	<b>F&amp;Os:</b> 01/20/10 (prop.)
<b>Attorney:</b> Marcus Glasgow	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** Foti Contracting, LLC ("Foti") is a masonry contractor with office located at 2501 West Third Street in Cleveland, Ohio. It is also known as West Third Street Construction. Foti performed jobs involving the sawing of bricks, blocks and concrete at the University of Akron Stadium ("facility") construction project. The sawing of bricks, blocks and concrete generates visible emissions of fugitive dust, which are regulated by OAC Rule 3745-17-08(B). This rule requires the use of reasonably available control measures that minimize or eliminate visible emissions of fugitive dust. Foti possesses wet suppression equipment for use in minimizing or eliminating visible emissions of fugitive dust, which constitutes a reasonable available control measure.

On October 23, 2008 and February 25, March 5 and July 16, 2009, Foti engaged in brick, block and concrete sawing operations at various job sites at the facility without employing any dust control measures, in violation of OAC Rule 3745-17-08(B) and ORC § 3704.05(G).

On March 11, 2009, the Akron Regional Air Quality Management District ("ARAQMD") issued a notice of violation ("NOV") letter to Foti, requesting a written commitment to cease all further generation of fugitive dust without employing reasonably available

control measures and a description of all dust control measures to be utilized. Foti did not respond to the NOV letter.

On June 29, 2009, ARAQMD submitted an Enforcement Action Request to Central Office for the purpose of obtaining administrative orders with civil penalty for Foti's violations.

**Action:** On January 20, 2010, proposed Director's Final Findings and Orders ("F&Os") were sent to Foti to attempt an administrative settlement of the above-mentioned violations. The F&Os propose to require Foti to comply with the requirements of OAC Rule 3745-17-08(B) upon the effective date of the F&Os and maintain compliance thereafter.

Specifically, Foti is required to equip all masonry sawing equipment with a water hose and canister assembly unit or equivalent device that will minimize or eliminate visible emissions of fugitive dust from all masonry sawing operations at its Ohio construction sites located in the Appendix A areas identified in OAC Rule 3745-17-08. Furthermore, the F&Os propose to require Foti to pay a civil penalty of \$20,000 within 14 days after the effective date of the F&Os, of which \$4,000 is to be directed to the Ohio EPA Clean Diesel School Bus Program Fund as a SEP.

**Case Continued**



<b>Case Number:</b> 2859	<b>Dates:</b>
<b>Entity:</b> Rollin Cooke, d.b.a. Concord Sunoco, Cooke's Car Care, Inc., Munson Corners Sunoco	<b>EAR:</b> 09/17/09
<b>Field Office:</b> NEDO	<b>DWL:</b> N/A
<b>Contact:</b> Jim Kavalec / Tom Kalman	<b>F&amp;Os:</b> 01/20/10 (prop.)
<b>Attorney:</b> Stephen Feldmann	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** Rollin Cooke of 400 Water Street in Chardon, Ohio, owns and operates the following three gasoline dispensing facilities ("GDFs"): Concord Sunoco (0243001266) at 9861 Johnnycake Ridge Road, Concord Township, Lake County; Cooke's Car Care, Inc. (022800XXXX) at 400 Water Street, Chardon, Geauga County; and Munson Corners Sunoco (0228000317) at 12388 Mayfield Road in Chardon,

Geauga County. These GDFs are subject to the Stage II vapor control system requirements of OAC Rule 3745-21-09(DDD). These GDFs employ Stage II vapor control systems that are each required to be tested annually (static leak test and air-to-liquid ("A/L") ratio test) and every five years (dynamic pressure performance test).

Based on the Ohio EPA, Northeast District Office's ("NEDO") inspections of these GDFs, the following violations of rules and laws were documented:

- (1) Operating the GDF at Cooke's Car Care, Inc. without obtaining a permit to operate or a permit-by-rule, since at least April 2006 to the present, in violation of former OAC Rule 3745-35-02, OAC Rule 3745-31-02, and ORC § 3704.05(G);
- (2) Operating the GDF at Concord Sunoco without obtaining a permit to operate or a permit-by-rule, since at least April 2006 to the present, in violation of former OAC Rule 3745-35-02, OAC Rule 3745-31-02, and ORC § 3704.05(G);
- (3) From discovery in July 2009 and to October 28, 2009 (when passing tests were conducted), Mr. Cooke failed to conduct the required annual tests (static leak and A/L ratio tests) for 2008 and the five-year dynamic pressure performance test for the Stage II vapor control system at the GDF at Concord Sunoco, while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of OAC Rules 3745-21-09(DDD)(1)(c), 3745-21-09(DDD)(2)(d), and 3745-21-09(DDD)(2)(f), and ORC § 3704.05(G).
- (4) From discovery in July 2009 and to the present, Mr. Cooke failed to conduct the required annual tests (static leak and A/L ratio tests) for 2008 and 2009 and the five-year dynamic pressure performance test for the Stage II vapor control system at the GDF at Munson Corners Sunoco, while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of OAC Rules 3745-21-09(DDD)(1)(c), 3745-21-09(DDD)(2)(d), and 3745-21-09(DDD)(2)(f), and ORC § 3704.05(G).
- (5) From discovery in July 2009 and to October 27, 2009 (when passing tests were conducted), Mr. Cooke failed to conduct the required annual tests (static leak and A/L ratio tests) for 2005 through 2008 and the five-year dynamic pressure performance test for the Stage II vapor control system at the GDF at Cooke's Car Care, Inc., while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of OAC Rules 3745-21-09(DDD)(1)(c), 3745-21-09(DDD)(2)(d), and 3745-21-09(DDD)(2)(f), and ORC § 3704.05(G).

- (6) From discovery on October 27, 2009 to the present, Mr. Cooke failed to maintain records at the GDF at Cooke's Car Care, Inc. of the quantity of gasoline delivered during each calendar month, the results of any Stage II tests performed, a log of the date and description of all repair and maintenance work performed, a copy of the most recent permit to operate issued by Ohio EPA, and records documenting proof of attendance and completion of Stage II vapor control system training by the operator or local manager of the GDF at Concord Sunoco, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(i) through (vi), and ORC § 3704.05(G).
- (7) From discovery on October 23, 2007 to the present, Mr. Cooke failed to maintain records documenting proof of attendance and completion of Stage II vapor control system training by the operator or local manager of the GDF at Concord Sunoco, in violation of OAC Rule 3745-21-09(DDD)(3)(vi), and ORC § 3704.05(G).
- (8) From discovery on October 28, 2009 to the present, Mr. Cooke failed to maintain records at the GDF at Concord Sunoco of the quantity of gasoline delivered during each calendar month, the results of any Stage II tests performed, a log of the date and description of all repair and maintenance work performed, and a copy of the most recent permit to operate issued by Ohio EPA, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(i) through (vi), and ORC § 3704.05(G).

Northeast District Office of Ohio EPA ("NEDO") sent notices of violation ("NOVs") letters to Mr. Cooke on November 1, 2007, and July 20 and October 16, 2009, which cited the company for the above-mentioned violations.

On September 17, 2009, NEDO submitted an Enforcement Action Request ("EAR") to Central Office for the violations at Concord Sunoco and Cooke's Car Care, Inc. An addendum to the EAR was later submitted by NEDO to Ohio EPA, in which the Munson Corners Sunoco case was included.

**Action:** On January 20, 2010, proposed Director's Final Findings and Orders ("F&Os") were sent to Mr. Cooke to attempt an administrative settlement of the violations. The F&Os propose to require Mr. Cooke to do the following:

- (1) Submit Permit-by-Rule notifications to Ohio EPA within 30 days after the effective date of the F&Os for the GDFs at Concord Sunoco and Cooke's Car Care, Inc. pursuant to OAC Rule 3745-31-03(A)(4)(a);

- (2) Demonstrate to Ohio EPA within 30 days after the effective date of the F&Os that the Stage II vapor control system at the GDF at Munson Corners Sunoco is operating correctly by conducting and passing a static leak test, air-to-liquid ("A/L") ratio test, and dynamic pressure performance test; provide Ohio EPA with at least 14 days of advanced notice of such testing, and submit the results of the tests by no later than 14 days after the completion of the tests;
- (3) Submit documentation to Ohio EPA within 60 days after the effective date of the F&Os demonstrating that the operators or local managers of the GDFs at Concord Sunoco, Cooke's Car Care, Inc., and Munson Corners Sunoco have completed the Stage II vapor control system training required by OAC Rule 3745-21-09(DDD)(3)(a)(vi);
- (4) Submit documentation to Ohio EPA within 60 days after the effective date of the F&Os demonstrating that records of the quantity of gasoline delivered to the GDFs at Concord Sunoco, Cooke's Car Care, Inc., and Munson Corners Sunoco during each calendar month are being maintained in accordance with OAC Rule 3745-21-09(DDD)(3)(a)(i);
- (5) Conduct weekly inspections of the Stage II vapor control systems at the three GDFs for the next two ozone seasons (2010 and 2011), checking for leaks, malfunctions or damage to the systems. Copies of records of these inspections and any repairs made must be submitted to Ohio EPA by August 14 of each year for the period from March 15 through July 31, and by November 14 of each year for the period from August 1 through October 31;
- (6) During the next two ozone seasons (2010 and 2011), perform static leak and A/L ratio tests at the three GDFs prior to the beginning (during March) of each ozone season and during August of each ozone season. The results of these tests must be submitted to Ohio EPA within 14 days after completion of the tests; and
- (7) Pay Ohio EPA a civil penalty in the amount of \$82,500, of which \$66,000 of the civil penalty is due to Ohio EPA within 14 days after the effective date of the F&Os and \$16,500 is to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os.

The DAPC's Enhanced Enforcement Protocol penalty policy was used to calculate the civil penalty since Mr. Cooke failed to conduct the required annual tests for 2008 for two

of the GDFs and failed to conduct the required annual tests for 2008 and 2009 for the other GDF.

**Case Continued**



<b>Case Number:</b> 2877	<b>Dates:</b>
<b>Entity:</b> Murphy Oil USA, Inc. (#7371)	<b>EAR:</b> 11/30/09
<b>Field Office:</b> NEDO	<b>DWL:</b> N/A
<b>Contact:</b> Jim Kavalec / Tom Kalman	<b>F&amp;Os:</b> 01/20/10 (prop.)
<b>Attorney:</b> Stephen Feldmann	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** Murphy Oil USA, Inc. (“Murphy”) of 422 N. Washington Avenue in El Dorado, Arkansas, owns and operates a gasoline dispensing facility (“GDF”) located at 46118 U.S. Route 20 in Oberlin, Lorain County, Ohio. This GDF is subject to the Stage II vapor control system requirements of OAC Rule 3745-21-09(DDD). This GDF employs a Stage II vapor control system that is required to be tested annually (static leak test and air-to-liquid (“A/L”) ratio test) and every five years (dynamic pressure performance test).

This GDF obtained Permit-by-Rule status from Ohio EPA in October 2005.

On October 29, 2008, Murphy had its annual Stage II compliance test for 2008 conducted at the GDF. Both the static leak and the A/L ratio tests failed because the Stage II vapor control system was leaking and would not hold pressure. Also, numerous hoses were dry rotted and flattened. Murphy continued to transfer gasoline into motor vehicles after the failed tests. A retest on December 1, 2008 passed the static leak test but failed the A/L ratio test. On January 12, 2009, Murphy passed an A/L ratio test.

On August 20, 2009, Murphy had its annual Stage II compliance test for 2009 conducted at the GDF. The static leak test passed, but the A/L ratio test for dispenser 9 failed due to low vacuum pressure. Murphy continued to transfer gasoline into motor vehicles after the failed test. On November 3, 2009, Murphy conducted and passed an A/L ratio test at this GDF.

The above-mentioned failures to properly install, operate, and maintain the Stage II vapor control system and the failures to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from stationary storage tanks into motor vehicles were violations of OAC Rule 3745-21-09(DDD)(1)(b) and (c), and ORC § 3704.05(G).

Northeast District Office of Ohio EPA ("NEDO") sent a notice of violation ("NOV") letter to Murphy on November 17, 2009, which cited the company for the above-mentioned violations.

On November 30, 2009, NEDO submitted an Enforcement Action Request to Central Office for the violations.

**Action:** On January 20, 2010, proposed Director's Final Findings and Orders ("F&Os") were sent to Murphy to attempt an administrative settlement of the violations. The F&Os propose to require Murphy to do the following:

- (1) Conduct weekly inspections of the Stage II vapor control system at the GDF for the next two ozone seasons (2010 and 2011), checking for leaks, malfunctions or damage to the system. Copies of records of these inspections and any repairs made must be submitted to Ohio EPA by August 14 of each year for the period from March 15 through July 31, and by November 14 of each year for the period from August 1 through October 31.
- (2) During the next two ozone seasons (2010 and 2011), perform static leak and A/L ratio tests at the GDF prior to the beginning (during March) of each ozone season and during August of each ozone season. The results of these tests must be submitted to Ohio EPA within 14 days after completion of the tests.
- (3) Pay Ohio EPA a civil penalty in the amount of \$14,400, of which \$11,520 of the civil penalty is due to Ohio EPA within 30 days after the effective date of the F&Os and \$2,880 is to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os.

The DAPC's Enhanced Enforcement Protocol penalty policy was used to calculate the

civil penalty since Murphy failed tests in two consecutive years (2008 and 2009) and failed consecutive tests in the same year (i.e., the A/L ratio tests in 2008).

**Case Continued**



ACTIONS & MINUTES APPROVED BY:

A handwritten signature in black ink, appearing to read "Bob Hodanbosi", written over a horizontal line.

Bob Hodanbosi, Chief, DAPC

**NEXT MEETING:**

February 11, 2010

3:00 p.m.

DAPC Room C

## PENDING AIR ENFORCEMENT COMMITTEE CASES

Total Unresolved Cases (81)

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2527	Carmeuse Lime, Inc., Maple Grove Facility (HPV)	NWDO	DV/UD	11/05/02	06/19/06
2671	Mar-Zane, Inc. (Plant #1)	CDO	MG/JP	12/11/06	10/25/07
2676	OmniSource Corporation - Lima Division	NWDO	MG/MM	02/23/06	11/08/07
2685	Quickrete - Cleveland Plant	Akron	DV/UD	10/17/07	12/14/07
2701 (VC)	City of Dayton, Advanced Wastewater Treatment Facility	RAPCA	BZ/JK	02/19/08	02/19/08
2722	Tuscarwas County YMCA, M-Cor Inc., Raeder Construction, et al.	SEDO	BZ/UD	12/20/07	05/05/08
2726	Glick Real Estate LTD/All-Type Demolition and Excavating (asbestos)	Canton	BZ/FU	05/19/06	05/19/08
2731 (112r)	H. B. Fuller Company	N/A	DV/KJ	03/26/08	06/04/08
2739	BP - Husky Refining LLC	TDES	BZ/JP	08/01/07	07/18/08
2745	OmniSource Corporation	NWDO	MG/MM	12/14/05	08/11/08
2752	Allied Corporation (Plant #75)	Akron	MG/JP	01/29/05	09/02/08
2775	Selvey's Dirt Works / Famous Supply (asbestos)	NWDO	DV/UD	06/12/08	11/05/08
2777	Sawbrook Steel LLC	HAMCO	BZ/MM	11/13/06	11/07/08
2781	Great Lakes Crushing, Ltd. (asbestos)	NEDO	SF/PP	06/18/08	11/18/08
2782	International Converter, Inc. - Caldwell (HPV)	SEDO	DV/FU	07/05/08	11/26/08
2789	Complete Clearing, Inc. (asbestos)	NWDO	MG/PP	07/09/08	02/05/09
2790	Erie Materials, Inc.	NWDO	SF/TT	04/16/08	02/05/09
2791	Carmeuse Lime, Inc. (Millersville) (HPV)	NWDO	DV/FU	02/14/06	02/09/09
2793	Combs' Trucking Incorporated	HAMCO	SF/MM	07/16/08	02/09/09
2794	Kenmore Construction Co., Inc.	Akron	DV/UD	05/14/08	02/13/09
2795	Evans Landscaping, Inc.	HAMCO	MG/TT	05/01/08	02/23/09
2803	Wheeling Brake Band & Friction Mfg., Inc./Investment Capital of America, Inc./Rob Burgess Enterprises, LLC (asbestos) (multi-media case, DSIWM lead)	SEDO	DV/PP	01/13/09	02/26/09
2806	Ramon Patel, d.b.a. Marathon Quick Mart	NEDO	DV/JK	10/21/08	03/02/09
2810	Eilwood Engineered Castings Co. (HPV)	NEDO	DV/TT	02/25/09	03/13/09
2811	NewKor, Inc.	Cleve.	SF/EY	01/27/09	03/30/09

Updated: 01/28/10

**PENDING AIR ENFORCEMENT COMMITTEE CASES**

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2814	Barrett Paving Materials, Inc. (HPV)	HAMCO	SF/PP	01/16/08	04/01/09
2815	Royal Sebring Properties, Inc., a.k.a. Zee Tech Warehousing	M-TAPCA	MG/JK	09/17/07	04/02/09
2817	S.H. Bell Company	NEDO	MG/TK	01/16/08	04/21/09
2819	Masonic Temple/The New Victorians, Inc./AHC, Inc. (asbestos)	CDO	DV/	01/24/08	04/27/09
2820	Bailey PVS Oxides Delta, L.L.C.	NWDO	MG/JK	03/29/07	04/27/09
2821	OmniSource Corporation, Mansfield Division	NWDO	MG/MM	05/08/08	05/04/09
2822	J. S. Paris Excavating, Inc./Signature Development Group, LLC (asbestos)	MTAPCA	SF/TT	03/11/08	04/28/09
2823	Rudzik Excavating, Inc./Charles J. Arendas (asbestos)	MTAPCA	DV/FU	02/27/09	05/11/09
2824	Ariel Corporation (HPV)	CDO	MG/EY	04/02/08	05/18/09
2826	Staker Alloys, Inc.	RAPCA	DV/FU	11/14/07	05/29/09
2827	Evelyn M. (Burger) Koch (asbestos)	MTAPCA	MG/UD	07/21/08	06/01/09
2829(VC)	ODNR, Division of Forestry (regarding the Shawnee State Forest open burning)	Ports. Lake Co.	DV/JJP	04/24/09	06/03/09
2833	Veterans of Foreign Wars Post 6519 (asbestos)		DV/TT	04/29/08	06/22/09
2834	Foti Contracting, LLC	Akron	MG/FU	10/23/08	06/29/09
2835	Elyria Foundry Company (HPV)	NEDO	SF/PP	10/18/07	07/13/09
2839	Liberty Gas USA, LLC (Middle Avenue GDF in Elyria and Clark Oil 1163 in Lorain)	NEDO	DV/JK	07/07/09	07/21/09
2840	Von Vittersan Le Copla USA LLC Delaware Corporation (asbestos)	MTAPCA	MG/UD	07/03/08	07/23/09
2841	Salvatore Sorice/Michael A. Kernan (asbestos)	MTAPCA	SF/MM	03/13/09	07/27/09
2844	Iten Industries, Inc. (Plant 1) (HPV)	NEDO	SF/MM	04/18/08	07/28/09
2847	Ultimate Building Systems, Ltd.	HAMCO	SF/FU	04/29/08	08/03/09
2848	Sandusky Dock Corporation	NWDO	BZ/JO	07/27/08	08/06/09
2849	Dean Calhoun/Tim Gearhart (asbestos)	NWDO	DV/MM	03/27/09	08/11/09
2850	Yochman Excavating, Inc. (open burning)	M-TAPCA	MG/PP	03/23/09	08/05/09
2852	AOHV Corporation/Hasper Leggett (asbestos)	M-TAPCA	DV/UD	03/25/09	08/11/09
2853	Valentine Contractors, Inc.	Akron	MG/TT	05/30/08	08/17/09

**PENDING AIR ENFORCEMENT COMMITTEE CASES**

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2855	Lakeside Fuel Mini-Mart	NEDO	DV/JK	02/09/09	09/09/09
2856	Dorothy Jeannine Slessman	NWDO	MG/MM	08/02/09	09/14/09
2857	Pure Gas Incorporated (East Erie St. GDF in Lorain)	NEDO	SF/JK	09/09/09	09/22/09
2858	Burnham Foundry, LLC	SEDO	DV/TK	04/01/08	09/22/09
2859	Rollin Cooke, d.b.a. Concord Sunoco, Cooke's Car Care, Incorporated, and Munson Corners Sunoco	NEDO	SF/JK	07/20/09	09/17/09
2860	Richard C. Zahn	Akron	SF/PP	06/15/09	09/14/09
2861	Scott Klem	Akron	DV/TT	08/14/09	09/14/09
2864	Forest Creek Mobile Home Park	HAMCO	SF/FU	03/19/09	09/25/09
2865	Great Lakes Construction Co.	HAMCO	DV/JUD	05/07/09	09/25/09
2866	3M Medina (HPV)	Akron	MG/PP	08/27/09	09/29/09
2867 (VC)	ODNR, Division of Forestry (regarding another Shawnee Forest open burning)	Ports.	SF/JP	04/02/09	09/02/09
2869	Bridgestone APM Company, Foam Products Division (HPV)	NWDO	DV/EY	02/11/08	10/06/09
2871	Ali Mohammad, d.b.a. Marathon Oil 2992	NWDO	SF/JK	05/12/09	10/15/09
2872	Piper Excavation (asbestos and open burning)	NWDO	DV/JK	11/24/08	11/03/09
2873	Hanini Marathon - Superior	Cleve.	MG/EY	08/21/08	11/04/09
2875	David Klein, d.b.a. Belle-Aire Cleaners	Akron	DV/	10/07/09	11/13/09
2877	Murphy Oil USA, Inc. (GDFs #6630, #7294, and #7371)	NEDO	SF/JK	07/27/09	11/30/09
2878	Pexco Packaging Corp.	TDES	DV/EY	03/13/09	12/01/09
2879 (112r)	City of Youngstown Wastewater Treatment Plant	N/A	MG/SS	07/23/09	12/04/09
2880	Prime Properties Limited Partnership, d.b.a. Prime #3, 5 and 9	Cleve.	SF/EY	09/05/08	12/07/09
2881	Tube City IMS, LLC	NWDO	DV/MM	08/26/08	12/10/09
2883	The Andersons Marathon Ethanol, LLC	RAPCA	MG/JK	07/16/08	12/28/09
2884 (112r)	Eaton Aeroquip, Inc.	N/A	SF/KJ	07/21/09	12/30/09
2885	Hughes-Roller Building Co./Sovereign SP, LLC (asbestos)	NEDO	MG/JUD	07/07/09	12/08/09
2886	David Rose, d.b.a. Rose Excavating/Jacqueline MacAleese (asbestos)	NEDO	DV/TT	10/17/08	12/08/09

**PENDING AIR ENFORCEMENT COMMITTEE CASES**

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2887	Kimberly Dailey	SWDO	SF/EY		01/07/10
2888	Titan Tire Corporation	NWDO	MG/		01/20/10
2889	Kaz Paving, Inc./George Koustis (asbestos)	Lake Co.	DV/PP	01/08/09	01/15/10
2890	Seth Powers	Akron	SF/TT	02/05/09	01/15/10
2891	Stocker's Excavating LLC/Yoho Excavating, Inc. (asbestos)	MTAPCA	MG/FU	07/30/09	01/18/10
2892	Sartaj Oil Company - Shell #2332	Cleve.	DV/EY		01/25/10

**Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2010**

**January**

<b>Docket #</b>	<b>Case Name</b>	<b>Rank</b>	<b>Field Office</b>	<b>EC Contact</b>	<b>Staff</b>	<b>Att.</b>	<b>Complaint Referral</b>	<b>Returned to FO</b>	<b>Warning Letter</b>	<b>Status</b>	<b>Source in Compliance</b>	<b>Direcor's F&amp;O's</b>	<b>Referred to AGO</b>
2698 (112r)	Sugar Creek Packing Co. (Washington Courthouse)	3	N/A	TK	SS	DV	01/31/08					01/14/10	
2719 (112r)	Sugar Creek Packing Co. (Dayton)	3	N/A	TK	SS	DV	04/28/08					01/14/10	
2750 (VC)	New Day Farms, LLC/Henning Construction Company	3	CDO	JP	JP	SF	08/21/08					01/11/10	
2784	Reichert Excavating, Inc.	0	CDO	JP	JP	SF	12/04/08					(01/11/10)	
2760	Precision Environmental Company (asbestos)	1	Akron	TK	PP	SF	10/22/08		01/12/10 (DWL)	Closed-NFA	01/14/10		
2813	ConSun Food Industries, Inc. (Convenient Food Mart GDFs #736 and #746)	3	NEDO	TK	JK	DV	03/27/09					01/14/10	

**Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2010**

**January**

<b>Docket #</b>	<b>Case Name</b>	<b>Rank</b>	<b>Field Office</b>	<b>EC Contact</b>	<b>Staff</b>	<b>Att.</b>	<b>Complaint Referral</b>	<b>Returned to FO</b>	<b>Warning Letter</b>	<b>Status</b>	<b>Source in Compliance</b>	<b>Direcor's F&amp;O's</b>	<b>Referred to AGO</b>
2870	Brent Saionz, d.b.a. Simon Excavating	3	NWDO	TK	TT	MG	10/15/09					01/13/10	
2874	Ron Smith	3	NWDO	TK	FU	SF	11/09/09					01/12/10	
2744	The Afcoase Group (asbestos)	3	NEDO	TK	JK	BZ	08/06/08					01/20/10	
2854	Lehigh Gas Corporation	3	NEDO	TK	JK	SF	09/03/09					01/20/10	

**Total for the month of January = 10**

## Summary of Compliance with Effective Findings and Orders

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Ball & Sons Construction (11/08/96)	Civil penalty: (\$1,000.00)	563513	11/22/96	Y	FSC**
*****					
Smith Foundry & Machine Co. (12/31/96)	Civil penalty: (\$25,000.00)				
	\$5,000.00	530404	01/31/97		01/23/97
	\$5,000.00	530405	01/31/98		01/23/98
	\$5,000.00	530406	01/31/99		01/19/99
	\$5,000.00	530407	01/31/00	Y	ACT**
	\$5,000.00	541831	01/31/01	Y	ACT**
	AC		01/15/97		N/A*
	IC		06/16/97		N/A*
	CC		08/15/97		N/A*
	Conduct emission tests - submit results		10/15/97		N/A*
* The cupola has been removed. The 12/96 F&O's were revised to reflect the installation of electric induction furnaces rather than controls for the cupola.					
*****					
Mark Fuerst (02/08/00)	Civil penalty (\$10,000.00)				
	to ODNR \$2,000.00	606212	03/08/00	Y	FSC**
	to OEPA \$2,000.00	172154	04/08/00	Y	*
	\$2,000.00	172155	05/08/00	Y	FSC**
	\$2,000.00	172156	06/08/00	Y	FSC**
	\$2,000.00	172157	07/08/00	Y	FSC**
* Paid \$1,654 on 2/10/09. \$165.40 of that amount was paid to AGO.					
*****					
American Environmental Abatement Company, Inc. (12/29/00)	Civil penalty: (\$2,500)				
	to OEPA \$2,000	206005	01/12/01		01/16/01
	to ODNR \$500	564224	01/29/01	N	
*****					
Anco Properties (06/19/01)	Civil penalty: (\$23,000)				
	to OEPA \$4,600	224714	09/19/01	Y	FSC**
	\$4,600	224715	12/19/01	Y	FSC**
	\$4,600	224716	03/19/02	Y	FSC**
	\$4,600	224717	06/19/02	Y	FSC**
	to ODNR \$4,600	613129	07/19/01	N	FSC**
*****					
Superior Demolition and Excavating (12/28/01)	Civil penalty: (\$15,000)				
	to ODNR \$3,000	270395	01/11/02		01/10/02
	to OEPA \$3,000	270396	01/28/02		02/11/02
	\$3,000	270397	02/28/02		03/14/02
	\$3,000	270398	03/28/02		04/23/02
	\$3,000	270399	04/28/02	Y	UNC**
*****					

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	Cert. y/n	Completion Date	
Richard and Joby Hackett (04/04/02)	Civil penalty: (\$3,000)					
	to OEPA	\$150	279226	09/04/02	Y	RTN**
		\$150	279227	10/04/02	Y	RTN**
		\$150	279228	11/04/02	Y	RTN**
		\$150	279229	12/04/02	Y	RTN**
		\$150	279230	01/04/03	Y	RTN**
		\$150	279231	02/04/03	Y	RTN**
		\$150	279232	03/04/03	Y	RTN**
		\$1,350	279233	04/04/03	Y	RTN**
	to ODNR	\$150		05/04/02		
	\$150		06/04/02			
	\$150		07/04/02			
	\$150		08/04/02			
*****						
Schloss Materials Company (09/18/02)	Civil penalty: (\$6,000)					
	to OEPA	\$4,000	304257	10/02/02		09/30/02
	to ODNR	\$2,000	564243	10/18/02	N	
	pave entrance & access road to facility			10/31/02		06/03/04*
* CDAQ inspection date						
*****						
City of Oregon (09/16/02)	Civil penalty: (\$10,000)					
	to OEPA	\$8,000	304256	09/30/02		09/30/02
	to ODNR	\$2,000	564249	09/30/02	N	
	conduct asbestos fire training			02/01/03		01/8-14-15&29/03
*****						
Cleveland Industrial Drum Service, Inc. (10/30/02)	Civil penalty: (\$1,000)					
	to OEPA	\$800	314152	11/13/02		06/24/03
	to ODNR	\$200	564255	11/30/02	N	
*****						
M & J Excavating (11/27/02)	Civil penalty: (\$2,450)					
	to ODNR	\$490	564257	12/27/02		09/25/02
	to OEPA	\$392	333074	01/27/03	Y	09/27/03
		\$392	333075	02/27/03	Y	10/25/03*
		\$392	333076	03/27/03	Y	UNC
		\$392	333077	04/27/03	Y	01/24/04*
	\$392	333078	05/27/03	Y	01/24/04*	
*****						
Chris Corso (12/02/02)	Civil penalty: (\$7,000)					
	to OEPA	\$1,600	319940	12/16/02		12/16/02
		\$2,000	319941	03/02/03		09/04/03
		\$2,000	319942	06/02/03		09/27/03
	to ODNR	\$1,400	614162	01/02/03	N	
*****						

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Goldline Wrecking Co. (12/23/02)	Civil penalty: (\$35,000)				
	to OEPA \$ 8,000	333227	04/23/03		06/30/04*
	\$10,000	333228	12/23/03	Y	10/27/08**
	\$10,000	333229	06/23/04	Y	10/27/08**
	to ODNR \$ 7,000		01/23/03		01/22/03

\* The AGO Special Counsel collected \$8,134.92. The AGO kept \$723.13 of that amount.

\*\* Ohio EPA agreed to a payment of \$13,150 to satisfy the remaining claim of \$20,000. Special Counsel received \$4,339.50 and the AGO received \$1,183.50 of the \$13,150 for their collection services.

\*\*\*\*\*

Glo-Mar Masonry (02/06/03)	Civil penalty: (\$8,500)				
	to ODNR \$1,700	583375	03/06/03	Y	
	to OEPA \$ 500	336723	03/06/03	P	06/23/03
	\$2,100	336724	06/06/03	Y	01/24/04
	\$2,100	336725	08/06/03	Y	04/24/04
	\$2,100	336726	02/06/04	Y	03/26/05* (\$680.60)

\* Account Certified to AGO. Three partial payments made totaling (\$680), still owe \$1,419.40

\*\*\*\*\*

Ford Motor Company, Cleveland Casting Plant (12/24/03)	Civil penalty: (\$40,000)	413303	01/31/04		01/07/04
	Submit modeling analysis		02/29/04		

\*\*\*\*\*

Minerva Enterprises, Inc. (12/31/03)	Civil penalty: (\$41,125)				
	\$3,500	413351	01/31/04	Y	07/29/04a
	\$3,500	413352	03/02/04	Y	06/16/05b
	\$3,500	413353	04/02/04	Y	08/12/05c
	\$3,500	413354	05/03/04	Y	06/15/05d
	\$3,500	413355	06/03/04	Y	07/22/05e
	\$3,500	413356	07/04/04	Y	08/12/05f
	\$3,500	413357	08/04/04	Y	07/23/04
	\$3,500	413358	09/04/04	Y	12/24/05h
	\$3,500	413359	10/04/04	Y	12/24/05
	\$3,500	413360	11/04/04		07/29/05
\$3,500	413361	12/04/04	Y	11/10/05	
\$2,625	413362	01/04/05	Y	12/05/05i	

a. Paid \$3,501.92, of which \$315.17 was kept by AGO and \$3,186.75 was put into OEPA's account. The remaining \$1.92 is interest charged.

b. Paid \$53.70 to resolve this claim. \$4.83 of that amount was AGO's share. \$48.87 was put in OEPA's account.

c. Paid \$831.54 to resolve this claim. \$74.84 of that amount was AGO's share. \$756.70 was put in OEPA's account.

d. Paid \$3,574.03 to resolve this claim. \$321.66 of that amount was AGO's share. \$3,252.37 was put in OEPA's account.

e. Paid \$2,211.00 to resolve this claim. \$198.99 of that amount was AGO's share. \$2,012.01 was put in OEPA's account.

f. Paid \$3,903.47 to resolve this claim. \$351.31 of that amount was AGO's share. \$3,552.16 was put in OEPA's account.

h. Paid \$3,500 to resolve this claim. \$315 of that amount was AGO's share. \$3,185 was put in OEPA's account..

I. Paid \$1,141.96 to resolve claim. \$102.78 of that amount was AGO's share. \$1,039.18 was put in OEPA's account.

\*\*\*\*\*

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
Hydraulic Press Brick (04/28/04)	Civil penalty: (\$19,000)					
	\$7,000	439209	05/12/04		05/12/04	
	\$7,000	439210	08/12/04		05/12/04	
	Submit P <sup>2</sup> reports			07/28/04		07/26/04
				10/28/04		10/25/04
				01/28/05		01/21/05
				03/28/05		N/A
Submit cost of P <sup>2</sup> study		04/05/05				
*****						
Kerry's Motor World (05/13/04)	Civil penalty: (\$3,000.00)	443684	05/27/04	Y		
	*****					
John Dubuk (12/29/04)	Civil penalty: (\$10,000.00)					
	\$834.00	489979	01/28/05		01/24/05	
	\$834.00	489980	02/27/05		02/24/05	
	\$834.00	489981	03/29/05		03/26/05	
	\$834.00	489982	04/28/05	Y	07/29/06	
	\$834.00	489983	05/28/05	Y	UNC**	
	\$834.00	489984	06/27/05	Y	07/29/06	
	\$834.00	489985	07/27/05	Y	UNC**	
	\$834.00	489986	08/26/05	Y	UNC**	
	\$834.00	489987	09/25/05	Y	UNC**	
	\$834.00	489988	10/25/05	Y	UNC**	
	\$826.00	489990	12/24/05	Y	UNC**	
*****						
C & J Contractors (12/21/04)	Civil penalty: (\$5,600.00)	479998	01/21/05	Y	*	
	*****					
Bohanan Investments, Inc. (04/14/05 - Court Order, Default Judgement)	Civil penalty: (\$127,900.00)	550712	04/14/05	Y		
	*****					

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Columbus Steel Drum (07/06/05 - Consent Order)	Civil penalty: (\$500,000.00)				
	Bus Fund	\$25,000	514606	07/31/05	09/20/05
		\$25,000	514607	10/01/05	10/12/05
		\$25,000	514608	01/01/06	02/08/06
		\$25,000	514609	04/01/06	04/21/06
	OEPA	\$25,000	514163	07/01/06	07/10/06
		\$25,000	514164	10/01/06	10/30/06
		\$25,000	514165	01/01/07	01/09/07
		\$25,000	514166	04/01/07	04/11/07
		\$25,000	514167	07/01/07	08/01/07
		\$25,000	514168	10/01/07	10/17/07
		\$25,000	514169	01/01/08	03/12/08
		\$25,000	514170	04/01/08	04/15/08
		\$25,000	514171	07/01/08	07/01/08
		\$25,000	514172	10/01/08	10/01/08
		\$25,000	514173	01/01/09	04/08/09
		\$25,000	514174	04/01/09	07/17/09
		\$21,250	514175	07/01/09	10/15/09
		\$21,250	726464	09/01/09	12/01/09
		\$21,250	726465	11/01/09	11/30/09
		\$21,250	726466	12/01/09	
	Submit PTI app. for K001-K003			08/06/05	05/31/05
	Award contracts			30 days from issuance of PTI	
	IC			60 days from issuance of PTI	07/16/06
	CC			180 days from issuance of PTI	07/13/07
	Perform stack tests			210 days from issuance of PTI	07/03/07
	Submit ITT for P015 & P016			07/20/05	06/07/05
	Perform stack tests			12/27/05	06/23/05
	Submit PTI app. for P015 & P016			30 days after submission of test results	09/22/05
	Award Contracts			30 days from issuance of PTI	*
	IC			60 days from issuance of PTI	*
	CC			120 days from issuance of PTI	*
	Perform stack tests			150 days from issuance of PTI	*
	Perform stack tests for P001, P005, P012 & P013			09/06/05	07/5-7/05
* PTI not issued due to the continued incomplete nature of the PTI application.					
*****					
Alfred Nickles Bakery, Inc. (08/24/05)	Civil penalty: (\$37,800)				
	OEPA	\$10,240	519964	09/24/05	09/23/05
	Bus Fund	\$7,560	519965	09/24/05	09/23/05
	Submit P <sup>2</sup> report			11/24/05	
	Submit P <sup>2</sup> report			02/24/06	
	Submit final P <sup>2</sup> report			05/24/06	
	Submit documentation of costs			08/24/06	
*****					

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
Shell Construction, Inc. (09/26/05)	Civil penalty: (\$3,700) OEPA	\$100.00	526004	10/26/05		09/27/05
		\$100.00	526005	11/25/05		11/10/05
		\$100.00	526006	12/25/05		12/20/05
		\$100.00	526007	01/24/06		10/28/06
		\$100.00	526008	02/23/06		10/28/06
		\$100.00	526009	03/25/06		10/28/06
		\$100.00	526010	04/24/06		09/13/06
		\$100.00	526011	05/24/06		09/13/06
		\$100.00	526012	06/23/06		09/13/06
		\$100.00	526013	07/23/06		09/13/06
		\$100.00	526014	08/22/06		11/02/06
		\$100.00	526015	09/21/06		11/02/06
		\$100.00	526016	10/21/06		11/02/06
		\$100.00	526017	11/20/06		11/02/06
		\$100.00	526018	12/20/06		11/14/06
		\$100.00	526019	01/19/07		11/30/06
		\$100.00	526020	02/18/07		11/30/06
		\$100.00	526021	03/20/07		12/18/06
		\$100.00	526022	04/19/07		01/10/07
		\$100.00	526023	05/19/07		02/02/07
		\$100.00	526024	06/18/07		03/01/07
		\$100.00	526025	07/18/07		03/12/07
		\$100.00	526026	08/17/07		05/07/07
		\$100.00	526027	09/16/07		06/27/07
		\$100.00	526028	10/16/07		06/27/07
		\$100.00	526029	11/15/07		06/27/07
		\$100.00	529030	12/15/07		06/27/07
		\$100.00	526031	01/14/08		08/13/07
		\$100.00	526032	02/13/08		08/13/07
		\$100.00	526033	03/14/08		10/24/07
		\$100.00	526034	04/13/08		10/24/07
		\$100.00	526035	05/13/08		10/24/07
		\$100.00	526036	06/12/08	Y	05/07/09
		\$100.00	526037	07/12/08	Y	
		\$100.00	526038	08/11/08	Y	05/07/09
		\$100.00	526039	09/10/08	Y	05/07/09
		\$100.00	526040	10/10/08	Y	

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Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Environmental Affairs Management (12/29/05)	Civil penalty: (\$10,000)				
	OEPA	\$1,000	541425	03/29/06	03/06/06
		\$1,000	541426	03/29/06	Y FSC**
		\$1,000	541427	05/28/06	Y FSC**
		\$1,000	541428	06/27/06	Y 12/28/07
		\$1,000	541429	07/27/06	Y FSC**
		\$1,000	541430	08/26/06	Y FSC**
		\$1,000	541431	09/25/06	Y FSC**
		\$1,000	541432	10/25/06	Y ACT**
	Bus Fund	\$1,000	541433	01/28/06	01/25/06
	\$1,000	541434	02/27/06	02/25/06	
*****					
Cargill, Incorporated (03/03/06 - Consent Decree) * - CD modification on 11/26/08	Civil penalty: (\$61,538)				
	OEPA	\$30,769	551695	03/27/06	04/03/06
	RAPCA	\$30,769	----	03/27/06	03/29/06
	Pay Title V permit fees	\$216,133.86		02/27/06	09/28/05
	Contribute \$75,000 to RAPCA's wood stove replacement program			04/15/06	03/21/06
	Retire B005			09/01/07	09/14/06
	Install LNB & FGR for B006			03/03/11	
	Propose final VOC solvent loss limit for Sidney			02/27/09	
	Comply w/final VOC solvent loss limit for Sidney			02/27/10	
	Meet 95% control for VOC or 10 ppm for P067 & P582 at Dayton			02/27/09	06/17/08
	Meet 98% control for VOC for P057, P031, P052, P088, & P072 at Dayton			09/01/10	
	Meet control equipment operating parameters for P032, P033 and P034 at Dayton			02/28/10*	
	Test and establish an allowable short-term VOC limit for each scrubber stack serving P032, P033 and P034 at Dayton			02/28/10*	
	Submit permit applications for P032, P033 and P034 at Dayton to incorporate control equipment operating parameters and VOC emission limits			09/01/10*	
	Submit PTI application to cap VOC and NOx emissions from Dayton at less than 854 tons/yr			09/01/10*	
	Comply w/ emission cap for Dayton			09/01/10*	
	Submit odor control optimization report for Dayton			09/01/06	08/29/06
	Meet 90% control for CO or 100 ppm for P067 and P582 at Dayton			02/27/09	06/17/08
	Meet 90% control for CO or 100 ppm for P057, P031, P052, P088 & P072			09/01/10	
	*****				

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Sunoco, Inc. (03/20/06 - Consent Decree)	SEP Project (\$50,000)				
	Pay contractor for project		04/20/06		08/01/06
	Install SCR for FCCU		12/31/09		
	Install WGS for FCCU		12/31/09		
	Comply with NSPS for SO <sub>2</sub> and opacity for FCCU		12/31/09		
	Comply with NSPS for PM for FCCU		03/20/06		03/20/06
	Comply with NSPS for CO for FCCU		03/20/08		03/27/08
	Reduce NOx emissions from heaters and boilers greater than 40mm Btu/hr by at least 2,189 tons/yr				
	Achieve 2/3 of 2,189 tons/yr NOx reduction		03/20/10		
	Submit a detailed NOx Control Plan		07/20/06		07/05/06
	Install a second Claus train and 2 TGUs at the SRP		12/31/09		
	Submit optimization study for the SRP		09/20/06		09/10/06
	Implement recommendations of optimization study for SRP		03/20/07		03/12/07
	Propose interim performance standards for SRP		03/20/07		03/12/07
	Submit enhanced O & M plans for SRP and TGUs		09/20/06		09/08/06
	Submit Phase One review and verification of the TAB and BWON compliance status for 2 refineries		11/20/06		11/03/06
	Modify procedures for annual review of process information for benzene waste streams		09/20/06		08/01/06
	Implement annual benzene training for employees		06/20/06		06/08/06
	Develop SOPs for all benzene control equipment		09/20/06		09/08/06
	Submit schematics for waste/slop/off-spec oil streams		05/20/06		05/11/06
	Develop and submit written LDAR program		09/20/06		09/08/06
	Implement an LDAR training program		03/20/07		03/14/07
	Perform LDAR compliance audit		12/20/06		12/07/06
	Develop QA & QC procedures for LDAR monitoring		07/20/06		07/11/06
	Develop LDAR personnel accountability program		09/20/06		09/08/06
	Submit application to revise Title V permit to incorporate CD requirements		09/20/06		10/31/06

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David Scholl (09/25/06)	Civil penalty: (\$400)	584589	10/25/06		12/11/06* 05/26/07*
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\* Made a partial payment of \$200 on 12/11/06. \$200 was certified to AGO. Payment of \$180 + \$20 AGO portion was made on 5/26/07

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Alpha-Omega Chemical Company (12/14/06)				Civil penalty	
	OEPA	\$1,000	605635	05/14/07	08/20/07
		\$1,000	605636	09/14/07	Y
		\$1,200	605637	12/14/07	Y
	Bus Fund	\$ 800	605638	01/14/07	Y 07/29/07

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Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Astro Manufacturing & Design, Inc. (12/29/06)	Civil penalty (\$34,000)				
	OEPA	\$12,200	600221	01/29/07	01/23/07
	Bus Fund	\$ 6,800	600222	01/29/07	01/23/07
	Submit INR			01/29/07	11/30/06
	Submit semi-annual exceedance reports			01/29/07	04/12/07
	Submit detailed P <sup>2</sup> report			03/29/07	03/29/07
	Submit detailed P <sup>2</sup> report			06/29/07	
	Submit detailed P <sup>2</sup> report			09/29/07	
	Submit final P <sup>2</sup> report			11/29/07	
Submit PTI and Title V permit applications			03/01/07	11/30/06	
*****					
Gas and Oil, Inc. (03/14/07)	Civil penalty: (\$10,000)				
	OEPA	\$8,000	607778	06/14/07	Y BSC
	Bus Fund	\$2,000	607779	06/14/07	Y BSC
	Submit ITT			04/14/07	
	Conduct tests for #2, #3, #15 & #19			06/14/07	
	Submit test results			07/14/07	
	Submit PTO renewal application for #19			04/14/07	
*****					
Robert Henry and April Garner (07/11/07)	Civil penalty: (\$1,000)		616290	08/11807	Y ACT
*****					
Eslich Wrecking Company (07/16/07 - Consent Order)	Civil penalty: (\$44,853)		623581	08/16/07	08/20/07
	(\$44,853 = 45% of \$99,674)				
	Submit survey and plan to install protective physical barrier			08/16/07	
	Install cap			w/I 60 days of OEPA approval of survey and plan	
Grant a new deed			w/i 30 days of OEPA approval of survey		
*****					
Avalon Cleaners (08/21/07)	Civil penalty: (\$1,000)				
	OEPA	\$250	624475	09/21/07	Y
		\$250	624476	10/21/07	Y
		\$250	624477	11/21/07	Y
		\$250	624478	12/21/07	Y
	Submit records & documentation			01/31/08	
Submit records & documentation			07/31/08		
*****					

