

# AGENDA FOR THE APRIL 8, 2010 EC MEETING

## **CASES TO BE CLOSED:**

Tuscarawas County YMCA	#2722	SEDO	Final F&Os	Tom/Bryan
Evelyn M. Koch	#2827	M-TAPCA	No Further Action	Tom/Marc
Dorothy Jeannine Slessman	#2856	NWDO	No Further Action	Tom/Marc
The Great Lakes Construction Co.	#2865	HAMCO	Unil. F&Os	Tom/Don
MARA2-DNA INC., d.b.a. Nates Marathon	#2871	NEDO	Final F&Os	Tom/Steve
Severstal Wheeling, Inc./Mingo Junction Energy Center, LLC	#2899	SEDO	Final F&Os	Jim /Bryan

## **PENDING CASES:**

Charles J. Arendas	#2823	M-TAPCA	Prop. F&Os	Tom/Don
Clark Sunoco	#2897	Cleveland	Prop. F&Os	John/Marc

## **OTHER BUSINESS:**

- (1) Distribute updated schedule of progress for resolving all "old" cases for 2009 and 2010.
- (2) Don is scheduled to provide food for today's meeting at 3:00 p.m. in DAPC Rm C.
- (3) The next meeting is scheduled for Thursday, April 22, 2010 at 3:00 p.m. in DAPC Rm C. Bryan is scheduled for food. (Future food schedule: Marc for May 6; Tom for May 20.)

## ENFORCEMENT COMMITTEE MEETING MINUTES

(April 8, 2010)

<b>Case Number:</b> 2722	<b>Dates:