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Tim Weiland (09/06/07)	Civil penalty: (\$250)	624378	10/06/07	Y	SKP
*****					
Alfred Nickles Bakery, Inc. (11/08/07)	Civil penalty: (\$60,250)				
	OEPA	\$46,200	634724	12/08/07	11/02/07
	Bus Fund	\$14,050	634725	12/08/07	11/02/07
	Submit P <sup>2</sup> report			02/08/07	
	Submit P <sup>2</sup> report			05/08/07	
	Submit P <sup>2</sup> report			08/08/07	
	Submit final P <sup>2</sup> report			10/08/07	
	Submit cost documentation			w/i 30 days of approval of report by OEPA	
*****					
The Premcor Refining Group, Inc. (11/20/07 - Consent Decree)	Civil penalty: (\$800,000)				
	OEPA	\$640,000	634775	12/20/07	12/19/07
	Bus Fund	\$160,000	634776	12/20/07	12/19/07
	Submit plan to meet .060 lb NO <sub>x</sub> /MMBtu for heaters and boilers			12/31/08	12/10/08
	Install controls to meet .060 lb NO <sub>x</sub> /MMBtu for heaters and boilers			12/31/11	
	Submit plan to meet .044 lb NO <sub>x</sub> /MMBtu for heaters and boilers			12/31/10	
	Install controls to meet .044 lb NO <sub>x</sub> /MMBtu for heaters and boilers			12/31/13	
	Submit report that demonstrates compliance with limits for heaters and boilers			03/31/12	
				03/31/14	
	Submit report re: the NO <sub>x</sub> concentration emissions for the FCCU thru optimization of O <sub>2</sub> CS			03/01/12	
	Submit report that demonstrates compliance w/ interim NO <sub>x</sub> system-wide average for FCCUs			03/31/11	
	Submit report that demonstrates compliance w/ final NO <sub>x</sub> system-wide average for FCCUs			03/31/14	
	Commence implementation of SO <sub>2</sub> adsorbing catalyst additive protocol for FCCU			11/20/07	09/07/07
	Comply w/ CO emission limit for FCCU			02/20/08	11/20/07
	Comply w/ opacity and PE limits for FCCU			12/31/13	
	Submit alternative monitoring plan application for NSPS Subpart J monitoring for SO <sub>2</sub> at FCCU			12/31/08	12/19/08

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
The Premcor Refining Group, Inc (Continued)	Discontinue burning of fuel oil in heaters and boilers		11/20/07		08/16/07	
	Determine compliance w/ 6 BQ compliance option & submit a Benzene Waste NESHAP Compliance Review and Verification Report		03/01/08		03/14/08	
	Submit a report re: carbon canisters installed pursuant to Subpart FF		02/20/08		02/12/08	
	Develop annual training program for employees that draw benzene waste samples		02/20/08		03/19/08	
	Develop SOPs for all control equipment used to comply w/ Benzene Waste NESHAP and complete initial training re: SOPs		11/20/08		05/19/08* 02/12/09**	
				* Develops SOPs	** Training	
	Develop and implement procedures to ensure QA/QC for all LDAR data		02/20/08		01/25/08	
	Develop program to hold LDAR personnel accountable for LDAR performance		11/20/07		06/28/07	
	Establish a tracking program for valves and pumps that should be added to LDAR program		11/20/08		01/25/08	
	Reroute any SRP sulfur pit emissions to eliminate emissions		11/20/08		11/03/08	
	Provide description of causes of all acid gas flaring incidents from 1/1/02 thru 12/31/06		11/20/08		08/11/08	
	Submit compliance plan for flaring devices		12/31/09			
	Certify compliance for all flaring devices		12/31/13			
	Complete design of compressor system for P025		12/20/07		01/03/08	
	Complete installation of compressor system for P025		04/01/08		04/01/08	
	Submit T5 permit applications to incorporate emission limits required by Consent Decree		12/31/07		06/12/08	
	Pay \$200,000 to develop and implement a Traffic Signal Synchronization study for City of Lima		02/20/08		01/25/08	
	Install controls for unregulated and uncontrolled relief vents at Refinery (spend \$675,000 for SEP)		12/31/09			
	Submit plan for the Lima Infrared Camera Imaging Project (spend \$50,000 for SEP)		02/20/08		02/12/08	
	Transfer \$200,000 to LADCO for PM 2.5 speciation		02/20/08		01/18/08	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
The Premcor Refining Group, Inc (Continued)	Transfer \$50,000 to Ohio Environmental Council for control of emissions from municipal trucks and buses		02/20/08		01/18/08
*****					
E. I. Du Pont de Nemours & Company (11/06/07 - Consent Decree)	Civil penalty: (\$550,000) OEPA	\$440,000	634777	12/06/07	12/19/07
	Bus Fund	\$110,000	634778	12/06/07	12/19/07
	Comply w/ short-term SO <sub>2</sub> emission limit of 2.2 lbs/ton		03/01/11		
	Comply w/ Mass Cap of 281 TPY		03/01/13		
	Submit proposed O&M Plan for short-term SO <sub>2</sub> limit		11/01/10		
	Submit a complete T5 permit application for Consent Decree SO <sub>2</sub> limits		09/01/11		
*****					
Converters Prepress (12/06/07 - Consent Order)	Civil penalty: (\$5,004) OEPA	\$139.00	644190	01/06/08	02/22/08
		\$139.00	644191	02/06/08	03/26/08
		\$139.00	644192	03/06/08	03/26/08
		\$139.00	644193	04/06/08	04/04/08
		\$139.00	644194	05/06/08	05/05/08
		\$139.00	644195	06/06/08	05/30/08
		\$139.00	644196	07/06/08	07/14/08
		\$139.00	644197	08/06/08	08/04/08
		\$139.00	644198	09/06/08	08/29/08
		\$139.00	644199	10/06/08	09/29/08
		\$139.00	644200	11/06/08	11/06/08
		\$139.00	644201	12/06/08	12/02/08
		\$139.00	644202	01/06/09	12/30/08
		\$139.00	644203	02/06/09	02/09/09
		\$139.00	644204	03/06/09	03/11/09
		\$139.00	644205	04/06/09	03/31/09
		\$139.00	644206	05/06/09	05/05/09
		\$139.00	644207	06/06/09	06/01/09
		\$139.00	644208	07/06/09	07/06/09
		\$139.00	644209	08/06/09	08/07/09
		\$139.00	644210	09/06/09	
		\$139.00	644211	10/06/09	
		\$139.00	644212	11/06/09	
		\$139.00	644213	12/06/09	
		\$139.00	644214	01/06/10	
		\$139.00	644215	02/06/10	
		\$139.00	644216	03/06/10	
		\$139.00	644217	04/06/10	
		\$139.00	644218	05/06/10	
		\$139.00	644219	06/06/10	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Converters Prepress (Con't)		\$139.00 644220	07/06/10		
		\$139.00 644221	08/06/10		
		\$139.00 644222	09/06/10		
		\$139.00 644223	10/06/10		
		\$139.00 644224	11/06/10		
		\$139.00 644225	12/06/10		
*****					
Real Spaces Property for Rent (12/31/07)	Civil penalty: (\$17,700)				
	OEPA	\$ 600.00 645338	01/30/08		02/07/08
		\$ 600.00 645339	02/29/08		03/12/08
		\$ 600.00 645340	03/30/08		05/05/08
		\$ 600.00 645341	04/29/08		06/09/08
		\$ 600.00 645342	05/29/08		07/03/08
		\$ 600.00 645343	06/28/08		08/04/08
		\$ 600.00 645344	07/28/08		09/11/08
		\$ 600.00 645345	08/27/08		11/17/08
		\$ 600.00 645346	09/26/08		01/13/09
		\$ 600.00 645347	10/26/08	Y	
		\$ 600.00 645348	11/25/08	Y	
		\$ 600.00 645349	12/25/08	Y	
		\$ 600.00 645350	01/24/09	Y	
		\$ 600.00 645351	02/23/09	Y	
		\$ 600.00 645352	03/25/09	Y	
		\$ 600.00 645353	04/24/09	Y	
	\$ 600.00 645354	05/24/09	Y		
	\$ 600.00 645355	06/23/09	Y		
	\$3,360.00 645356	07/23/09	Y		
	Bus Fund	\$3,560 645357	07/23/09	Y	
*****					
Christopher Vincent (02/15/08)	Civil penalty: (\$1,000)	653134	03/16/08	Y	ACT
*****					
James Brown (03/11/08)	Civil penalty: (\$750)	653125	04/11/08	Y	ACT
*****					
Bates Recycling, Inc. (06/04/08)	Civil penalty: (\$1,000)	657594	06/18/08	Y	
*****					
Craig Eddy (06/04/08)	Civil penalty: (\$750)	657302	07/04/08	Y	
*****					
Warren Ropp (06/02/08)	Civil penalty: (\$250)	657293	07/02/08	Y	
*****					
JR's Truck Parts (06/02/08)	Civil penalty: (\$500)	657294	07/02/08	Y	
*****					

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Peter Backer (07/01/08)	Civil penalty: (\$750)	657790	07/31/08	Y	
*****					
W. A. Miller (07/16/08)	Civil penalty: (\$1,000)	666334	08/16/08	Y	*
* Partial payment of \$350 received 10/20/08 - Potential to Certify. *****					
Lanny Reynolds (07/16/08)	Civil penalty: (\$750)	666335	08/16/08	P	
*****					
Lance Dudgeon (07/09/08)	Civil penalty: (\$500)	659540	08/09/08	Y	
*****					
Johnathan Strickland (07/16/08)	Civil penalty: (\$2,000)	666331	08/16/08	Y	
*****					
Luci, Inc. (07/08/08)	Civil penalty: (\$10,000)				
	OEPA \$8,000	659538	08/08/08	Y	
	Bus Fund \$2,000	659539	08/08/08	Y	
*****					
Ford Motor Company (07/31/08)	Civil penalty: (\$1,400,000)				
	OEPA \$1,120,000	666337	08/31/08		08/18/08
	Bus Fund \$280,000	666338	08/31/08		08/18/08
	Shut down cupola 3 and mold line 7		12/31/08		12/11/08
	Shut down cupola 1 & 2 and mold lines 2 & 3		12/31/10		
*****					
Douglas Kehres (08/13/08)	Civil penalty: (\$500)	666363	09/13/08	Y	
*****					
Great Lakes Crushing Ltd. (10/01/08)	Civil penalty: (\$12,000)				
	OEPA \$9,600	686990	10/31/08	Y	09/10/09*
	Bus Fund \$2,400	686991	10/31/08	Y	04/23/09**
* Paid the \$9,600 plus \$1,095.45 in interest to AGO Revenue Recovery. AGO took \$1,069.55 for its collection efforts. ** AGO took \$240 of this amount for its collection efforts. *****					
Erie Materials, Inc. (09/24/08 - Consent Order)	Civil penalty: (\$180,000)				
	OEPA \$144,000	686933	10/24/08		12/03/08
	Bus Fund \$ 36,000	686932	10/24/08		12/03/08
	Conduct emission testing		w/i 60 days of permit issuance or w/i 60 days of startup of 2009 season if permit issued after 9/1/08		
	Pay emissions fees of \$7,330 for 1995 through 2007 for Sandusky and for 1999 through 2005 for Portage		10/24/08		10/09/08
*****					

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Robert Montgomery, Sr., d.b.a. Montgomery Auto Salvage (10/16/08)	Civil penalty: (\$3,000)	688462	11/15/08	Y	
*****					
Re-Gen, Inc. (01/15/09 - Consent Order)	Civil penalty: (\$70,000) OEPA	\$28,000 709526	02/14/09		02/11/09
		\$28,000 709527	01/15/10		
	Bus Fund	\$ 7,000 709528	02/14/09		02/11/09
		\$ 7,000 709529	01/15/10		
	Submit complete approvable synthetic minor PTIO app.	w/i 60 days of resuming operations			
	Submit FERs for 1999-2007 and pay \$8,000 in past emission fees	upon receipt of invoice from OEPA			06/12/09
*****					
Ultimate Industries, Inc. (02/25/09 - Consent Order)	Civil penalty: (\$4,200) EPA	\$175.00 712529	03/05/09		05/12/09
		\$175.00 712530	04/05/09		06/15/09
		\$175.00 712531	05/05/09		08/07/09
		\$175.00 712532	06/05/09		09/28/09
		\$175.00 712533	07/05/09		
		\$175.00 712534	08/05/09		
		\$175.00 712535	09/05/09		
		\$175.00 712536	10/05/09		
		\$175.00 712537	11/05/09		
		\$175.00 712538	12/05/09		
		\$175.00 712539	01/05/10		
		\$175.00 712540	02/05/10		
		\$175.00 712541	03/05/10		
		\$175.00 712542	04/05/10		
		\$175.00 712543	05/05/10		
		\$175.00 712544	06/05/10		
		\$175.00 712545	07/05/10		
		\$175.00 712546	08/05/10		
		\$175.00 712547	09/05/10		
		\$175.00 712548	10/05/10		
		\$175.00 712549	11/05/10		
		\$175.00 712550	12/05/10		
		\$175.00 712551	01/05/11		
		\$175.00 712552	02/05/11		
*****					
N-Viro International Corp. (03/24/09)	Civil penalty: (\$16,000) OEPA	\$4,000 707974	07/22/09		07/21/09
		\$4,000 707975	10/20/09		10/19/09
		\$4,000 707976	01/18/10		01/15/10
		\$4,000 707977	04/18/10		
	Bus Fund	\$4,000 707978	04/23/09		04/22/09
*****					

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Brush Wellman, Inc. (03/24/09)	Civil penalty: (\$40,000)				
	OEPA	\$28,000 711745	04/24/09		03/26/09
	Bus Fund	\$12,000 711746	04/24/09		03/26/09
	Install 3 TRIBO.d2 particulate emission monitors		09/24/09		
	Submit documentation of SEP cost		10/24/09		
*****					
Chemtrade Logistics Inc/Marsulex, (04/02/09 - Consent Decree)	Civil penalty: (\$120,000)				
	OEPA	\$72,000 712639	05/02/09		05/26/09
	Bus Fund	\$24,000 712640	05/02/09		05/26/09
	ODNR	\$24,000	05/02/09		
	Comply w/ short-term and long-term SO <sub>2</sub> emission rates:	Oregon	07/01/11		
		Cairo	07/01/11		
	Comply w/ acid mist emission rate:	Oregon	04/02/09		
		Cairo	07/01/11		
	Install SO <sub>2</sub> CEMS:	Oregon	07/01/11		
		Cairo	07/01/11		
	Perform compliance tests:	Oregon	07/01/11		
	Submit O&M Plans:	Cairo	07/01/11		
	Submit permit applications:	Oregon	07/01/11		
		Cairo	07/01/11		
		Oregon	01/01/13		
	Cairo	(365 days after acceptance of short-term limit)			
Submit report re: how compliance will be achieved:	Oregon	07/01/10			
	Cairo	07/01/10			
*****					
Lagrange Township Trustees (04/14/09)	Civil penalty: (\$250)	713233	05/14/09		07/26/09
	Report the results of vehicle inspections		12/31/09		
*****					
George Rank (04/16/09)	Civil penalty: (\$500)	713237	05/16/09	Y	
*****					
Richard Morrow (05/01/09)	Civil penalty: (\$3,000)	713246	05/15/09	Y	
*****					
Lorain County Regional Transit Authority (05/15/09)	Civil penalty: (\$250)	714622	06/15/09		09/17/09
*****					

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Container Recyclers, Inc. (d.b.a. Colimbus Steel Drum) (06/08/09 Amended Consent Order for stipulated penalties)	Stipulated penalty: (\$87,050)				
	OEPA	\$21,762.50 713429	10/23/09		10/21/09
		\$21,762.50 713430	01/18/10		
		\$21,762.50 713431	04/16/10		
	Bus Fund	\$10,881.25 713432	06/05/09		06/01/09
	\$10,881.25 713433	07/17/09		07/16/09	
*****					
Plasti-Kote Company, Inc. (06/17/09)	Civil penalty: (\$240,000)				
	OEPA	\$192,000 714631	07/01/09		08/21/09
	Bus Fund	\$48,000 714632	07/17/09		08/21/09
	Submit either a Title V permit app or a synthetic minor PTI/FESOP app		10/17/09		
*****					
T.S. Trim Industries, Inc. (06/17/09)	Civil penalty: (\$85,200)				
	OEPA	\$68,160 714704	07/17/09		06/25/09
	Bus Fund	\$17,040 714705	07/17/09		06/25/09
	Conduct emission tests		08/07/09		
	Submit test report		09/07/09		
*****					
Village of Gloria Glens (06/18/09)	Civil penalty: (\$250)	714659	07/18/09		09/18/09
	Have all vehicles tested and report results		12/31/09		
*****					
Village of North Randall (06/30/09)	Civil penalty: (\$1,500)	714660	07/30/09	Y	
	Have all vehicles tested and report results		12/31/09		
*****					
Leroy and Judith Schaffer (06/30/09)	Civil penalty: (\$250)	714661	07/30/09		09/14/09
*****					
Precision Aggregates III, LLC (07/08/09)	Civil penalty: (\$15,000)				
	OEPA	\$4,500 715181	09/15/09		09/14/09
		\$7,500 715182	09/15/10		
	Bus Fund	\$3,000 715183	09/15/09		09/14/09
*****					
Village of Oakwood (07/07/09)	Civil penalty: (\$2,500)	714842	08/07/09		08/17/09
	Have all vehicles tested and report results		11/02/09		
*****					

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
The Belden Brick Company, L.L.C. (07/06/09 - Consent Order)	Civil penalty: (\$850,000)				
	OEPA	\$170,000	717042	08/06/09	08/17/09
		\$170,000	717043	07/06/10	
		\$170,000	717044	01/06/11	
		\$170,000	717045	07/06/11	
	Bus Fund	\$170,000	717046	08/06/09	08/17/09
	Pay \$334,514.43 for Title V permit emission fees for CY 2001 thru 2006			Upon receipt of invoice from OEPA	
	Submit SO <sub>2</sub> FERs for CY 1993 thru 2000			01/06/10	
Cleveland Board of Education (E-Check) (08/11/09)	Civil penalty: (\$5,000)				
	Have all vehicles tested and report results		726483	09/11/09	09/01/09
				12/31/09	
	*****				
	Saif Khan, d.b.a. Lakeland Citgo (08/20/09)				
	Civil penalty: (\$10,000)				
	OEPA	\$ 500	726488	09/20/09	08/06/09
		\$2,500	726489	12/20/09	11/30/09
	\$2,500	726490	03/20/10		
	\$2,500	726491	06/20/10		
Bus Fund	\$2,000	726492	09/20/09	08/06/09	
*****					
Joseph Parker (08/18/09)	Civil penalty: (\$250)				
			725188	09/18/09	Y
*****					
The Shelly Holding Company, et al. (09/02/09 - Court Order)	Civil penalty: (\$350,123.52)				
				10/02/09	
*****					
Pioneer Environmental Companies (09/22/09)	Civil penalty: (\$7,000)				
	OEPA	\$2,100	727235	10/22/09	
		\$3,500	727236	03/22/10	
	Bus Fund	\$1,400	727237	10/22/09	
*****					
Speedway SuperAmerica, LLC (09/22/09)	Civil penalty: (\$35,880)				
	OEPA	\$28,704	727238	10/05/09	09/29/09
	Bus Fund	\$7,176	727239	10/22/09	09/29/09
	Submit weekly inspection records			11/14/10	
	Submit weekly inspection records			11/14/11	
	Submit results of static leak and A/L ratio tests for 2010			04/14/10	
	Submit results of static leak and A/L ratio tests for 2010			09/14/10	
	Submit results of static leak and A/L ratio tests for 2011			04/14/11	
			09/14/11		
*****					

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
Stein, Inc. (10/13/09)	Civil penalty: (\$50,000)					
	Bus Fund	\$10,000	735700	11/13/09	10/23/09	
	OEPA	\$10,000	735696	05/13/10		
		\$10,000	735697	08/13/10		
		\$10,000	735698	11/13/10		
		\$10,000	735700	02/13/11		
*****						
Joseph and Marie Eberz (10/19/09)	Civil penalty: (\$500)		735796	11/19/09		
*****						
CertainTeed Corp (10/19/09 - CO)	Civil penalty: (\$230,000)					
	OEPA	\$184,000	735799	11/19/09	11/05/09	
	Bus Fund	\$ 46,000	735800	11/19/09	11/05/09	
	Submit Title V permit appl.			w/i 90 days of issuance of PTI		
	Submit plan for measuring OC content of stone			01/19/10		
Submit FERs for 1993-1996			04/19/10			
*****						
Aleris International, Inc., et. Al. (10/30/09 - CO)	Civil penalty: (\$334,545)			when U.S. Bankruptcy Court for District of Delaware decides		
	Install load cells to weigh flux			04/29/10		
	Submit Capture and Collection System Improvement Plan			11/29/09		
	Complete all improvements described in CCSIP			04/29/10		
	Measure fan RPM			01/29/10		
	Measure static pressure of air curtain			01/29/10		
	Perform compliance tests			10/29/10		
	Submit test results			12/29/10		
	Submit HCI PTE analysis			12/29/10		
	Conduct additional compliance tests			03/29/10		
	Comply with all requirements of Subparts A and RRR			09/29/10		
	*****					
	Circle K Midwest (GDFs 5204, 5209, 5318, 5320, 5557, 5558, 0059, and 5217) (11/04/09)	Civil penalty: (\$100,000)				
OEPA		\$80,000	735797	12/04/09	11/13/09	
Bus Fund		\$20,000	735798	12/04/09	11/13/09	
Perform static leak & A/L ratio tests at each GDF				03/31/10		
				08/31/10		
			03/31/11			
			08/31/11			
*****						

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
Rascal House Pizza (11/12/09)	Civil penalty: (\$10,000)					
	OEPA	\$1,250	746346	12/12/09	12/07/09	
		\$1,250	746347	03/12/10		
		\$1,250	746348	06/12/10		
		\$1,250	746349	09/12/10		
		\$1,250	746350	12/12/10		
		\$1,250	746351	03/12/11		
		\$1,250	746352	06/12/11		
	\$1,250	746353	09/12/11			
*****						
Great Plains Exploration (11/12/09)	Civil penalty: (\$19,000)					
	OEPA	\$1,000	746093	03/01/10		
		\$1,000	746094	04/01/10		
		\$1,000	746095	05/01/10		
		\$1,000	746096	06/10/10		
		\$1,000	746097	07/01/10		
		\$1,000	746098	08/01/10		
		\$1,000	746099	09/01/10		
		\$1,000	746100	10/01/10		
		\$1,000	746101	11/01/10		
		\$1,000	746102	12/01/10		
		\$1,000	746103	01/01/11		
		\$1,000	746104	02/01/11		
		\$1,000	746105	03/01/11		
		\$1,000	746106	04/01/11		
		\$1,000	746107	05/01/11		
		Bus Fund	\$1,000	746108	11/01/09	
			\$1,000	746109	12/01/09	
		\$1,000	746110	01/01/10		
		\$1,000	746111	02/01/10		
*****						
Sunoco, Inc. (Toledo Refinery) (11/12/09)	Civil penalty: (\$32,250)					
	OEPA	\$25,800	746355	11/26/09	11/06/09	
	Bus Fund	\$6,450	746356	12/12/09	11/06/09	
	Complete corrective actions in Finding 15(a) and submit documentation			12/31/09		
	Correct deficiencies in butane sphere inspection reports and submit documentation			06/30/10		
	Resolve compliance audit findings in Finding 14(c) and submit documentation			12/31/09		
	*****					

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Thermo-Rite Manufacturing Company, Inc. (12/02/09)	Civil penalty: (\$36,000)				
	OEPA	\$ 800	747314	03/01/10	
		\$2,000	747315	04/01/10	
		\$2,000	747316	05/01/10	
		\$2,000	747317	06/01/10	
		\$2,000	747318	07/01/10	
		\$2,000	747319	08/01/10	
		\$2,000	747320	09/01/10	
		\$2,000	747321	10/01/10	
		\$2,000	747322	11/01/10	
		\$2,000	747323	12/01/10	
		\$2,000	747324	01/01/11	
		\$2,000	747325	02/01/11	
		\$2,000	747326	03/01/11	
		\$2,000	747327	04/01/11	
	\$2,000	747328	05/01/11		
	Bus Fund	\$2,000	747329	12/01/09	11/30/09
		\$2,000	747330	01/01/10	12/23/09
		\$2,000	747331	02/01/10	01/21/10
		\$1,200	747332	03/01/10	
*****					
D & R Supply, Inc. (12/02/09)	Civil penalty: (\$20,000)				
	OEPA	\$5,000	746313	01/01/10	12/22/09
		\$2,750	746314	04/01/10	
		\$2,750	746315	07/01/10	
		\$2,750	746316	10/01/10	
		\$2,750	746317	01/01/11	
	Bus Fund	\$4,000	746318	12/01/09	11/06/09
*****					
Emery Oleochemicals, LLC (12/17/09)	Civil penalty: (\$57,400)				
	OEPA	\$28,700	747345	12/31/09	12/09/09
	Bus Fund	\$28,700	747346	12/31/09	12/09/09
	For odor emission control system for P004 (penalty credit project):				
		submit plans		03/01/10	
		issue purchase odors		07/01/10	
		initiate construction		10/01/10	
		complete construction		12/31/10	
		submit documentation of spending at least \$340,000		01/31/11	
	*****				
Robert Schiekh (12/22/09)	Civil penalty: (\$750)			01/22/10	
*****					

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
D. Todd Hosea, d.b.a. Hosea Project Movers (12/23/09)	Civil penalty: (\$22,000) OEPA	\$4,400 \$4,400 \$4,400 \$4,400 \$4,400	03/23/10 06/23/10 09/23/10 12/23/10 01/23/10		
*****					
Randy Wise (12/23/09)	Civil penalty: (\$250)		01/23/10		
*****					
Ameriseal & Restoration, LLC (12/30/09)	Civil penalty: (\$6,700) OEPA	\$ 860 \$2,200 \$2,300	01/15/10 02/15/10 03/15/10		01/15/10
	Bus Fund	\$1,340	01/15/10		01/15/10
*****					
Republic Engineered Products, Inc. (12/30/09)	Civil penalty: (\$30,600) OEPA	\$24,480	02/15/10		
	Bus Fund	\$ 6,120	02/15/10		
*****					
Mark A. Mirich, d.b.a.	Civil penalty: (\$25,000)	\$800	02/15/10		
		\$800	03/15/10		
		\$800	04/15/10		
		\$800	05/15/10		
		\$800	06/15/10		
		\$800	07/15/10		
		\$800	08/15/10		
		\$800	09/15/10		
		\$800	10/15/10		
		\$800	11/15/10		
		\$800	12/15/10		
		\$800	01/15/11		
		\$800	02/15/11		
		\$800	03/15/11		
		\$800	04/15/11		
		\$800	05/15/11		
		\$800	06/15/11		
		\$800	07/15/11		
		\$800	08/15/11		
		\$800	09/15/11		
		\$800	10/15/11		
		\$800	11/15/11		
		\$800	12/15/11		
		\$800	01/15/12		
		\$800	02/15/12		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Mark A. Mirich, d.b.a. All Demolition (Con't) (12/28/09 - CO)	Bus Fund	\$200	02/15/10		
		\$200	03/15/10		
		\$200	04/15/10		
		\$200	05/15/10		
		\$200	06/15/10		
		\$200	07/15/10		
		\$200	08/15/10		
		\$200	09/15/10		
		\$200	10/15/10		
		\$200	11/15/10		
		\$200	12/15/10		
		\$200	01/15/11		
		\$200	02/15/11		
		\$200	03/15/11		
		\$200	04/15/11		
		\$200	05/15/11		
		\$200	06/15/11		
\$200	07/15/11				
\$200	08/15/11				
\$200	09/15/11				
\$200	10/15/11				
\$200	11/15/11				
\$200	12/15/11				
\$200	01/15/12				
\$200	02/15/12				
*****					
Tinkler Construction, Co. (12/30/09 - CO)	Civil penalty: (\$14,500)				
	OEPA	\$11,600	01/30/10		
	Bus Fund	\$ 2,900	01/30/10		
*****					
New Day Farms, LLC, et al. (01/11/10)	Civil penalty: (\$55,200)				
	OEPA	\$44,160	02/11/10		
	Bus Fund	\$11,040	02/11/10		
*****					
ConSun Food Industries, Inc. (01/14/10)	Civil penalty: (\$17,250)				
	OEPA	\$1,600	02/14/10		
		\$4,000	05/14/10		
		\$4,000	08/14/10		
		\$4,200	11/14/10		
	Bus Fund	\$3,450	02/14/10		
	Perform static leak & A/L ratio tests at each		03/31/10		
	GDF		08/31/10		
		03/31/11			
		08/31/11			
*****					
Brent Saionz, d.b.a. Simon Excavating (01/13/10)	Civil penalty: (\$2,000)				01/27/10
	*****				

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
The Afcose Group (01/20/10)	Civil penalty: (\$1,000)				
	OEPA	\$250	02/20/10		
		\$250	03/18/10		
		\$250	04/18/10		
		\$250	05/18/10		
*****					
Lehigh Gas Corporation (01/20/10)	Civil penalty: (\$12,000)				
	OEPA	\$9,600	02/03/10		
	Bus Fund	\$2,400	03/05/10		
	Perform static leak & A/L ratio tests at each		03/31/10		
	GDF		08/31/10		
			03/31/11		
			08/31/11		
*****					

- \*\* FSC - Assigned to a Special Counsel
- ACT - Account is being collected in house
- UNC - Account has been placed in a currently uncollectible status
- RTN - Returned from Special Counsel, Unpaid
- PIF - Account is paid in full
- SKP - Account is in the skip tracer desk





State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center  
50 W. Town St., Suite 700  
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184  
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MAILING ADDRESS:

P.O. Box 1049  
Columbus, OH 43216-1049

January 20, 2010

**CERTIFIED MAIL**

Ms. Ersie Jackson  
Chief Executive Officer  
The Afco Group  
763 Broadway Avenue  
Lorain, Ohio 44052

Re: Final Findings and Orders for:  
Violations of the work practice  
requirements of the asbestos emission  
control standards at the demolition of  
a school building at 511 West Avenue  
in Elyria, Ohio

Dear Ms. Jackson:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

James A. Orlemann, P.E.  
Assistant Chief, SIP Development and Enforcement  
Division of Air Pollution Control

JAO/pr

xc: Jim Orlemann, DAPC  
Tom Kalman, DAPC  
Carol Hester, PIC  
Priscilla Roberson, DAPC  
Brenda Case, Fiscal Office (Agency #NA)  
Bryan Zima, Legal Office  
Jim Kavalec, DAPC  
Ed Fasko/Tim Fischer, NEDO

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

OHIO E.P.A.

JAN 20 2010

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

The Afco Group : Director's Final Findings  
763 Broadway Avenue : and Orders  
Lorain, Ohio 44052 :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to The Afco Group ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent was the asbestos abatement contractor for the Elyria City School demolition project located at 511 West Avenue, Elyria, Lorain County, Ohio. Respondent was the "operator," as defined in Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(39)(a), of the asbestos removal activities located at this address.

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: Donna Cassider Date: 1-20-10

2. On January 11, 2008, Ohio EPA received an "Ohio Environmental Protection Agency Notification of Demolition and Renovation" form from Respondent indicating that 7,650 square feet of regulated asbestos-containing material ("RACM"), as defined in OAC Rule 3745-20-01(B)(42), was to be removed from the house referenced in Finding No. 1 of these Orders beginning on January 20, 2008, and ending on January 23, 2008. Several amended notifications were submitted to Ohio EPA, the last of which indicated that the asbestos removal would be completed by February 18, 2008. This amount of RACM made this demolition subject to the work practice standards identified in OAC Rule 3745-20-02(B)(1).

3. On February 14, 2008, Ohio EPA conducted an inspection at the site. The stripping of the plaster from the walls and ceilings had been completed. There was plaster debris on the floors and steps throughout the first floor, second floor and basement of the house, as well as outside the house. Approximately 2,250 square feet of RACM as debris was still on-site. At the time of the inspection, Respondent's employees were sweeping and putting plaster debris into asbestos waste disposal bags. All the debris was dry and no wetting of material was occurring during this activity and throughout the inspection. Six samples of suspected asbestos-containing waste material were taken by Ohio EPA at this time.

4. On March 6, 2007, the six samples taken by Ohio EPA were analyzed and three of the six samples were found to contain "friable asbestos-containing material," as defined in OAC Rule 3745-20-01(B)(20), which is RACM as defined in OAC Rule 3745-20-01(B)(42).

Sample No.	Location of Sample	Description of Sample	Type of Asbestos (if any)	Asbestos Content by Area (%)
146675-1	1 <sup>st</sup> floor hallway	Plaster	Chrysotile	Trace
146676-2	Disposal bag on 1 <sup>st</sup> floor	Plaster	None	NA
146677-3	Stairwell	Plaster	Chrysotile	2%
146678-4	2 <sup>nd</sup> floor bedroom	Plaster	Chrysotile	Trace
146379-6	2 <sup>nd</sup> floor window sill on east side of house	Plaster	Chrysotile	2%
146380-5	Outside east side of house on ground under 2 <sup>nd</sup> floor window	Plaster	Chrysotile	2%

5. As a result of the February 14, 2008 inspection, the Director has determined that Respondent had, inter alia:

a. Failed to adequately wet the RACM that was removed or stripped and ensure the RACM remained adequately wet until collected and contained for disposal, in violation of OAC Rule 3745-20-04(A)(6)(a) and ORC § 3704.05(G); and

b. Failed to use one of the methods specified in OAC Rule 3745-20-05(B)(1) to (B)(4) during the collection and packaging of the asbestos-containing waste material in the house and outside on the ground, in violation of OAC Rule 3745-20-05(B) and ORC § 3704.05(G).

6. ORC Chapter 3704.05(G) states, in part, that no person shall violate any rule adopted by the Director of Ohio EPA, pursuant to ORC § 3704.03. OAC Chapter 3745-20 was adopted by the Director pursuant to ORC § 3704.03.

7. On February 18, 2008, Respondent completed the asbestos removal at the site.

8. By letter dated March 27, 2008, Ohio EPA notified Respondent of the violations referenced in Finding No. 5 of these Orders.

9. On November 18, 2008, Ohio EPA sent proposed Director's Final Findings and Orders to Respondent for the aforementioned air pollution control permit, rule and law violations.

10. On May 4, 2009, Respondent submitted financial documents, to Ohio EPA, showing that it had limited financial ability to pay a civil penalty.

11. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

## **V. ORDERS**

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of one thousand dollars (\$1,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by official checks made payable to "Treasurer, State of Ohio" and shall be paid in installments per the following schedule:

a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two hundred and fifty dollars (\$250);

b. Within sixty (60) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two hundred and fifty dollars (\$250);

c. Within ninety (90) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two hundred and fifty dollars (\$250);  
and

d. Within one hundred and twenty (120) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two hundred and fifty dollars (\$250).

The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

2. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, operations by Respondent.

#### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

### **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: Bob Princic

and to:

Ohio Environmental Protection Agency  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Thomas Kalman

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

**XIII. EFFECTIVE DATE**

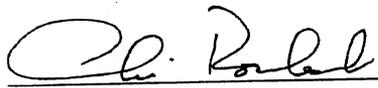
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

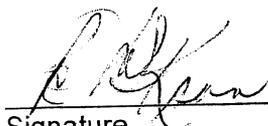
  
\_\_\_\_\_  
Chris Korleski  
Director

1/14/10  
Date

RECEIVED  
OHIO EPA  
JAN 11 AM 9:34  
LEGAL OFFICE

**IT IS SO AGREED:**

**The Afco Group**

  
\_\_\_\_\_  
Signature

1-6-09  
Date

  
\_\_\_\_\_  
Printed or Typed Name

CEO  
\_\_\_\_\_  
Title





State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center  
50 W. Town St., Suite 700  
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184  
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049  
Columbus, OH 43216-1049

January 20, 2010

**CERTIFIED MAIL**

Mr. Stephen Lattig  
Director of Operations  
Lehigh Gas Corporation  
1425 Mountain Drive North  
Bethlehem, PA 18015

Re: Final Findings and Orders for:  
violations of stage II vapor control  
system rules at GDFs at Vermillion  
Valley Service Plaza and Middle Ridge  
Service Plaza of the Ohio Turnpike  
Commission, in Amherst, Ohio

Dear Mr. Lattig:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

James A. Orlemann, P.E.  
Assistant Chief, SIP Development and Enforcement  
Division of Air Pollution Control

JAO/pr

xc: Jim Orlemann, DAPC  
Tom Kalman, DAPC  
Carol Hester, PIC  
Priscilla Roberson, DAPC  
Brenda Case, Fiscal Office (Agency #NA)  
Stephen Feldmann, Legal Office  
Jim Kavalec, DAPC  
Ed Fasko/Tim Fischer, NEDO

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

OHIO E.P.A.

JAN 20 2010

BEFORE THE

JAN 04 REC'D

ENTERED DIRECTOR'S JOURNAL

**OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Lehigh Gas Corporation  
1425 Mountain Drive North  
Bethlehem, PA 18015

: Director's Final Findings  
: and Orders  
:

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to the Lehigh Gas Corporation ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the facilities shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the regulations promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA makes the following findings:

1. Respondent operates two gasoline dispensing facilities ("GDFs") for the Ohio Turnpike Commission located at Milepost 139 East, Amherst, Ohio (Vermillion Valley Service Plaza) and Milepost 139 West, Amherst, Ohio (Middle Ridge Service Plaza). These GDFs are subject to the requirements of Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD) concerning Stage II vapor control systems.

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By John L. Essler Date: 1-20-10

into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). By letter dated August 27, 2007, Ohio EPA notified Respondent of these violations.

9. On September 27, 2007, Respondent conducted a static leak and A/L ratio retest at this GDF. The static leak test passed but the A/L ratio failed for dispensers 3, 5, 9 and 13. Respondent was transferring gasoline into motor vehicles prior to and after the failed A/L ratio test. The failure to properly install, operate, and maintain the vapor control system and to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On October 18, 2007, Respondent conducted and passed an A/L ratio retest.

10. On June 16, 2008, Respondent conducted and passed the annual Stage II static leak test and A/L ratio tests and on July 14, 2008, Respondent conducted and passed the five year dynamic pressure performance test.

11. On May 20, 2009, Respondent conducted the annual Stage II compliance tests at this GDF. The static leak test passed but the A/L ratio test failed for dispensers 4, 5 and 6 due to low or no vacuum. Respondent was transferring gasoline into motor vehicles prior to and after the failed A/L ratio test. The failure to properly install, operate, and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On July 29, 2009, Respondent conducted and passed a retest at this GDF.

#### **Middle Ridge Service Plaza**

12. On June 16, 2008, Respondent conducted an annual Stage II compliance test at this GDF. The static leak test failed due to leaking drop tubes and A/L ratio test failed for dispensers 9, 10, 18 and 25. Respondent was operating these dispensers prior to and after the failed static leak and A/L ratio tests. The failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle is a violation ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On July 14, 2008, Respondent conducted and passed a retest at this GDF.

13. On May 19, 2009, Respondent conducted an annual Stage II compliance test at this GDF. The static leak test failed due to leaks in the Stage II vapor control system and the A/L ratio test was not attempted due to these leaks. In addition, hoses on nine dispensers were in poor condition and needed to be replaced and several dry break caps had no gaskets. Respondent was transferring gasoline into motor vehicles prior to and after the failed static leak test. The failure to properly install, operate, and maintain the vapor control system and the failure to successfully pass the testing

requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle are violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c).

14. On July 28, 2009, Respondent attempted to conduct a retest at this GDF but was not able to perform the retest because additional repairs were needed. Respondent was still transferring gasoline into motor vehicles as of this date. The failure to properly install, operate, and maintain the vapor control system and to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle are violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On August 17, 2009, Respondent conducted and passed a retest at this GDF.

15. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

#### **V. ORDERS**

The Director hereby issues the following Orders:

1. For the next two ozone seasons (April 1, 2010 – October 31, 2010 and April 1, 2011 – October 31, 2011), starting two weeks prior to the start of the ozone season, i.e., by March 15, 2010 and March 15, 2011, and continuing until October 31, 2010 and October 31, 2011, respectively, Respondent shall conduct weekly inspections of the Stage II vapor control systems at the Vermillion Valley and Middle Ridge Service Plazas, checking for leaks, malfunctions or other damage to the system and shall keep records of these inspections and any repairs made. The inspections shall be recorded in an inspection log or checklist. Copies of the inspection logs or checklists shall be submitted to Ohio EPA during the middle and at the end of each ozone season. Specifically, copies of the weekly inspection records for the period from March 15 through July 31 shall be submitted by August 14 of that year. Copies of the weekly inspection records for August 1 through October 31 shall be submitted by November 14 of that year.

2. For the next two ozone-producing seasons (i.e., April 1, 2010 – October 31, 2010 and April 1, 2011 – October 31, 2011), Respondent shall perform static leak and A/L ratio tests at the Vermillion Valley and Middle Ridge Service Plazas prior to the beginning (during March) of each ozone season and during August of each ozone season. Respondent shall notify Ohio EPA of such testing within fourteen (14) days prior to any test. The results of these tests shall be submitted to Ohio EPA within fourteen (14) days after completion of the tests.

3. Respondent shall pay the amount of twelve thousand dollars (\$12,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for nine thousand six hundred dollars (\$9,600) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA  
Office of Fiscal Administration  
50 West Town Street, Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049

4. In lieu of paying the remaining two thousand four hundred dollars (\$2,400) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$2,400 to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$2,400. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

5. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA  
Division of Air Pollution Control  
50 West Town Street, Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049

6. Should Respondent fail to fund the SEP within the required time frame set forth in Order 4, Respondent shall immediately pay to Ohio EPA \$2,400 of the civil penalty in accordance with the procedures in Order 3.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case

Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For the purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice president or his duly authorized representative.

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's facilities.

#### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

#### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

#### **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio EPA, Northeast District Office  
2110 East Aurora Rd.  
Twinsburg, Ohio 44087  
Attn: Tim Fischer

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
50 West Town Street, Suite 700  
Columbus, Ohio 43216-1049  
Attn: Thomas Kalman

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

#### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges, and causes of action except as specifically waived in Section XII of these Orders.

#### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation, or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

#### **XIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**ORDERED AND AGREED:**

Ohio Environmental Protection Agency

  
Chris Korleski  
Director

Date 1/11/10

**AGREED:**

Lehigh Gas Corporation

  
Signature

Date 12/29/09

Stephen Lattig  
Printed or Typed Name

Director of Operations  
Title





State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center  
50 W. Town St., Suite 700  
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184  
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049  
Columbus, OH 43216-1049

**JAN 20 2010**

**CERTIFIED MAIL**

Mr. Fred Innamorato, President  
Foti Contracting, LLC  
a.k.a. West Third Street Construction  
2501 West 3<sup>rd</sup> Street  
Cleveland, Ohio 44113

Re: Proposed Director's Final Findings and Orders for air pollution control rule and law violations

Dear Mr. Innamorato:

My staff has informed me of the violations of Ohio Administrative Code Rule 3745-17-08(B) and ORC § 3704.05(G) associated with Foti Contracting, LLC's failure to employ reasonably available control measures ("RACM") to suppress fugitive dust during several concrete/brick sawing operations at the University of Akron Stadium, Summit County, Ohio. I understand that Foti Contracting, LLC ("Foti") has committed to implement control measures for its sawing operations after several violations were documented. However, some of Foti's subsequent operations continued to violate the rule.

In order to resolve this matter, I am proposing to issue the enclosed Findings and Orders prepared by my staff which includes a provision for the settlement of the claims for civil penalties for the violations that occurred. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Also, enclosed is an administrative enforcement process guide to facilitate your review of the proposed Findings and Orders. Because this letter and the enclosed documents summarize a proposed settlement, I consider them to be inadmissible for any purpose in any enforcement action the State may take if settlement cannot be reached.

Please note that the proposed Findings and Orders include a provision for 20 percent of the total civil penalty amount to go toward the funding of a supplemental environmentally beneficial project involving the retrofitting of school buses with control equipment to reduce diesel particulate emissions. This project has the primary benefits of reducing children's exposure to harmful diesel exhaust emissions and helping attain the National Ambient Air Quality Standards for fine particulates (i.e., particles less than 2.5 microns in diameter).

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

Mr. Fred Innamorato  
President  
Foti Contracting, LCC  
a.k.a. West Third Street Construction  
Page 2 of 2

Information concerning the school bus retrofit program is provided in an enclosed document.

Please review the attached documents carefully. If you have any questions concerning the proposed Findings and Orders, or if you would like to arrange a meeting or conference call to try to negotiate a settlement, please contact Marc Glasgow of the Ohio EPA Legal Office, at (614) 644-3037. If he does not hear from Foti within fourteen (14) days of the receipt of this letter, concerning its willingness to accept the Findings and Orders as currently written, or with mutually agreed upon modifications, I will consider alternative enforcement mechanisms including referral of the matter to the Ohio Attorney General's Office for legal action.

I hope that Foti and Ohio EPA are able to resolve this matter via the enclosed proposal, and I thank you in advance for your cooperation.

Sincerely,



Chris Korleski  
Director

xc: Jim Orlemann, DAPC  
Tom Kalman, DAPC  
Felix Udeani, DAPC  
Marc Glasgow, Legal Office  
Bonetta Guyette/Frank Markunas, ARAQMD

Enclosures

CK:FU:fu

*A guide to the . . .*

# **Administrative Enforcement Process**

*Within the Division of Air Pollution Control*

## **Introduction**

This information sheet has been prepared to help you understand the administrative enforcement process within the Agency. With an understanding of the process and adequate preparation, you can facilitate a prompt resolution of this enforcement action. Included are answers to the questions most frequently asked by parties involved in the administrative enforcement process.

## **I have been working with the District Office or local air agency inspector to correct the violations. Why is an enforcement action necessary?**

The Agency considers the following factors in deciding that an enforcement action is necessary: (1) Ohio EPA needs to obtain civil penalties for your violations; (2) your violations are serious; (3) you have taken too long to address the violations; (4) you need to be on a formal schedule to address the violations; (5) you have been recalcitrant in addressing the violations; and/or (6) you are a chronic violator.

## **Why should I try to negotiate an administrative consent order with Ohio EPA?**

- Negotiating administrative findings and orders ("Order") with the Ohio EPA avoids expensive and time-consuming litigation.
- Negotiation can be a swift resolution of the State's claims against you for the non-compliance.
- We can quickly identify any obstacle to agreement.
- Negotiation can minimize or prevent any intervention by the USEPA to address the violations.

## **Should I continue working with the District or local air agency inspector?**

Yes, the District Office or local air agency inspector is the best person to work with you to resolve the technical aspects of the violations, and prepare an acceptable control plan and schedule for submission to the Agency. Central Office personnel will also be available to provide assistance.

## **What should I do now that I received the proposed administrative consent order?**

You should review the enclosed Order and the summary of the penalty calculation. If you accept the enclosed Order as written, sign the Order and send it within two weeks to the staff attorney referenced in the Director's letter. If you cannot accept the Order as written, the Agency would like to meet with you to discuss your concerns. Please contact the designated staff attorney at (614) 644-3037 to arrange a meeting.

## **If I want to have a meeting, what should I do to prepare for it?**

Generally, the most productive meetings occur when both parties come prepared to discuss all issues. The Order and correspondence from the District Office or local air agency inspector contain the Agency's position. Since you were not willing to agree to the Order as written, we need to know whether you: (1) disagree with the facts outlined in the Order; (2) are not able or willing to comply with the Order; or (3) have information you feel may mitigate the civil penalty settlement amount. Send the staff attorney a written summary of your issues within two weeks from the date of the Director's letter. Additionally, if you believe you are financially unable to pay the penalty, contact the staff attorney for a list of information we need to evaluate your ability to pay.

### **What will happen at the meeting?**

During the meeting, we will respond to any information you have provided. We are willing to work with you to arrive at mutually agreed upon modifications to the Order. Except in the most complex cases, our goal is to complete all negotiations at the meeting. If we cannot agree at the meeting and we feel we are making adequate progress, we will hold our offer of settlement open. Thereafter, if resolution of the negotiations is not achieved within the time frame agreed to by the parties at the settlement meeting or if we feel we are not making adequate progress, the offer of settlement may be withdrawn, and we may consider other enforcement alternatives, including a referral to the Office of the Attorney General.

### **Why do I have to pay a civil penalty?**

A civil penalty is necessary to deter future violations and to remove any economic advantage you may have realized from not complying with Ohio's regulations. Instead of a full cash payment, the Agency may be willing to accept a supplemental environmentally beneficial project ("SEP"), that meets certain guidelines.

### **How did the DAPC arrive at the civil penalty settlement amount?**

Ohio EPA relied on U.S. EPA's Air Civil Penalty Policy to calculate the penalty. The DAPC uses this Policy to ensure that we calculate penalties fairly and consistently and that the penalty is appropriate for the gravity of the violations. Enclosed is a summary of the DAPC's civil penalty settlement calculation. If you want a copy of the U.S. EPA's Air Civil Penalty Policy, contact the designated staff attorney at (614) 644-3037.

### **Who from Ohio EPA will be at the meeting?**

Everyone necessary to resolve the matter will be at the meeting or available during the meeting to provide settlement authority. This includes the staff attorney, the District Office or local air agency inspector, and Central Office technical personnel.

### **Who should I bring to the meeting?**

Similarly, you should bring anyone familiar with the issues as well as anyone who has the authority to settle this matter. You are welcome to be represented at this meeting by your attorney and your consultant.

### **News releases**

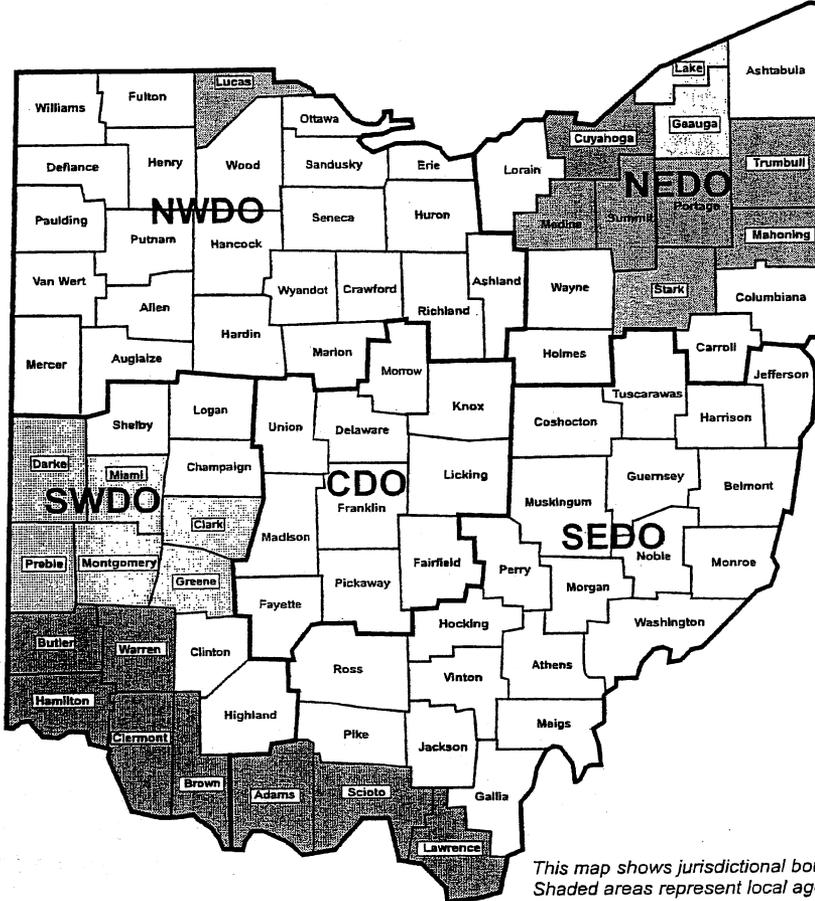
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about our enforcement efforts. Ohio EPA's news release represents our position, and so we do not negotiate the language in the news release with you. If we prepare a news release, you will receive a courtesy copy shortly before it is released to the media and posted on our web site. You can read all of our news releases at: <http://www.epa.state.oh.us/pic/current.html>.

### **District Office and Local Air Agency Addresses and Phone Numbers**

See the following pages.

# Local Air Pollution Control Agencies

Division of Air Pollution Control  
Ohio EPA, Central Office  
(614) 644-2270  
[www.epa.state.oh.us/dapc/general/dolaa.html](http://www.epa.state.oh.us/dapc/general/dolaa.html)



This map shows jurisdictional boundaries.  
Shaded areas represent local agencies within Ohio EPA districts.



## District Offices

**CDO Adam Ward, APC Manager**  
01 Central District Office  
50 West Town Street, Suite 700  
Columbus, OH 43215  
(614) 728-3778 FAX (614) 728-3898  
e-mail: adam.ward@epa.state.oh.us

**SEDO Bruce Weinberg, APC Manager**  
06 Southeast District Office  
2195 Front St.  
Logan, OH 43138  
(740) 385-8501 FAX (740) 385-6490  
e-mail: bruce.weinberg@epa.state.oh.us

**NEDO Dennis Bush, APC Manager**  
02 Northeast District Office  
2110 E. Aurora Rd.  
Twinsburg, OH 44087  
(330) 425-9171 FAX (330) 487-0769  
e-mail: dennis.bush@epa.state.oh.us

**NWDO Mark Budge, APC Manager**  
03 Northwest District Office  
347 North Dunbridge Rd.  
Bowling Green, OH 43402  
(419) 352-8461 FAX (419) 352-8468  
e-mail: mark.budge@epa.state.oh.us

**SWDO Tom Schneider, APC Manager**  
05 Southwest District Office  
401 E. Fifth St.  
Dayton, OH 45402-2911  
(937) 285-6357 FAX (937) 285-6249  
e-mail: tom.schneider@epa.state.oh.us

**Lynn Malcolm, Administrator**  
16 Akron Regional Air Quality Management District  
146 South High St, Room 904  
Akron, Ohio 44308  
(330) 375-2480 FAX (330) 375-2402  
e-mail: MalcolmL@ci.akron.oh.us

**Dan Aleman, Administrator**  
15 Air Pollution Control Division  
Canton City Health Dept.  
420 Market Ave. North  
Canton, Ohio 44702-1544  
(330) 489-3385 FAX (330) 489-3335  
e-mail: daleman@cantonhealth.org

**Cory R. Chadwick, Director**  
14 Dept. of Environmental Services  
Air Quality Programs  
250 William Howard Taft Road  
Cincinnati, Ohio 45219-2660  
(513) 946-7777 FAX (513) 946-7778  
e-mail: cory.chadwick@hamilton-co.org

**Richard L. Nemeth, Commissioner**  
13 Cleveland Dept. of Public Health  
Division of Air Quality  
Penton Media Building, 4th Floor  
1300 East 9th St.  
Cleveland, Ohio 44114  
(216) 664-2297 FAX (216) 420-8047  
e-mail: Rnemeth@city.cleveland.oh.us

**John Paul, Administrator**  
08 Regional Air Pollution Control Agency  
Montgomery County Health Dept.  
117 South Main St.  
Dayton, Ohio 45422-1280  
(937) 225-4435 FAX (937) 225-3486  
e-mail: paulja@rapca.org

**Bert Mechenbier, Supervisor \***  
20 Lake County General Health District  
Air Pollution Control  
33 Mill Street  
Painesville, Ohio 44077  
(440) 350-2543 FAX (440) 350-2548  
e-mail: BMechenbier@lchgd.org

**Cindy Charles, Director**  
07 Portsmouth Local Air Agency  
605 Washington St., Third Floor  
Portsmouth, Ohio 45662  
(740) 353-5156 FAX (740) 353-3638  
e-mail: cindy.charles@epa.state.oh.us

**Karen Granata, Administrator**  
04 City of Toledo  
Division of Environmental Services  
348 South Erie Street  
Toledo, Ohio 43604  
(419) 936-3015 FAX (419) 936-3959  
e-mail: karen.granata@toledo.oh.gov

**Misty Koletich, Supervisor \***  
21 Mahoning-Trumbull APC Agency  
345 Oak Hill Ave., Suite 200  
Youngstown, Ohio 44502  
(330) 743-3333 FAX (330) 744-1928  
e-mail: mtpca@cboss.com

\*Facilities located within these jurisdictions should file air permit applications with Ohio EPA's Northeast District Office (NEDO).

# **General Guidelines for Ohio EPA's Program for the Retrofitting of School Buses with Control Equipment to Reduce Diesel Particulate Emissions**

The following questions and answers explain the Ohio EPA's program for the retrofitting of school buses with emission control equipment and provide the general guidelines that must be followed by any school system that participates in the program.

## **1. Why is there a need to reduce diesel particulate emissions from school buses?**

The exhaust gases from diesel, school bus engines contain significant amounts of organic compounds, carbon monoxide, nitrogen oxides (NOx) and fine particulates. If inhaled, the fine particulates are so small that they are able to penetrate deep into the lungs and pose serious health risks such as aggravated asthma and lung damage. In addition, USEPA has identified diesel exhaust as a likely human carcinogen. These fine particulate emissions contribute to the poor ambient air quality in 27 counties in Ohio, which currently are not meeting the national health-based ambient air quality standards for fine particulates (i.e., PM 2.5, particles less than 2.5 microns in diameter). Reducing the particulate emissions from diesel school bus engines will have two primary benefits:

- a. For the children who ride buses, it will reduce their exposure to the harmful diesel exhaust emissions. Children are more susceptible to air pollution than healthy adults because their respiratory systems are still developing and they have a faster breathing rate.
- b. It will help in attaining the National Ambient Air Quality Standards for PM 2.5 in Ohio's nonattainment counties.

## **2. What retrofit options are available to reduce particulate emissions from school buses?**

There are three primary ways to retrofit a school bus for particulate emission control:

- a. **Diesel particulate filters** are ceramic devices that collect particulate matter in the exhaust stream. The high temperature of the exhaust heats the ceramic structure and allows the particles inside to break down into less harmful components. These filters must be used in conjunction with ultra-low sulfur diesel ("ULSD") fuel, which is a fuel with a sulfur content of less than 15 parts per million. The combination of particulate filters and ULSD fuel can reduce emissions of particulates, organic compounds, and carbon monoxide in the exhaust gases by 60 to 90 percent. Particulate filters work best on engines built after 1994 and cost \$6,500 to \$7,500.

- b. **Crankcase filtration systems** allow a diesel engine's crankcase to be closed and use an air filter to trap blow-by aerosols consisting mainly of oil droplets, with some carbon and traces of wear debris and PM10. Blow-by gas emissions can be as much as 25% of the total emissions from a diesel engine. The filtration efficiency of crankcase filters averages between 80% and 97%. The crankcase filter must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first. Crankcase filters are inexpensive (a replacement element typically costs less than \$50.00) and are best used in conjunction with some type of filtration system in the exhaust stream.
- c. **Diesel oxidation catalysts** are devices that use a chemical process to break down pollutants in the exhaust stream into less harmful components. Diesel oxidation catalysts can reduce emissions of particulates by 20 percent, hydrocarbons by 50 percent, and carbon monoxide by 40 percent. Oxidation catalysts cost \$600 to \$2,000 and can be used with regular diesel fuel.

Only control equipment found on USEPA's "Verified Technology List" may be purchased and installed (see (4) below for further details).

**3. Which types of school buses will be eligible to be retrofitted with particulate emission controls?**

Only school buses that meet the following criteria will be retrofitted with particulate emission controls:

- a. The school bus must be equipped with a diesel engine.
- b. The school bus must have a gross vehicle rating of 19,500 pounds or more (Types C & D).
- c. The school bus must be driven not less than 5,000 miles per year.
- d. The school bus model year must be 1994 or newer.

**4. Which types of control equipment would be acceptable for installation?**

The USEPA publishes a "Verified Technology List." Only control equipment found on this list may be purchased and installed. As additional technologies are found to be acceptable by the USEPA, they will be added to the list. A copy of this list can be accessed at the following web site:

<http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm>.

This table summarizes all the diesel retrofit technologies that the USEPA has approved for use in engine retrofit programs. The table shows the percent reduction (from verified or tested levels) that USEPA will recognize for emission reductions for each technology.

**5. Is there a special type of fuel that must be used with the control equipment?**

In some cases, yes. Each bus equipped with a particulate filter must use ultra low sulfur diesel (ULSD) fuel. Because of the high sulfur content of regular diesel fuel, the use of regular diesel fuel would cause the particulate filter to clog. This, in turn, could cause exhaust back-pressure increases and engine damage. The ULSD fuel contains less than 10% of the sulfur content of regular diesel fuel. Regular diesel fuel may contain 150 to 500 ppm of sulfur, compared to the maximum of 15 ppm for the ULSD fuel. As a result of recent changes in the U.S. federal fuel standards, ULSD fuel will become the standard diesel fuel throughout the U.S. beginning in June of 2006. Many parts of the country, including certain parts of Ohio, are already being supplied with ULSD fuel. The price differential between ULSD fuel and regular diesel fuel currently ranges between eight and 25 cents per gallon. In 2006, when ULSD fuel is available nationwide, the cost differential should be much less.

Diesel oxidation catalysts and crankcase filtration systems do not require special fuel.

**6. What costs are associated with the installation and operation of the emission controls?**

The estimated cost to retrofit each bus with a diesel particulate filter ranges from \$6,500 to \$7,500. On an annual basis, or about every 100,000 miles, these filters must be disassembled and cleaned either with compressed air or by heating the filter in a filter cleaning device. (The cost of such a device ranges from \$300 to \$350.) The cost for the annual maintenance for each filter, which normally takes less than 3 hours to complete, will depend upon whether the work is performed by school district personnel, the engine dealer, or the filter vendor. Also, until ULSD fuel becomes available nationwide in June of 2006, there will be an increased cost for the diesel fuel burned in each retrofitted bus. The current price differential between ULSD fuel and regular diesel fuel varies between 8 and 25 cents per gallon.

Crankcase filters are fairly inexpensive (a replacement element typically costs less than \$50.00). Crankcase filters must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first.

The estimated cost to retrofit each bus with a diesel oxidation catalyst ranges from \$600 to \$2,000. Installation takes approximately one to three hours to complete. Diesel oxidation catalysts do not require annual maintenance and will operate with regular diesel fuel.

**7. How will the control devices be funded by the Ohio EPA?**

Ohio EPA enforcement case settlements will be the source of the funding for the diesel retrofit installations. Each enforcement case resolved either through administrative Findings and Orders or a Consent Order, that contains a significant civil penalty (a total civil penalty assessment of \$5,000 or greater), will also include a Supplemental Environmental Project (SEP) that is equal in value to 20 percent of the total assessed civil penalty. The entity that is the subject of the enforcement case will be required to pay the SEP monies directly to a specific fund that Ohio EPA has established for the retrofitting of school buses.

**8. How will the school systems receive the SEP monies for the diesel retrofit installations?**

A school system that desires to participate in the retrofit program must apply to Ohio EPA to receive funding to purchase and install USEPA approved control equipment. Once or twice per year, the Ohio EPA will solicit applications from the eligible school systems. In the application, an eligible school system must describe the proposed project, providing details such as the number and ages of the buses to be retrofitted, the type of equipment that will be purchased and installed (must be on the USEPA-published list of "Verified Retrofit Technologies"), a schedule for installation of the equipment, and a detailed cost breakdown. Ohio EPA will evaluate each application and provide funding to applicant school systems that meet the criteria specified by Ohio EPA's regulations. Priority will be given to those applicants that are located in a nonattainment county for PM 2.5 and/or that include a commitment to implement an anti-idling program.

**9. What oversight will be provided by the Ohio EPA to ensure that the diesel retrofit control equipment is installed and maintained properly?**

Ohio EPA will closely track the amount of enforcement monies directed to each public school system. Each participating school system must submit regular progress reports providing information regarding the equipment purchased and installed to date, as well as a final report summarizing the project results. Periodic inspections also may be conducted by District Office or local air agency staff to confirm that the control equipment has been correctly installed, that the diesel particulate filters are being maintained properly, and that the monies are being spent appropriately.

**BEFORE THE**  
**OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

<b>Foti Contracting, LLC</b>	<b>:</b>	<b><u>Director's Final Findings</u></b>
<b>a.k.a. West Third Street Construction</b>	<b>:</b>	<b><u>and Orders</u></b>
<b>2501 West Third Street</b>	<b>:</b>	
<b>Cleveland, Ohio 44113</b>	<b>:</b>	

Respondent

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Foti Contracting, LLC ("Respondent"), a.k.a. West Third Street Construction, pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA ("Director") makes the following findings:

1. Respondent is a masonry contractor with an office located at 2501 West Third Street, Cleveland, Ohio. Respondent is incorporated with the Secretary of State to do business in Ohio. When conducting masonry operations, Respondent employs concrete/brick sawing equipment.

2. Akron Regional Air Quality Management District ("ARAQMD") is a contractual agent for Ohio EPA in Summit County.

3. A "fugitive dust source," in part, is defined in OAC Rule 3745-17-01(B)(7) as any source which emits "fugitive dust" as defined in OAC Rule 3745-17-01(B)(6). "Fugitive dust" means particulate matter which is emitted from any source by means other than a stack. The outdoor operation of masonry sawing equipment emits fugitive dust and constitutes a fugitive dust source and an "air contaminant source," as defined in OAC Rule 3745-15-01(C) and (X).

4. OAC Rule 3745-17-08(A)(1) states, in part, that the requirements of OAC Rule 3745-17-08(B) apply to any fugitive dust source which is located in any of the areas identified in Appendix A of OAC Rule 3745-17-08. The City of Akron is listed in Appendix A.

5. OAC Rule 3745-17-08(B) states, in part, that no person shall cause or permit any fugitive dust source to be operated; or any materials to be handled, transported, or stored; or a building to be constructed, altered, repaired, or demolished without taking or installing reasonably available control measures to prevent fugitive dust from becoming airborne. Such reasonably available control measures shall include, but not be limited to, the use of water or other suitable dust suppression chemicals for control of fugitive dust from construction operations and/or the use of adequate containment methods.

6. On October 23, 2008, Respondent conducted masonry sawing operations at the University of Akron Stadium ("UAS") jobsite at the corner of Vine and South Union streets at approximately 2:00 p.m. Respondent's employees generated visible emissions of fugitive dust as a result of sawing masonry, including brick and block. Respondent's employees failed to employ reasonably available control measures to minimize or eliminate such emissions, in violation of OAC Rule 3745-17-08(B).

7. On October 29, 2008, Respondent conducted masonry sawing operations at the UAS jobsite location using a water tank assembly and effectively minimized the fugitive dust.

8. On February 25, 2009, Respondent conducted masonry sawing operations at the UAS jobsite at Spicer Street at 11:05 a.m. and at the southeast corner of the jobsite at approximately 1:30 p.m. Respondent's employees generated visible emissions of fugitive dust as a result of sawing masonry, including brick and block. Respondent failed to employ reasonably available control measures to minimize or eliminate such emissions, in violation of OAC Rule 3745-17-08(B).

9. On March 5, 2009, Respondent conducted masonry sawing operations at the northeast corner of a UAS jobsite at approximately 2:25 p.m. Respondent generated visible emissions of fugitive dust as a result of sawing masonry, including brick and block. Respondent's employees failed to employ reasonably available control measures to minimize or eliminate such emissions, in violation of OAC Rule 3745-17-08(B).

10. On March 11, 2009, ARAQMD issued a Notice of Violation ("NOV") letter to Respondent, wherein it was requested that Respondent submit, within seven days of receipt of the letter, a written commitment to cease all further generation of fugitive dust without employing reasonably available control measures and a detailed description of the dust control measures that will be utilized. To date, ARAQMD has not received a written response from Respondent.

11. On July 16, 2009, Respondent conducted masonry sawing operations at the southeast end of the UAS jobsite at approximately 11:30 a.m. Respondent's employees generated visible emissions of fugitive dust as a result of sawing masonry. Respondent failed to employ reasonably available control measures to minimize or eliminate such emissions, in violation of OAC Rule 3745-17-08(B).

12. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704. OAC Rule 3745-17-08 was adopted by the Director pursuant to ORC Chapter 3704. The above-mentioned violations of OAC Rule 3745-17-08 also constituted violations of ORC § 3704.05(G).

13. The Director has given consideration to, and based his determination on evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

## **V. ORDERS**

The Director hereby issues the following Orders:

1. Upon the effective date of these Orders, Respondent shall employ reasonably available control measures as required pursuant to OAC Rule 3745-17-08(B), when employing masonry sawing equipment, by equipping each piece of such equipment with a hose and canister assembly unit or equivalent device that will minimize or eliminate visible emissions of fugitive dust from all masonry sawing operations at its Ohio construction sites located in the Appendix A areas identified in OAC Rule 3745-17-08. Respondent shall maintain compliance with OAC Rule 3745-17-08(B) thereafter.

2. Respondent shall pay the amount of twenty thousand dollars (\$20,000) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by official check made payable to "Treasurer, State of Ohio" for sixteen thousand dollars (\$16,000). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

3. In lieu of paying the remaining four thousand dollars (\$4,000) of the civil penalty, Respondent shall, within (14) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$4,000 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$4,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

4. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, at the following address:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1045.

5. Should Respondent fail to fund the SEP within the required time frame set forth in Order 3, Respondent shall immediately pay to Ohio EPA \$4,000 of the civil penalty in accordance with the procedures in Order 2.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent

shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice president or his duly authorized representative.

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to Respondent's operations.

#### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

#### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

#### **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Akron Regional Air Quality Management District  
146 South High Street, Room 904  
Akron, Ohio 44308  
Attn: Bonetta Guyette

and to:

Ohio Environmental Protection Agency  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio, 43216-1049  
Attn: Thomas Kalman

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

#### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

#### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

#### **XIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

\_\_\_\_\_  
Chris Korleski  
Director

\_\_\_\_\_  
Date

**AGREED:**

**Foti Contracting, LLC  
a.k.a. West Third Street Construction**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Title

# Administrative Penalty Calculation

**ENTITY NAME:**

Foti Contracting, LLC a.k.a. West Third Street Construction  
Ohio EPA Facility # N/A

**ENTITY'S LOCATION/OFFICE ADDRESS:**

2501 West 3rd Street  
Cleveland, Ohio 44113

**LOCATION(S) OF VIOLATION(S):**

University of Akron Stadium, Summit County, Ohio

Use "Input" (shaded cells only) and "Comment" columns only.  
Enter "X" in "Input" column if the requested data is not applicable.  
Strictly no entries in both "Initial Output" and "Final Output" columns.

**A. Benefit Component:**

Enter the amount. If 0, enter X

1. Benefit from delayed cost:

2. Benefit from avoided cost:

3. Adjusting Benefit Component: (for municipalities/non-profit public owned utilities only, where assessment threatens to disrupt essential svc.)

Enter % as decimal with + or - sign

Subtotal: (auto-computed)

**Total Benefit Component : (auto-computed)**

**B. Gravity Component:**

1. Actual or possible harm:

a. Percent Above Std:

Enter amount emitted/used or "X" if 0

Enter limit allowed or "X" if 0

Enter no. of emission standards violated (e.g. PM could be two - opacity and mass emission)

Percent: (auto-computed)

Penalty amount: (auto-computed)

b. Toxicity of pollutant:

Enter 1 for NESHAP violation not handled by a different Appx. and non-NESHAP listed in 112(b)(1).

Input	Initial Output	Final Output	Comment
X		NA	Estimated to be negligible (i.e., less than \$5,000).
X		NA	
X		NA	
	\$0	NA	
X			Not applicable.
X			
X			
X			
	NA	\$0	
X			Not applicable.
X			

<p>Enter # of pollutants: 1,2,3...or "X" if 0  Penalty amount: (auto-computed)</p>	<p>X</p>	<p>\$0</p>	<p>Not applicable.</p>
<p><b>c. Sensitivity of environment (SIP&amp;NSPS only):</b>  1. Non-attainment area:  i. Ozone:  Enter 1 for extreme, 2 for severe, 3 for serious, 4 for moderate, 5 for marginal or "X" otherwise  Penalty amount (auto-computed)</p>	<p>X</p>	<p>NA</p>	
<p>AND/OR  ii. CO or PM:  Enter 1 for Serious, 2 for Moderate, or "X" otherwise  Penalty amount: (auto-computed)</p>	<p>X</p>	<p>NA</p>	
<p>AND/OR  iii All other Criteria Pollutants:  Enter 1, or "X" if none  Enter number of pollutants involved or "x" if none:  Penalty amount: (auto-computed)</p>	<p>X  X</p>	<p>NA</p>	
<p>2. Attainment Area PSD Class I  if yes enter 1, if no enter X  Enter number of pollutants involved or "x" if none:  Penalty amount: (auto-computed)</p>	<p>X  X</p>	<p>NA</p>	
<p>3. Attainment Area PSD Class II or III  if yes enter 1, if no enter X  Enter number of pollutants involved or "x" if none:  Penalty amount: (auto-computed)</p>	<p>X  X</p>	<p>NA</p>	
<p><b>d. Length of violation:</b>  Violation of ORC § 3740.5 (G) and OAC Rule 3745-17-08(B)  Enter number of months or X if 0:  Enter number of violation(s) e.g. emission std., monitoring, rec. keeping, reporting, testing.....if concurrent:  Penalty amount: (auto-computed)</p>	<p>1  1</p>	<p>\$5,000</p>	<p>Foils generated visible emissions of fugitive dust as a result of sawing concrete and brick and failed to employ reasonably available control measures ("RACM") to minimize or eliminate such emissions, in violation of OAC Rule 3745-17-08(B) and ORC § 3704.05(G). Violations occurred on October 23, 2008, February 25, 2009, March 5, 2009, and July 16, 2009. (i.e., 4 days- less than one month).</p>

2. Importance to regulatory scheme- (Enter X if violation is not applicable)										
a. Failure to employ RACM or RACM installed but not employed Enter 1, or 2 respectively, or "x" if not applicable. <i>Penalty amount: (auto-computed)</i>	2									\$5,000
b. Enter 1, 2 or 3 for submitting incomplete record, <i>Penalty amount: (auto-computed)</i>	x									NA
c. Enter 1 for failure to notify; 2 for late notice; 1,2 or 3 for incomplete report/notice. <i>Penalty amount: (auto-computed)</i>	x									NA
d. Testing: Enter 1 for failure to conduct performance. test or for improper test method; 2 for late test or incorrect test procedure. <i>Penalty amount: (auto-computed)</i>	x									NA
e. Monitoring and record-keeping i. Enter 1 for failure to monitor and/or keep record test or for improper test method; 2 for late test or incorrect test procedure. <i>Penalty amount: (auto-computed)</i>	x									NA
ii. Enter 1 for failure to monitor and/or keep record test or for improper test method; 2 for late test or incorrect test procedure. <i>Penalty amount: (auto-computed)</i>	x									NA
<b>3. Size of violator (SV):</b> Must enter entity's assets or X if 0; (Note: PDAadj. = preliminary deterrent amount adjusted.) <i>Unadjusted SV penalty (auto-computed)</i> <i>PDAadj. = ECOBEN + Gravity-unadjusted SV penalty (auto-computed)</i> <i>Actual SV penalty amount: (adjusted?); auto-computed</i>	\$5,800,000									\$20,000
										\$10,000
<b>Total gravity component</b>										\$20,000

Foti had the necessary controls but failed to employ them to control dust emissions on October 23, 2008, February 25, 2009, March 5, 2009, and July 16, 2009.

From the Metropolitan Library in Columbus, Ohio, Foti's average revenues in 2008 were \$34 million. Net worth estimated at 20% of revenues (i.e., \$6.8 million). With a net worth of \$6.8 million, the SV (unadjusted) is \$20,000. Since SV (unadjusted) is greater than the PDA adj., per policy the SV was set = PDA adj. (i.e., \$10,000).

<b>Preliminary deterrent amount (PDA):</b> <i>(sum of benefit and gravity components)</i>							<b>\$20,000</b>
<b>C. Adjustment Factors</b> This is Gravity component x any mitigation % <i>Make input negative for downward mitigation</i>							
<b>1. Degree of willfulness or negligence:</b> Must enter "X" or % as decimal (10% max. if the no. of sources w/o permits is <=10 and 20% max. if >10) <i>Amount mitigated: (auto-computed)</i>		X					No augmentation proposed. \$0
<b>2. Degree of cooperation:</b> Must enter "X" or % as decimal <i>Amount mitigated: ( auto-computed)</i>		X					No extraordinary cooperation exhibited. \$0
<b>3. History of noncompliance:</b> Must enter "X" or % as decimal <i>Amount mitigated: (auto-computed)</i>		X					No past history of noncompliance. \$0
<b>4. Ability to pay: (any mitigation amt.)</b> Must enter "X" or % as decimal <i>Amount mitigated: (auto-computed)</i>		X					Not known. \$0
<b>5. Other unique factors:</b> Enter no. of days violation occurred <i>Percentage-auto-computed</i> <i>Amount mitigated: (auto-computed)</i>		X					Not known. \$0
<b>Total flexibility amount</b>							\$0
<b>D. Initial Minimum Settlement Amount:</b>							<b>\$20,000</b>
<b>TOTAL PENALTY AMOUNT:</b>							<b>\$20,000</b>



Mr. Rollin Cooke  
Page 2 of 2

retrofit program is provided in an enclosed document.

Please review the attached documents carefully. If you have any questions concerning the proposed Findings and Orders, or if you would like to arrange a meeting or conference call to try to negotiate a settlement via the Findings and Orders, please contact Stephen Feldmann of the Ohio EPA Legal Office, at (614) 644-3037. If he does not hear from you, within fourteen (14) days of receipt of this letter, concerning your willingness to accept the Findings and Orders as currently written, or with mutually agreed upon modifications, I will consider alternative enforcement mechanisms including referral of the matter to the Ohio Attorney General's Office for legal action.

I hope that you and Ohio EPA are able to resolve this matter via the enclosed proposal, and I thank you in advance for your cooperation.

Sincerely,



Chris Korleski  
Director

xc: Jim Orlemann, DAPC  
Tom Kalman, DAPC  
Jim Kavalec, DAPC  
Stephen Feldmann, Legal Office  
Tim Fischer, DAPC NEDO

Enclosures

CK:JK:jk

*A guide to the . . .*

# **Administrative Enforcement Process**

*Within the Division of Air Pollution Control*

## **Introduction**

This information sheet has been prepared to help you understand the administrative enforcement process within the Agency. With an understanding of the process and adequate preparation, you can facilitate a prompt resolution of this enforcement action. Included are answers to the questions most frequently asked by parties involved in the administrative enforcement process.

## **I have been working with the District Office or local air agency inspector to correct the violations. Why is an enforcement action necessary?**

The Agency considers the following factors in deciding that an enforcement action is necessary: (1) Ohio EPA needs to obtain civil penalties for your violations; (2) your violations are serious; (3) you have taken too long to address the violations; (4) you need to be on a formal schedule to address the violations; (5) you have been recalcitrant in addressing the violations; and/or (6) you are a chronic violator.

## **Why should I try to negotiate an administrative consent order with Ohio EPA?**

- Negotiating administrative findings and orders ("Order") with the Ohio EPA avoids expensive and time-consuming litigation.
- Negotiation can be a swift resolution of the State's claims against you for the non-compliance.
- We can quickly identify any obstacle to agreement.
- Negotiation can minimize or prevent any intervention by the USEPA to address the violations.

## **Should I continue working with the District or local air agency inspector?**

Yes, the District Office or local air agency inspector is the best person to work with you to resolve the technical aspects of the violations, and prepare an acceptable control plan and schedule for submission to the Agency. Central Office personnel will also be available to provide assistance.

## **What should I do now that I received the proposed administrative consent order?**

You should review the enclosed Order and the summary of the penalty calculation. If you accept the enclosed Order as written, sign the Order and send it within two weeks to the staff attorney referenced in the Director's letter. If you cannot accept the Order as written, the Agency would like to meet with you to discuss your concerns. Please contact the designated staff attorney at (614) 644-3037 to arrange a meeting.

## **If I want to have a meeting, what should I do to prepare for it?**

Generally, the most productive meetings occur when both parties come prepared to discuss all issues. The Order and correspondence from the District Office or local air agency inspector contain the Agency's position. Since you were not willing to agree to the Order as written, we need to know whether you: (1) disagree with the facts outlined in the Order; (2) are not able or willing to comply with the Order; or (3) have information you feel may mitigate the civil penalty settlement amount. Send the staff attorney a written summary of your issues within two weeks from the date of the Director's letter. Additionally, if you believe you are financially unable to pay the penalty, contact the staff attorney for a list of information we need to evaluate your ability to pay.

### **What will happen at the meeting?**

During the meeting, we will respond to any information you have provided. We are willing to work with you to arrive at mutually agreed upon modifications to the Order. Except in the most complex cases, our goal is to complete all negotiations at the meeting. If we cannot agree at the meeting and we feel we are making adequate progress, we will hold our offer of settlement open. Thereafter, if resolution of the negotiations is not achieved within the time frame agreed to by the parties at the settlement meeting or if we feel we are not making adequate progress, the offer of settlement may be withdrawn, and we may consider other enforcement alternatives, including a referral to the Office of the Attorney General.

### **Why do I have to pay a civil penalty?**

A civil penalty is necessary to deter future violations and to remove any economic advantage you may have realized from not complying with Ohio's regulations. Instead of a full cash payment, the Agency may be willing to accept a supplemental environmentally beneficial project ("SEP"), that meets certain guidelines.

### **How did the DAPC arrive at the civil penalty settlement amount?**

Ohio EPA relied on U.S. EPA's Air Civil Penalty Policy to calculate the penalty. The DAPC uses this Policy to ensure that we calculate penalties fairly and consistently and that the penalty is appropriate for the gravity of the violations. Enclosed is a summary of the DAPC's civil penalty settlement calculation. If you want a copy of the U.S. EPA's Air Civil Penalty Policy, contact the designated staff attorney at (614) 644-3037.

### **Who from Ohio EPA will be at the meeting?**

Everyone necessary to resolve the matter will be at the meeting or available during the meeting to provide settlement authority. This includes the staff attorney, the District Office or local air agency inspector, and Central Office technical personnel.

### **Who should I bring to the meeting?**

Similarly, you should bring anyone familiar with the issues as well as anyone who has the authority to settle this matter. You are welcome to be represented at this meeting by your attorney and your consultant.

### **News releases**

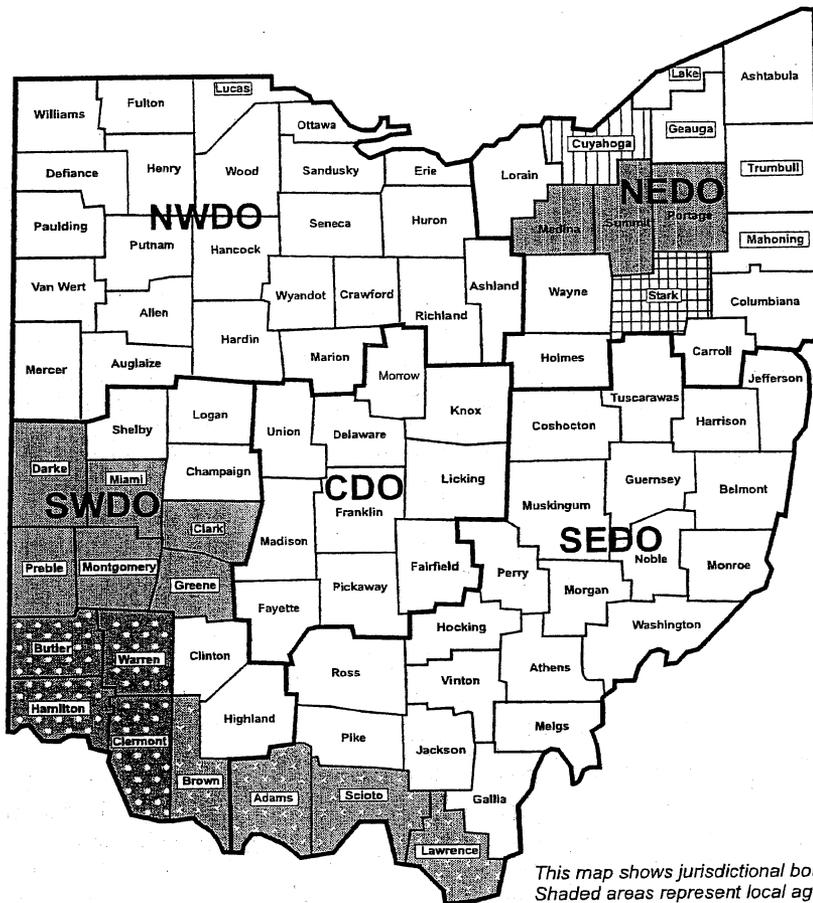
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about our enforcement efforts. Ohio EPA's news release represents our position, and so we do not negotiate the language in the news release with you. If we prepare a news release, you will receive a courtesy copy shortly before it is released to the media and posted on our web site. You can read all of our news releases at: <http://www.epa.state.oh.us/pic/current.html>.

### **District Office and Local Air Agency Addresses and Phone Numbers**

See the following pages.

# Air Permit Review Agencies

Division of Air Pollution Control  
Ohio EPA, Central Office  
(614) 644-2270  
[www.epa.state.oh.us/dapc/general/dolaa.html](http://www.epa.state.oh.us/dapc/general/dolaa.html)



This map shows jurisdictional boundaries.  
Shaded areas represent local agencies within Ohio EPA districts.

## OhioEPA

### District Offices

- CDO Adam Ward, APC Manager**  
01 Central District Office  
50 West Town Street, Suite 700  
Columbus, OH 43215  
(614) 728-3778 FAX (614) 728-3898  
e-mail: adam.ward@epa.state.oh.us
- SEDO Bruce Weinberg, APC Manager**  
06 Southeast District Office  
2195 Front St.  
Logan, OH 43138  
(740) 385-8501 FAX (740) 385-6490  
e-mail: bruce.weinberg@epa.state.oh.us
- NEDO Dennis Bush, APC Manager**  
02 Northeast District Office  
2110 E. Aurora Rd.  
Twinsburg, OH 44087  
(330) 425-9171 FAX (330) 487-0769  
e-mail: dennis.bush@epa.state.oh.us
- NWDO Mark Budge, APC Manager**  
03 Northwest District Office  
347 North Dunbridge Rd.  
Bowling Green, OH 43402  
(419) 352-8461 FAX (419) 352-8468  
e-mail: mark.budge@epa.state.oh.us
- SWDO Tom Schneider, APC Manager**  
05 Southwest District Office  
401 E. Fifth St.  
Dayton, OH 45402-2911  
(937) 285-6357 FAX (937) 285-6249  
e-mail: tom.schneider@epa.state.oh.us



**Lynn Malcolm, Administrator**  
Akron Regional Air Quality  
Management District  
146 South High St, Room 904  
Akron, Ohio 44308  
(330) 375-2480 FAX (330) 375-2402  
e-mail: Malcoly@ci.akron.oh.us



**Richard L. Nemeth, Commissioner**  
Cleveland Dept. of Public Health  
Division of Air Quality  
Penton Media Building, 4th Floor  
1300 East 9th St.  
Cleveland, Ohio 44114  
(216) 664-2297 FAX (216) 420-8047  
e-mail: Rnemeth@city.cleveland.oh.us



**Cindy Charles, Director**  
Portsmouth Local Air Agency  
605 Washington St., Third Floor  
Portsmouth, Ohio 45662  
(740) 353-5156 FAX (740) 353-3638  
e-mail: cindy.charles@epa.state.oh.us



**Dan Aleman, Administrator**  
Air Pollution Control Division  
Canton City Health Dept.  
420 Market Ave. North  
Canton, Ohio 44702-1544  
(330) 489-3385 FAX (330) 489-3335  
e-mail: daleman@cantonhealth.org



**John Paul, Administrator**  
Regional Air Pollution Control Agency  
Montgomery County Health Dept.  
117 South Main St.  
Dayton, Ohio 45422-1280  
(937) 225-4435 FAX (937) 225-3486  
e-mail: paulja@rapca.org



**Karen Granata, Administrator**  
City of Toledo  
Division of Environmental Services  
348 South Erie Street  
Toledo, Ohio 43604  
(419) 936-3015 FAX (419) 936-3959  
e-mail: karen.granata@toledo.oh.gov



**Cory R. Chadwick, Director**  
Dept. of Environmental Services  
Air Quality Programs  
250 William Howard Taft Road  
Cincinnati, Ohio 45219-2660  
(513) 946-7777 FAX (513) 946-7778  
e-mail: cory.chadwick@hamilton-co.org

# General Guidelines for Ohio EPA's Program for the Retrofitting of School Buses with Control Equipment to Reduce Diesel Particulate Emissions

The following questions and answers explain the Ohio EPA's program for the retrofitting of school buses with emission control equipment and provide the general guidelines that must be followed by any school system that participates in the program.

## 1. Why is there a need to reduce diesel particulate emissions from school buses?

The exhaust gases from diesel, school bus engines contain significant amounts of organic compounds, carbon monoxide, nitrogen oxides (NOx) and fine particulates. If inhaled, the fine particulates are so small that they are able to penetrate deep into the lungs and pose serious health risks such as aggravated asthma and lung damage. In addition, USEPA has identified diesel exhaust as a likely human carcinogen. These fine particulate emissions contribute to the poor ambient air quality in 27 counties in Ohio, which currently are not meeting the national health-based ambient air quality standards for fine particulates (i.e., PM 2.5, particles less than 2.5 microns in diameter). Reducing the particulate emissions from diesel school bus engines will have two primary benefits:

- a. For the children who ride buses, it will reduce their exposure to the harmful diesel exhaust emissions. Children are more susceptible to air pollution than healthy adults because their respiratory systems are still developing and they have a faster breathing rate.
- b. It will help in attaining the National Ambient Air Quality Standards for PM 2.5 in Ohio's nonattainment counties.

## 2. What retrofit options are available to reduce particulate emissions from school buses?

There are three primary ways to retrofit a school bus for particulate emission control:

- a. **Diesel particulate filters** are ceramic devices that collect particulate matter in the exhaust stream. The high temperature of the exhaust heats the ceramic structure and allows the particles inside to break down into less harmful components. These filters must be used in conjunction with ultra-low sulfur diesel ("ULSD") fuel, which is a fuel with a sulfur content of less than 15 parts per million. The combination of particulate filters and ULSD fuel can reduce emissions of particulates, organic compounds, and carbon monoxide in the exhaust gases by 60 to 90 percent. Particulate filters work best on engines built after 1994 and cost \$6,500 to \$7,500.

- b. **Crankcase filtration systems** allow a diesel engine's crankcase to be closed and use an air filter to trap blow-by aerosols consisting mainly of oil droplets, with some carbon and traces of wear debris and PM10. Blow-by gas emissions can be as much as 25% of the total emissions from a diesel engine. The filtration efficiency of crankcase filters averages between 80% and 97%. The crankcase filter must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first. Crankcase filters are inexpensive (a replacement element typically costs less than \$50.00) and are best used in conjunction with some type of filtration system in the exhaust stream.
- c. **Diesel oxidation catalysts** are devices that use a chemical process to break down pollutants in the exhaust stream into less harmful components. Diesel oxidation catalysts can reduce emissions of particulates by 20 percent, hydrocarbons by 50 percent, and carbon monoxide by 40 percent. Oxidation catalysts cost \$600 to \$2,000 and can be used with regular diesel fuel.

Only control equipment found on USEPA's "Verified Technology List" may be purchased and installed (see (4) below for further details).

**3. Which types of school buses will be eligible to be retrofitted with particulate emission controls?**

Only school buses that meet the following criteria will be retrofitted with particulate emission controls:

- a. The school bus must be equipped with a diesel engine.
- b. The school bus must have a gross vehicle rating of 19,500 pounds or more (Types C & D).
- c. The school bus must be driven not less than 5,000 miles per year.
- d. The school bus model year must be 1994 or newer.

**4. Which types of control equipment would be acceptable for installation?**

The USEPA publishes a "Verified Technology List." Only control equipment found on this list may be purchased and installed. As additional technologies are found to be acceptable by the USEPA, they will be added to the list. A copy of this list can be accessed at the following web site:

<http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm>.

This table summarizes all the diesel retrofit technologies that the USEPA has approved for use in engine retrofit programs. The table shows the percent reduction (from verified or tested levels) that USEPA will recognize for emission reductions for each technology.

**5. Is there a special type of fuel that must be used with the control equipment?**

In some cases, yes. Each bus equipped with a particulate filter must use ultra low sulfur diesel (ULSD) fuel. Because of the high sulfur content of regular diesel fuel, the use of regular diesel fuel would cause the particulate filter to clog. This, in turn, could cause exhaust back-pressure increases and engine damage. The ULSD fuel contains less than 10% of the sulfur content of regular diesel fuel. Regular diesel fuel may contain 150 to 500 ppm of sulfur, compared to the maximum of 15 ppm for the ULSD fuel. As a result of recent changes in the U.S. federal fuel standards, ULSD fuel will become the standard diesel fuel throughout the U.S. beginning in June of 2006. Many parts of the country, including certain parts of Ohio, are already being supplied with ULSD fuel. The price differential between ULSD fuel and regular diesel fuel currently ranges between eight and 25 cents per gallon. In 2006, when ULSD fuel is available nationwide, the cost differential should be much less.

Diesel oxidation catalysts and crankcase filtration systems do not require special fuel.

**6. What costs are associated with the installation and operation of the emission controls?**

The estimated cost to retrofit each bus with a diesel particulate filter ranges from \$6,500 to \$7,500. On an annual basis, or about every 100,000 miles, these filters must be disassembled and cleaned either with compressed air or by heating the filter in a filter cleaning device. (The cost of such a device ranges from \$300 to \$350.) The cost for the annual maintenance for each filter, which normally takes less than 3 hours to complete, will depend upon whether the work is performed by school district personnel, the engine dealer, or the filter vendor. Also, until ULSD fuel becomes available nationwide in June of 2006, there will be an increased cost for the diesel fuel burned in each retrofitted bus. The current price differential between ULSD fuel and regular diesel fuel varies between 8 and 25 cents per gallon.

Crankcase filters are fairly inexpensive (a replacement element typically costs less than \$50.00). Crankcase filters must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first.

The estimated cost to retrofit each bus with a diesel oxidation catalyst ranges from \$600 to \$2,000. Installation takes approximately one to three hours to complete. Diesel oxidation catalysts do not require annual maintenance and will operate with regular diesel fuel.

**7. How will the control devices be funded by the Ohio EPA?**

Ohio EPA enforcement case settlements will be the source of the funding for the diesel retrofit installations. Each enforcement case resolved either through administrative Findings and Orders or a Consent Order, that contains a significant civil penalty (a total civil penalty assessment of \$5,000 or greater), will also include a Supplemental Environmental Project (SEP) that is equal in value to 20 percent of the total assessed civil penalty. The entity that is the subject of the enforcement case will be required to pay the SEP monies directly to a specific fund that Ohio EPA has established for the retrofitting of school buses.

**8. How will the school systems receive the SEP monies for the diesel retrofit installations?**

A school system that desires to participate in the retrofit program must apply to Ohio EPA to receive funding to purchase and install USEPA approved control equipment. Once or twice per year, the Ohio EPA will solicit applications from the eligible school systems. In the application, an eligible school system must describe the proposed project, providing details such as the number and ages of the buses to be retrofitted, the type of equipment that will be purchased and installed (must be on the USEPA-published list of "Verified Retrofit Technologies"), a schedule for installation of the equipment, and a detailed cost breakdown. Ohio EPA will evaluate each application and provide funding to applicant school systems that meet the criteria specified by Ohio EPA's regulations. Priority will be given to those applicants that are located in a nonattainment county for PM 2.5 and/or that include a commitment to implement an anti-idling program.

**9. What oversight will be provided by the Ohio EPA to ensure that the diesel retrofit control equipment is installed and maintained properly?**

Ohio EPA will closely track the amount of enforcement monies directed to each public school system. Each participating school system must submit regular progress reports providing information regarding the equipment purchased and installed to date, as well as a final report summarizing the project results. Periodic inspections also may be conducted by District Office or local air agency staff to confirm that the control equipment has been correctly installed, that the diesel particulate filters are being maintained properly, and that the monies are being spent appropriately.

**BEFORE THE**  
**OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Rollin Cooke	:	<u>Director's Final Findings</u>
400 Water Street	:	<u>and Orders</u>
Chardon, Ohio 44024	:	

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Rollin Cooke ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the facilities shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the regulations promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates three gasoline dispensing facilities ("GDFs") located at 9861 Johnnycake Ridge Road, Concord Township, Ohio (Concord Sunoco); 400 Water Street, Chardon, Ohio (Cooke's Car Care, Inc.); and 12388 Mayfield Road, Chardon, Ohio (Munson Corners Sunoco). These GDFs are subject to the requirements of Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD) concerning Stage II vapor control systems.

2. ORC § 3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. OAC Rule 3745-21-09(DDD) was adopted by the Director pursuant to ORC Chapter 3704.

3. OAC Rule 3745-21-09(DDD)(1)(b) states, in part, that no owner or operator of a GDF may cause, allow, or permit the transfer of gasoline from a stationary tank at a GDF into a motor vehicle unless a vapor control system is installed, operated, and maintained in accordance with the manufacturer's specifications and the applicable California Air Resources Board ("CARB") certification, and is free from defect.

4. OAC Rule 3745-21-09(DDD)(1)(c) states, in part, that no owner or operator of a GDF may cause, allow, or permit the transfer of gasoline from a stationary tank at a GDF into a motor vehicle unless the vapor control system successfully passes the testing requirements contained in OAC Rule 3745-21-09(DDD)(2).

5. OAC Rule 3745-21-09(DDD)(2)(d) requires, in part, the owner or operator of a GDF to perform and demonstrate compliance with the dynamic pressure performance test at intervals not to exceed five years.

6. OAC Rule 3745-21-09(DDD)(2)(f) requires the owner or operator of a GDF to perform and comply with any vapor control system tests specified in the applicable CARB certification. As part of the required CARB testing for the above-mentioned GDFs, an air-to-liquid ("A/L") ratio test and a static leak test are required to be performed annually and any fueling point not capable of demonstrating compliance with the performance standards of the A/L ratio test is deemed to be defective and is required to be removed from service.

7. OAC Rule 3745-21-09(DDD)(3)(a)(i) through (vi) states, in part, that any owner or operator of a gasoline dispensing facility subject to the requirements of paragraph (DDD)(1) shall maintain records of the quantity of gasoline delivered to the facility during each calendar month; the results of any Stage II tests performed; a log of the date and description of all repair and maintenance work performed; a copy of the most recent permit to operate issued by Ohio EPA; and documentation demonstrating proof of attendance and completion of training required by Ohio EPA for the operator or local manager of the GDF.

### **Concord Sunoco**

8. On April 1, 1994, a Permit-to-Operate ("PTO") was issued to former owner, Concord Citgo, for this GDF (Ohio EPA facility ID number 0243001266). This PTO and OAC Rule 3745-21-09(DDD) required Concord Citgo to comply with the requirements for Stage II vapor control systems at this facility. On April 1, 1997, the PTO for this GDF expired. Ownership of this GDF was transferred to Respondent around April of 2006, and, to date, Respondent has failed to submit a renewal permit application to Ohio EPA; therefore, this facility is currently operating without a Permit-to-Install-and-Operate ("PTIO") or Permit-by-Rule ("PBR") as identified in OAC Chapter 3745-31, in violation of OAC Rule 3745-31-02 and ORC § 3704.05(G).

9. On October 23, 2007, Respondent conducted and passed an annual Stage II compliance test at this GDF; however, at the time of this test, Respondent

failed to demonstrate proof of attendance and completion of training required by Ohio EPA for the operator or local manager of this GDF, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(vii) and ORC § 3704.05(G). By letter dated November 1, 2007, Ohio EPA notified Respondent of this violation.

10. By letter dated July 20, 2009, Ohio EPA notified Respondent that it had failed to conduct the 2008 and 2009 annual Stage II static leak and A/L ratio tests, as well as the five-year dynamic pressure performance test, while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of OAC Rules 3745-21-09(DDD)(1)(c), (2)(d) and (2)(f) and ORC § 3704.05(G).

11. On October 28, 2009, Ohio EPA conducted an inspection at this GDF to determine compliance with the Stage II annual static leak, A/L ratio and dynamic pressure performance tests at this GDF. After several hours of performing maintenance work, Respondent passed the Stage II testing. During this inspection, Ohio EPA discovered that Respondent had failed to maintain records of: the quantity of gasoline delivered to the facility during each calendar month; the results of any Stage II tests performed; a log of the date and description of all repair and maintenance work performed; a copy of the most recent permit to operate issued by Ohio EPA; and documentation of the proof of attendance and completion of training required by Ohio EPA, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(i) to (vi) and ORC § 3704.05(G).

### **Cooke's Car Care, Inc.**

12. Respondent has operated this GDF since at least November of 2004 without obtaining a PTO, PTIO or PBR, therefore, this facility is currently operating without a PTIO or PBR as identified in OAC Chapter 3745-31, in violation of OAC Rule 3745-31-02 and ORC § 3704.05(G).

13. After conducting a file review around July of 2009, Ohio EPA discovered that Respondent has failed to conduct the 2005, 2006, 2007, 2008 and 2009 annual Stage II static leak and A/L ratio tests, as well as the five-year dynamic pressure performance test, while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of OAC Rules 3745-21-09(DDD)(1)(c), (2)(d) and (2)(f) and ORC § 3704.05(G). By letter dated July 20, 2009, Ohio EPA notified Respondent of these violations and its regulatory obligations concerning Stage II compliance testing.

14. On October 27, 2009, Ohio EPA conducted an inspection at this GDF to determine compliance with the Stage II annual static leak, A/L ratio and dynamic pressure performance tests at this GDF. After several hours of performing maintenance work, Respondent passed the Stage II testing. During this inspection, Ohio EPA discovered that Respondent had failed to maintain records of: the quantity of gasoline delivered to the facility during each calendar month; the results of any Stage II tests performed; a log of the date and description of all repair and maintenance work performed; a copy of the most recent permit to operate issued by Ohio EPA; and

documentation of the proof of attendance and completion of training required by Ohio EPA, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(i) to (vi) and ORC § 3704.05(G).

### **Munson Corners Sunoco**

15. On October 4, 2006, Respondent was issued a PBR for this GDF which required Respondent to comply with the Stage II vapor control system requirements in OAC Rule 3745-21-09(DDD). In or about July of 2009, after conducting a file review, Ohio EPA discovered that Respondent has failed to conduct 2008 and 2009 annual Stage II static leak and A/L ratio tests, as well as the five-year dynamic pressure performance test, while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of OAC Rules 3745-21-09(DDD)(1)(c), (2)(d) and (2)(f) and ORC § 3704.05(G). To date, these tests have not been conducted. By letter dated October 16, 2009, Ohio EPA notified Respondent of these violations.

16. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

## **V. ORDERS**

The Director hereby issues the following Orders:

1. Within thirty (30) days from the effective date of these Orders, Respondent shall submit PBR notifications to Ohio EPA for Concord Sunoco and Cooke's Car Care, Inc. in accordance with OAC Rule 3745-31-03(A)(4)(a).
2. Within thirty (30) days from the effective date of these Orders, Respondent shall demonstrate that the Stage II vapor control system at Munson Corners Sunoco is operating correctly by conducting and passing a static leak test, A/L ratio test and dynamic pressure performance test. Respondent shall notify Ohio EPA of such testing within fourteen (14) days prior to the tests. The results of these tests shall be submitted to Ohio EPA within fourteen (14) days after completion of the tests.
3. Within sixty (60) days from the effective date of these Orders, Respondent shall submit documentation, to Ohio EPA, demonstrating the operators or local managers of Concord Sunoco, Cooke's Car Care, Inc., and Munson Corners Sunoco have completed the training required by OAC Rule 3745-21-09(DDD)(3)(a)(vi).
4. Within sixty (60) days from the effective date of these Orders, Respondent shall submit documentation, to Ohio EPA, demonstrating that records of the quantity of gasoline delivered to Concord Sunoco, Cooke's Car Care, Inc., and Munson Corners Sunoco during each calendar month are being maintained in accordance with OAC Rule 3745-21-09(DDD)(3)(a)(i).

5. For the next two ozone seasons (April 1, 2010 – October 31, 2010 and April 1, 2011 – October 31, 2011), starting two weeks prior to the start of the ozone season, i.e., by March 15, 2010 and March 15, 2011, and continuing until October 31, 2010 and October 31, 2011, respectively, Respondent shall conduct weekly inspections of the Stage II vapor control systems at Concord Sunoco, Cooke's Car Care, Inc. and Munson Corners Sunoco, checking for leaks, malfunctions or other damage to the system and shall keep records of these inspections and any repairs made. The inspections shall be recorded in an inspection log or checklist. Copies of the inspection logs or checklists shall be submitted to Ohio EPA during the middle and at the end of each ozone season. Specifically, copies of the weekly inspection records for the period from March 15 through July 31 shall be submitted by August 14 of that year. Copies of the weekly inspection records for August 1 through October 31 shall be submitted by November 14 of that year.

6. For the next two ozone-producing seasons (i.e., April 1, 2010 – October 31, 2010 and April 1, 2011 – October 31, 2011), Respondent shall perform static leak and A/L ratio tests at Concord Sunoco, Cooke's Car Care, Inc. and Munson Corners Sunoco prior to the beginning (during March) of each ozone season and during August of each ozone season. Respondent shall notify Ohio EPA of such testing within fourteen (14) days prior to any test. The results of these tests shall be submitted to Ohio EPA within fourteen (14) days after completion of the tests.

7. Respondent shall pay the amount of eighty-two thousand five hundred dollars (\$82,500) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for sixty-six thousand dollars (\$66,000) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA  
Office of Fiscal Administration  
50 West Town Street, Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049

8. In lieu of paying the remaining sixteen thousand five hundred dollars (\$16,500) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$16,500 to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$16,500. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

9. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA  
Division of Air Pollution Control  
50 West Town Street, Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049

10. Should Respondent fail to fund the SEP within the required time frame set forth in Order 8, Respondent shall immediately pay to Ohio EPA \$16,500 of the civil penalty in accordance with the procedures in Order 7.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For the purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice president or his duly authorized representative.

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's facilities.

#### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and

enforcement of any other statutes or regulations applicable to Respondent.

### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

### **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio EPA, Northeast District Office  
2110 East Aurora Rd.  
Twinsburg, Ohio 44087  
Attn: Tim Fischer

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
50 West Town Street, Suite 700  
Columbus, Ohio 43216-1049  
Attn: Thomas Kalman

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges, and causes of action except as specifically waived in Section XII of these Orders.

### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation, or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders

either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

**XIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

\_\_\_\_\_  
Chris Korleski  
Director

\_\_\_\_\_  
Date

**AGREED:**

**Rollin Cooke**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Title

**GDF PENALTY WORK SHEET**

Mr. Rollin Cooke, dba  
 Concord Sunoco, Cooke's Car Care, Inc.  
 and Munson Corners Sunoco  
 (for settlement purposes only)

<b>A. Benefit Component:</b>		\$0	Economic benefit is negligible (i.e., less than \$5,000).
<b>B. Gravity Component:</b>			
1. Testing violations: a.	\$5,000		For Concord Sunoco, Respondent failed to conduct the 2008 Stage II compliance tests, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c), (2)(d) and 2(f). Respondent conducted and passed Stage II compliance tests on 10/23/07 and did not retest until 10/28/09. Per the GDF penalty policy, when a facility fails to conduct annual Stage II compliance tests the penalty is \$5,000 for each year the GDF fails to conduct the test.
b.	\$5,000		For Cooke's Car Care, Inc., Respondent failed to conduct the 2008 Stage II compliance tests, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c), (2)(d) and 2(f). Respondent conducted and passed a Stage II compliance test on 10/27/09. Per the GDF penalty policy, when a facility fails to conduct annual Stage II compliance tests the penalty is \$5,000 for each year the GDF fails to conduct the test.
c.	\$10,000		For Munson Corners Sunoco, Respondent failed to conduct the 2008 and 2009 Stage II compliance tests, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c), (2)(d) and 2(f). Respondent conducted and passed Stage II compliance tests on 11/1/07 and to date has not retested. Per the GDF penalty policy, when a facility fails to conduct annual Stage II compliance tests the penalty is \$5,000 for each year the GDF fails to conduct the test.

2. Length of violation: a.	\$9,250	For Concord Sunoco, Respondent failed to conduct the 2008 Stage II compliance tests, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c), (2)(d) and 2(f). Respondent conducted and passed Stage II compliance tests on 10/23/07 and did not retest until 10/28/09. Per the GDF penalty policy, if a GDF fails to conduct an annual Stage II test, a \$25 per day length of time violation will be assessed for each day the GDF fails to conduct the annual compliance test. 10/23/08 to 10/28/09, ~370 days. 370 days x \$25 per day = \$9,250.
b.	\$14,725	For Cooke's Car Care, Inc., Respondent failed to conduct 2008 Stage II compliance tests, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c), (2)(d) and 2(f). Respondent conducted and passed a Stage II compliance test on 10/27/09. Per the GDF penalty policy, if a GDF fails to conduct an annual Stage II test, a \$25 per day length of time violation will be assessed for each day the GDF fails to conduct the annual compliance test. 3/17/08 to 10/27/09, ~589 days. 589 days x \$25 per day = \$14,725.
c.	\$10,625	For Munson Corners Sunoco, Respondent failed to conduct the 2008 and 2009 Stage II compliance tests, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c), (2)(d) and 2(f). Respondent conducted and passed Stage II compliance tests on 11/1/07 and to date has not retested. Per the GDF penalty policy, if a GDF fails to conduct an annual Stage II test, a \$25 per day length of time violation will be assessed for each day the GDF fails to conduct the annual compliance test. 11/1/08 to present (*12/31/09), 425 days x \$25 per day = \$10,625.
3. Record-keeping violations:	\$10,000	For Concord Sunoco and Cooke's Car Care, Inc., Respondent has failed to

			maintain records of: the quantity of gasoline delivered to each facility each month; the results of any Stage II tests performed; a log of the date and description of all repair and maintenance work performed; a copy of the most recent permit to operate issued by Ohio EPA; and documentation of the proof of attendance and completion of training required by Ohio EPA, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(i) to (vi) and ORC § 3704.05(G). No records were being kept so penalty is \$5,000 per GDF in accordance with GDF penalty policy.
4. Size of violator:	\$5,000		Net worth (<\$1,000,000) is estimated at 20% of annual sales. Only 2 of the 3 GDFs annual sales, which totaled ~\$3,200,000, were listed on the Reference USA database so the calculated net worth is a conservative estimate. Penalty associated with this amount is \$5,000.
<b>Preliminary Deterrence Amount:</b>		\$69,600	
<b>Initial Gravity Component:</b>		\$69,600	
<b>C. Adjustment Factors:</b>	\$0		Not applicable
1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)			
2. Degree of cooperation: (total gravity component times any mitigation percentage)	\$0		Not applicable
3. History of noncompliance: (total gravity component times any augmentation percentage)	\$0		Not applicable
4. Ability to pay: (any mitigation amount)	\$0		Not known
5. Other unique factors: (total gravity component times any mitigation or augmentation percentage)	\$0		Not applicable
<b>D. Adjusted Gravity Component:</b>		\$69,600	
<b>E. Administrative Component:</b>		\$6,540	For Concord Sunoco, Respondent has

1.			failed to obtain a permit to operate or a permit-by-rule from 3/17/08 to present (*12/31/09), ~654 days. 654 days x \$10 per day = \$6,540
2.		\$6,540	For Cooke's Car Care, Inc., Respondent has failed to obtain a permit to operate or a permit-by-rule from 3/17/08 to present (*12/31/09), ~654 days. 654 days x \$10 per day = \$6,540
<b>F. Initial Settlement Amount:</b>		<b>\$82,680</b>	Rounded to \$82,500

\* Projected compliance date





State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center  
50 W. Town St., Suite 700  
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184  
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049  
Columbus, OH 43216-1049

**JAN 20 2010**

**CERTIFIED MAIL**

Mr. Harvey Doerr  
President  
Murphy Oil USA, Inc.  
422 N. Washington Avenue  
El Dorado, AR 71731

**Re:** Proposed Director's Final Findings and Orders for Murphy Oil USA, Inc. (#7371)

Dear Mr. Doerr:

My staff has informed me of the violations of Ohio Administrative Code Rule 3745-21-09(DDD) and ORC § 3704.05(G) associated with your gasoline dispensing facility ("GDF") located at 46118 U.S. Route 20, Oberlin, Ohio (Murphy Oil USA #7371). I would like to express my concern regarding the violations of the Stage II vapor control system requirements at the above-mentioned GDF located in an area that is in nonattainment of the National Ambient Air Quality Standard for ozone. Compliance with Stage II vapor control system requirements is an important element in our State Implementation Plan and in avoiding continued nonattainment of the ambient air quality standard. In addition, it is my understanding that all violations have been corrected.

In order to resolve this matter, I am proposing to issue the enclosed Findings and Orders prepared by my staff, which include a provision for civil penalties for the settlement of claims resulting from Murphy Oil USA, Inc.'s violations of the State's air pollution control laws. Also, enclosed is an administrative enforcement process guide to facilitate Murphy Oil USA, Inc.'s review of the proposed Findings and Orders. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Because this letter and the attached document summarize a proposed settlement, I consider them to be inadmissible for any purpose in any enforcement action the State may take if settlement cannot be reached.

Please note that the proposed Findings and Orders include a provision for 20 percent of the total civil penalty amount to go toward the funding of a supplemental environmentally beneficial project involving the retrofitting of school buses with control equipment to reduce diesel particulate emissions. This project has the primary benefits of reducing children's exposure to harmful diesel exhaust emissions and helping attain the National Ambient Air Quality Standards for fine particulates (i.e., particles less than 2.5 microns in diameter). Information concerning the school bus retrofit program is provided in an enclosed document.

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

Ohio EPA is an Equal Opportunity Employer

Mr. Harvey Doerr  
Murphy Oil USA, Inc.  
Page 2 of 2

Please review the attached documents carefully. If Murphy Oil USA, Inc. has questions concerning the proposed Findings and Orders, or if Murphy Oil USA, Inc. would like to arrange a meeting or conference call to try to negotiate a settlement via the Findings and Orders, please contact Stephen Feldmann of the Ohio EPA Legal Office, at (614) 644-3037. If he does not hear from Murphy Oil USA, Inc., within fourteen (14) days of receipt of this letter, concerning its willingness to accept the Findings and Orders as currently written, or with mutually agreed upon modifications, I will consider alternative enforcement mechanisms including referral of the matter to the Ohio Attorney General's Office for legal action.

I hope that Murphy Oil USA, Inc. and Ohio EPA are able to resolve this matter via the enclosed proposal, and I thank you in advance for your cooperation.

Sincerely,



Chris Korleski  
Director

xc: Jim Orlemann, DAPC  
Tom Kalman, DAPC  
Jim Kavalec, DAPC  
Stephen Feldmann, Legal Office  
Tim Fischer, DAPC NEDO

Enclosures

CK:JK:jk

*A guide to the . . .*

# **Administrative Enforcement Process**

*Within the Division of Air Pollution Control*

## **Introduction**

This information sheet has been prepared to help you understand the administrative enforcement process within the Agency. With an understanding of the process and adequate preparation, you can facilitate a prompt resolution of this enforcement action. Included are answers to the questions most frequently asked by parties involved in the administrative enforcement process.

## **I have been working with the District Office or local air agency inspector to correct the violations. Why is an enforcement action necessary?**

The Agency considers the following factors in deciding that an enforcement action is necessary: (1) Ohio EPA needs to obtain civil penalties for your violations; (2) your violations are serious; (3) you have taken too long to address the violations; (4) you need to be on a formal schedule to address the violations; (5) you have been recalcitrant in addressing the violations; and/or (6) you are a chronic violator.

## **Why should I try to negotiate an administrative consent order with Ohio EPA?**

- Negotiating administrative findings and orders ("Order") with the Ohio EPA avoids expensive and time-consuming litigation.
- Negotiation can be a swift resolution of the State's claims against you for the non-compliance.
- We can quickly identify any obstacle to agreement.
- Negotiation can minimize or prevent any intervention by the USEPA to address the violations.

## **Should I continue working with the District or local air agency inspector?**

Yes, the District Office or local air agency inspector is the best person to work with you to resolve the technical aspects of the violations, and prepare an acceptable control plan and schedule for submission to the Agency. Central Office personnel will also be available to provide assistance.

## **What should I do now that I received the proposed administrative consent order?**

You should review the enclosed Order and the summary of the penalty calculation. If you accept the enclosed Order as written, sign the Order and send it within two weeks to the staff attorney referenced in the Director's letter. If you cannot accept the Order as written, the Agency would like to meet with you to discuss your concerns. Please contact the designated staff attorney at (614) 644-3037 to arrange a meeting.

## **If I want to have a meeting, what should I do to prepare for it?**

Generally, the most productive meetings occur when both parties come prepared to discuss all issues. The Order and correspondence from the District Office or local air agency inspector contain the Agency's position. Since you were not willing to agree to the Order as written, we need to know whether you: (1) disagree with the facts outlined in the Order; (2) are not able or willing to comply with the Order; or (3) have information you feel may mitigate the civil penalty settlement amount. Send the staff attorney a written summary of your issues within two weeks from the date of the Director's letter. Additionally, if you believe you are financially unable to pay the penalty, contact the staff attorney for a list of information we need to evaluate your ability to pay.

### **What will happen at the meeting?**

During the meeting, we will respond to any information you have provided. We are willing to work with you to arrive at mutually agreed upon modifications to the Order. Except in the most complex cases, our goal is to complete all negotiations at the meeting. If we cannot agree at the meeting and we feel we are making adequate progress, we will hold our offer of settlement open. Thereafter, if resolution of the negotiations is not achieved within the time frame agreed to by the parties at the settlement meeting or if we feel we are not making adequate progress, the offer of settlement may be withdrawn, and we may consider other enforcement alternatives, including a referral to the Office of the Attorney General.

### **Why do I have to pay a civil penalty?**

A civil penalty is necessary to deter future violations and to remove any economic advantage you may have realized from not complying with Ohio's regulations. Instead of a full cash payment, the Agency may be willing to accept a supplemental environmentally beneficial project ("SEP"), that meets certain guidelines.

### **How did the DAPC arrive at the civil penalty settlement amount?**

Ohio EPA relied on U.S. EPA's Air Civil Penalty Policy to calculate the penalty. The DAPC uses this Policy to ensure that we calculate penalties fairly and consistently and that the penalty is appropriate for the gravity of the violations. Enclosed is a summary of the DAPC's civil penalty settlement calculation. If you want a copy of the U.S. EPA's Air Civil Penalty Policy, contact the designated staff attorney at (614) 644-3037.

### **Who from Ohio EPA will be at the meeting?**

Everyone necessary to resolve the matter will be at the meeting or available during the meeting to provide settlement authority. This includes the staff attorney, the District Office or local air agency inspector, and Central Office technical personnel.

### **Who should I bring to the meeting?**

Similarly, you should bring anyone familiar with the issues as well as anyone who has the authority to settle this matter. You are welcome to be represented at this meeting by your attorney and your consultant.

### **News releases**

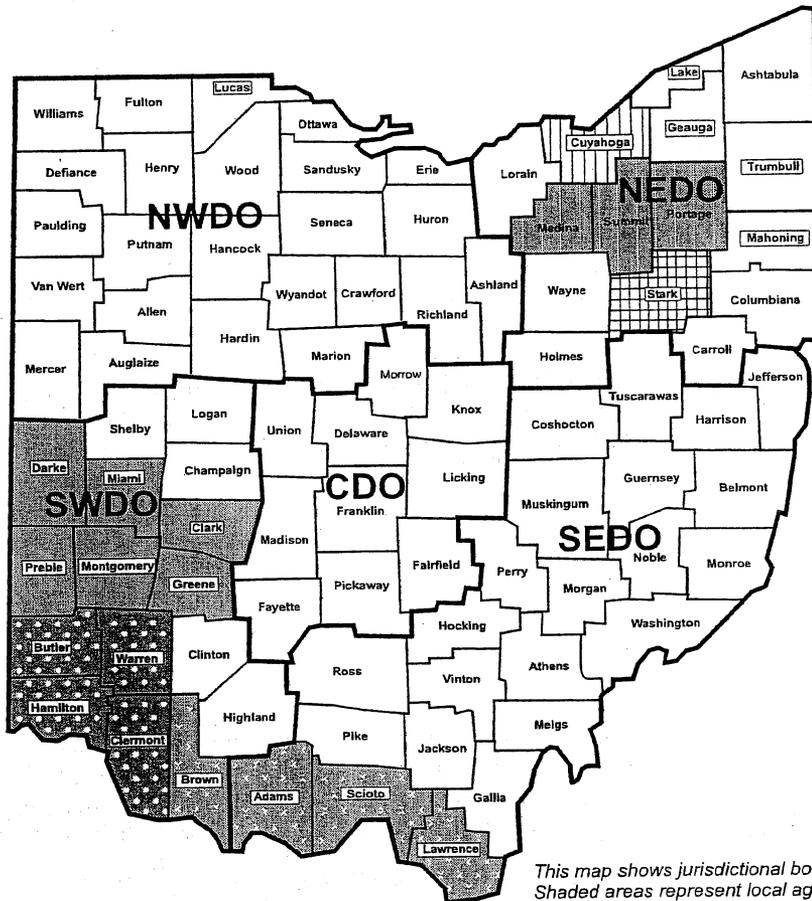
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about our enforcement efforts. Ohio EPA's news release represents our position, and so we do not negotiate the language in the news release with you. If we prepare a news release, you will receive a courtesy copy shortly before it is released to the media and posted on our web site. You can read all of our news releases at: <http://www.epa.state.oh.us/pic/current.html>.

### **District Office and Local Air Agency Addresses and Phone Numbers**

See the following pages.

# Air Permit Review Agencies

Division of Air Pollution Control  
Ohio EPA, Central Office  
(614) 644-2270  
[www.epa.state.oh.us/dapc/general/dolaa.html](http://www.epa.state.oh.us/dapc/general/dolaa.html)



This map shows jurisdictional boundaries.  
Shaded areas represent local agencies within Ohio EPA districts.



## District Offices

**CDO Adam Ward, APC Manager**  
01 Central District Office  
50 West Town Street, Suite 700  
Columbus, OH 43215  
(614) 728-3778 FAX (614) 728-3898  
e-mail: adam.ward@epa.state.oh.us

**SEDO Bruce Weinberg, APC Manager**  
06 Southeast District Office  
2195 Front St.  
Logan, OH 43138  
(740) 385-8501 FAX (740) 385-6490  
e-mail: bruce.weinberg@epa.state.oh.us

**NEDO Dennis Bush, APC Manager**  
02 Northeast District Office  
2110 E. Aurora Rd.  
Twinsburg, OH 44087  
(330) 425-9171 FAX (330) 487-0769  
e-mail: dennis.bush@epa.state.oh.us

**NWDO Mark Budge, APC Manager**  
03 Northwest District Office  
347 North Dunbridge Rd.  
Bowling Green, OH 43402  
(419) 352-8461 FAX (419) 352-8468  
e-mail: mark.budge@epa.state.oh.us

**SWDO Tom Schneider, APC Manager**  
05 Southwest District Office  
401 E. Fifth St.  
Dayton, OH 45402-2911  
(937) 285-6357 FAX (937) 285-6249  
e-mail: tom.schneider@epa.state.oh.us

**Lynn Malcolm, Administrator**  
Akron Regional Air Quality  
Management District  
146 South High St, Room 904  
Akron, Ohio 44308  
(330) 375-2480 FAX (330) 375-2402  
e-mail: Malcoly@ci.akron.oh.us

**Dan Aleman, Administrator**  
Air Pollution Control Division  
Canton City Health Dept.  
420 Market Ave. North  
Canton, Ohio 44702-1544  
(330) 489-3385 FAX (330) 489-3335  
e-mail: daleman@cantonhealth.org

**Cory R. Chadwick, Director**  
Dept. of Environmental Services  
Air Quality Programs  
250 William Howard Taft Road  
Cincinnati, Ohio 45219-2660  
(513) 946-7777 FAX (513) 946-7778  
e-mail: cory.chadwick@hamilton-co.org

**Richard L. Nemeth, Commissioner**  
Cleveland Dept. of Public Health  
Division of Air Quality  
Penton Media Building, 4th Floor  
1300 East 9th St.  
Cleveland, Ohio 44114  
(216) 664-2297 FAX (216) 420-8047  
e-mail: Rnemeth@city.cleveland.oh.us

**John Paul, Administrator**  
Regional Air Pollution Control Agency  
Montgomery County Health Dept.  
117 South Main St.  
Dayton, Ohio 45422-1280  
(937) 225-4435 FAX (937) 225-3486  
e-mail: paulja@rapca.org

**Cindy Charles, Director**  
Portsmouth Local Air Agency  
605 Washington St., Third Floor  
Portsmouth, Ohio 45662  
(740) 353-5156 FAX (740) 353-3638  
e-mail: cindy.charles@epa.state.oh.us

**Karen Granata, Administrator**  
City of Toledo  
Division of Environmental Services  
348 South Erie Street  
Toledo, Ohio 43604  
(419) 936-3015 FAX (419) 936-3959  
e-mail: karen.granata@toledo.oh.gov

# General Guidelines for Ohio EPA's Program for the Retrofitting of School Buses with Control Equipment to Reduce Diesel Particulate Emissions

The following questions and answers explain the Ohio EPA's program for the retrofitting of school buses with emission control equipment and provide the general guidelines that must be followed by any school system that participates in the program.

## 1. Why is there a need to reduce diesel particulate emissions from school buses?

The exhaust gases from diesel, school bus engines contain significant amounts of organic compounds, carbon monoxide, nitrogen oxides (NOx) and fine particulates. If inhaled, the fine particulates are so small that they are able to penetrate deep into the lungs and pose serious health risks such as aggravated asthma and lung damage. In addition, USEPA has identified diesel exhaust as a likely human carcinogen. These fine particulate emissions contribute to the poor ambient air quality in 27 counties in Ohio, which currently are not meeting the national health-based ambient air quality standards for fine particulates (i.e., PM 2.5, particles less than 2.5 microns in diameter). Reducing the particulate emissions from diesel school bus engines will have two primary benefits:

- a. For the children who ride buses, it will reduce their exposure to the harmful diesel exhaust emissions. Children are more susceptible to air pollution than healthy adults because their respiratory systems are still developing and they have a faster breathing rate.
- b. It will help in attaining the National Ambient Air Quality Standards for PM 2.5 in Ohio's nonattainment counties.

## 2. What retrofit options are available to reduce particulate emissions from school buses?

There are three primary ways to retrofit a school bus for particulate emission control:

- a. **Diesel particulate filters** are ceramic devices that collect particulate matter in the exhaust stream. The high temperature of the exhaust heats the ceramic structure and allows the particles inside to break down into less harmful components. These filters must be used in conjunction with ultra-low sulfur diesel ("ULSD") fuel, which is a fuel with a sulfur content of less than 15 parts per million. The combination of particulate filters and ULSD fuel can reduce emissions of particulates, organic compounds, and carbon monoxide in the exhaust gases by 60 to 90 percent. Particulate filters work best on engines built after 1994 and cost \$6,500 to \$7,500.

- b. **Crankcase filtration systems** allow a diesel engine's crankcase to be closed and use an air filter to trap blow-by aerosols consisting mainly of oil droplets, with some carbon and traces of wear debris and PM10. Blow-by gas emissions can be as much as 25% of the total emissions from a diesel engine. The filtration efficiency of crankcase filters averages between 80% and 97%. The crankcase filter must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first. Crankcase filters are inexpensive (a replacement element typically costs less than \$50.00) and are best used in conjunction with some type of filtration system in the exhaust stream.
- c. **Diesel oxidation catalysts** are devices that use a chemical process to break down pollutants in the exhaust stream into less harmful components. Diesel oxidation catalysts can reduce emissions of particulates by 20 percent, hydrocarbons by 50 percent, and carbon monoxide by 40 percent. Oxidation catalysts cost \$600 to \$2,000 and can be used with regular diesel fuel.

Only control equipment found on USEPA's "Verified Technology List" may be purchased and installed (see (4) below for further details).

**3. Which types of school buses will be eligible to be retrofitted with particulate emission controls?**

Only school buses that meet the following criteria will be retrofitted with particulate emission controls:

- a. The school bus must be equipped with a diesel engine.
- b. The school bus must have a gross vehicle rating of 19,500 pounds or more (Types C & D).
- c. The school bus must be driven not less than 5,000 miles per year.
- d. The school bus model year must be 1994 or newer.

**4. Which types of control equipment would be acceptable for installation?**

The USEPA publishes a "Verified Technology List." Only control equipment found on this list may be purchased and installed. As additional technologies are found to be acceptable by the USEPA, they will be added to the list. A copy of this list can be accessed at the following web site:

<http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm>

This table summarizes all the diesel retrofit technologies that the USEPA has approved for use in engine retrofit programs. The table shows the percent reduction (from verified or tested levels) that USEPA will recognize for emission reductions for each technology.

**5. Is there a special type of fuel that must be used with the control equipment?**

In some cases, yes. Each bus equipped with a particulate filter must use ultra low sulfur diesel (ULSD) fuel. Because of the high sulfur content of regular diesel fuel, the use of regular diesel fuel would cause the particulate filter to clog. This, in turn, could cause exhaust back-pressure increases and engine damage. The ULSD fuel contains less than 10% of the sulfur content of regular diesel fuel. Regular diesel fuel may contain 150 to 500 ppm of sulfur, compared to the maximum of 15 ppm for the ULSD fuel. As a result of recent changes in the U.S. federal fuel standards, ULSD fuel will become the standard diesel fuel throughout the U.S. beginning in June of 2006. Many parts of the country, including certain parts of Ohio, are already being supplied with ULSD fuel. The price differential between ULSD fuel and regular diesel fuel currently ranges between eight and 25 cents per gallon. In 2006, when ULSD fuel is available nationwide, the cost differential should be much less.

Diesel oxidation catalysts and crankcase filtration systems do not require special fuel.

**6. What costs are associated with the installation and operation of the emission controls?**

The estimated cost to retrofit each bus with a diesel particulate filter ranges from \$6,500 to \$7,500. On an annual basis, or about every 100,000 miles, these filters must be disassembled and cleaned either with compressed air or by heating the filter in a filter cleaning device. (The cost of such a device ranges from \$300 to \$350.) The cost for the annual maintenance for each filter, which normally takes less than 3 hours to complete, will depend upon whether the work is performed by school district personnel, the engine dealer, or the filter vendor. Also, until ULSD fuel becomes available nationwide in June of 2006, there will be an increased cost for the diesel fuel burned in each retrofitted bus. The current price differential between ULSD fuel and regular diesel fuel varies between 8 and 25 cents per gallon.

Crankcase filters are fairly inexpensive (a replacement element typically costs less than \$50.00). Crankcase filters must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first.

The estimated cost to retrofit each bus with a diesel oxidation catalyst ranges from \$600 to \$2,000. Installation takes approximately one to three hours to complete. Diesel oxidation catalysts do not require annual maintenance and will operate with regular diesel fuel.

**7. How will the control devices be funded by the Ohio EPA?**

Ohio EPA enforcement case settlements will be the source of the funding for the diesel retrofit installations. Each enforcement case resolved either through administrative Findings and Orders or a Consent Order, that contains a significant civil penalty (a total civil penalty assessment of \$5,000 or greater), will also include a Supplemental Environmental Project (SEP) that is equal in value to 20 percent of the total assessed civil penalty. The entity that is the subject of the enforcement case will be required to pay the SEP monies directly to a specific fund that Ohio EPA has established for the retrofitting of school buses.

**8. How will the school systems receive the SEP monies for the diesel retrofit installations?**

A school system that desires to participate in the retrofit program must apply to Ohio EPA to receive funding to purchase and install USEPA approved control equipment. Once or twice per year, the Ohio EPA will solicit applications from the eligible school systems. In the application, an eligible school system must describe the proposed project, providing details such as the number and ages of the buses to be retrofitted, the type of equipment that will be purchased and installed (must be on the USEPA-published list of "Verified Retrofit Technologies"), a schedule for installation of the equipment, and a detailed cost breakdown. Ohio EPA will evaluate each application and provide funding to applicant school systems that meet the criteria specified by Ohio EPA's regulations. Priority will be given to those applicants that are located in a nonattainment county for PM 2.5 and/or that include a commitment to implement an anti-idling program.

**9. What oversight will be provided by the Ohio EPA to ensure that the diesel retrofit control equipment is installed and maintained properly?**

Ohio EPA will closely track the amount of enforcement monies directed to each public school system. Each participating school system must submit regular progress reports providing information regarding the equipment purchased and installed to date, as well as a final report summarizing the project results. Periodic inspections also may be conducted by District Office or local air agency staff to confirm that the control equipment has been correctly installed, that the diesel particulate filters are being maintained properly, and that the monies are being spent appropriately.

**BEFORE THE**  
**OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Murphy Oil USA, Inc.	:	<u>Director's Final Findings</u>
422 N. Washington Avenue	:	<u>and Orders</u>
El Dorado, AR 71730	:	

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Murphy Oil USA, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the Respondent's facility (as hereinafter identified) shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the regulations promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA makes the following findings:

1. Respondent has corporate offices located at 422 N. Washington Avenue, El Dorado, Arkansas and operates a gasoline dispensing facility ("GDF") located at 46118 U.S. Route 20, Oberlin, Ohio (Murphy Oil USA #7371). This GDF is subject to the requirements of Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD) concerning Stage II vapor control systems.

2. On October 17, 2005, Respondent submitted an application for, and on October 18, 2005, obtained, a permit-by-rule ("PBR") for this GDF pursuant to OAC Rule 3745-31-03(A)(4).

3. ORC § 3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. OAC Rule 3745-21-09(DDD) was adopted by the Director pursuant to ORC Chapter 3704.

4. OAC Rule 3745-21-09(DDD)(1)(b) states, in part, that no owner or operator of a GDF may cause, allow, or permit the transfer of gasoline from a stationary tank at a GDF into a motor vehicle unless a vapor control system is installed, operated, and maintained in accordance with the manufacturer's specifications and the applicable California Air Resources Board ("CARB") certification, and is free from defect.

5. OAC Rule 3745-21-09(DDD)(1)(c) states, in part, that no owner or operator of a GDF may cause, allow, or permit the transfer of gasoline from a stationary tank at a GDF into a motor vehicle unless the vapor control system successfully passes the testing requirements contained in OAC Rule 3745-21-09(DDD)(2).

6. OAC Rule 3745-21-09(DDD)(2)(f) requires the owner or operator of a GDF to perform and comply with any vapor control system tests specified in the applicable CARB certification. As part of the required CARB testing for the above-mentioned GDFs, an air-to-liquid ("A/L") ratio test and a static leak test are required to be performed annually and any fueling point not capable of demonstrating compliance with the performance standards of the A/L ratio test is deemed to be defective and is required to be removed from service.

7. On October 29, 2008, Respondent conducted an annual Stage II compliance test at this facility. The static leak test and A/L ratio test failed because the vapor recovery system was leaking and would not hold pressure. In addition, numerous hoses were dry rotted and flattened. Respondent was transferring gasoline into motor vehicles prior to and after the failed static leak and A/L ratio tests. The failure to properly install, operate, and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On December 1, 2008, Respondent conducted and passed a static leak retest but failed the A/L ratio retest. On January 12, 2009, Respondent passed an A/L ratio retest.

8. On August 20, 2009, Respondent conducted the annual Stage II compliance test at this facility. The static leak test passed but the A/L ratio test for dispenser 9 failed due to low vacuum pressure. Respondent was transferring gasoline into motor vehicles prior to and after the failed A/L ratio test. The failure to properly

install, operate, and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle are violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On November 3, 2009, Respondent conducted and passed a retest at this GDF.

9. By letter dated November 17, 2009, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 7 and 8 of these Orders.

10. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

## **V. ORDERS**

The Director hereby issues the following Orders:

1. For the next two ozone seasons (April 1, 2010 – October 31, 2010 and April 1, 2011 – October 31, 2011), starting two weeks prior to the start of the ozone season, i.e., by March 15, 2010 and March 15, 2011, and continuing until October 31, 2010 and October 31, 2011, respectively, Respondent shall conduct weekly inspections of the Stage II vapor control system, checking for leaks, malfunctions or other damage to the system and shall keep records of these inspections and any repairs made. The inspections shall be recorded in an inspection log or checklist. Copies of the inspection logs or checklists shall be submitted to Ohio EPA during the middle and at the end of each ozone season. Specifically, copies of the weekly inspection records for the period from March 15 through July 31 shall be submitted by August 14 of that year. Copies of the weekly inspection records for August 1 through October 31 shall be submitted by November 14 of that year.

2. For the next two ozone-producing seasons (i.e., April 1, 2010 – October 31, 2010 and April 1, 2011 – October 31, 2011), Respondent shall perform static leak and A/L ratio tests prior to the beginning (during March) of each ozone season and during August of each ozone season. Respondent shall notify Ohio EPA of such testing at least fourteen (14) days prior to any test. The results of these tests shall be submitted to Ohio EPA within fourteen (14) days after completion of the tests.

3. Respondent shall pay the amount of fourteen thousand four hundred dollars (\$14,400) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for eleven thousand five hundred and twenty dollars (\$11,520) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA  
Office of Fiscal Administration  
50 West Town Street, Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049

4. In lieu of paying the remaining two thousand eight hundred and eighty dollars (\$2,880) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$2,880 to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$2,880. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

5. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA  
Division of Air Pollution Control  
50 West Town Street, Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049

6. Should Respondent fail to fund the SEP within the required time frame set forth in Order 4, Respondent shall immediately pay to Ohio EPA \$2,880 of the civil penalty in accordance with the procedures in Order 3.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For the purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice president or his duly authorized representative.

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's facility.

#### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

#### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

#### **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio EPA, Northeast District Office  
2110 East Aurora Rd.  
Twinsburg, Ohio 44087  
Attn: Tim Fischer

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
50 West Town Street, Suite 700  
Columbus, Ohio 43216-1049  
Attn: Thomas Kalman

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

## **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges, and causes of action except as specifically waived in Section XII of these Orders.

## **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation, or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

## **XIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

\_\_\_\_\_  
Chris Korleski  
Director

\_\_\_\_\_  
Date

**AGREED:**

**Murphy Oil USA, Inc.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Title

**GDF PENALTY WORK SHEET**  
Murphy Oil USA #7371  
46118 U.S. Route 20, Oberlin, Ohio  
(for settlement purposes only)

<b>A. Benefit Component:</b>		\$0	Economic benefit is negligible (i.e., less than \$5,000).
<b>B. Gravity Component:</b>			
1. Testing violations- Consecutive test failures:	\$5,000		On 10/29/08, Respondent failed the 2008 annual static leak and A/L ratio test. On 12/1/08, a retest was conducted and the static leak test passed but the A/L ratio test failed. On 1/12/09, Respondent passed the A/L ratio test. On 8/20/09, Respondent failed the 2009 annual A/L ratio test for dispenser 9. On 11/3/09, a retest was conducted and the A/L ratio test passed. Respondent was operating the dispensers prior to and after each failed test. Operating the vapor control system with malfunctions and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). Per the GDF penalty policy, when a facility fails any test in two consecutive years or fails two consecutive tests the penalty is \$5,000.
2. Length of violation:	\$2,200		From 10/29/08 until 1/12/09 and 8/20/09 until 11/3/09, Respondent operated the vapor control system while it was malfunctioning and failed to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). Per GDF penalty policy, 30 days is given to fix the problems and retest. Any additional days beyond the initial 30 days are penalized \$25 per day. So 11/29/08 until 1/12/09 (44 days) and

			9/20/09 until 11/3/09 (44 days). 88 days x \$25 per day = \$2,200.
3. Size of violator:	\$7,200		Net worth (~\$240,000,000) is estimated at 20% of annual sales (corporate annual sales are ~ \$1,200,000,000 from Reference USA database). Penalty associated with this amount would be \$270,000. The size of violator is set at 50% of the preliminary deterrence amount because the size of violator penalty is over 50% of the preliminary deterrence amount (\$7,200).
<b>Preliminary Deterrence Amount:</b>		\$14,400	
<b>Initial Gravity Component:</b>		\$14,400	
<b>C. Adjustment Factors:</b>	\$0		Not applicable
1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)			
2. Degree of cooperation: (total gravity component times any mitigation percentage)	\$0		Not applicable
3. History of noncompliance: (total gravity component times any augmentation percentage)	\$0		Not applicable
4. Ability to pay: (any mitigation amount)	\$0		Not known
5. Other unique factors: (total gravity component times any mitigation or augmentation percentage)	\$0		Not applicable
<b>D. Adjusted Gravity Component:</b>		\$14,400	
<b>E. Administrative Component:</b>		\$0	Not applicable
<b>F. Initial Settlement Amount:</b>		\$14,400	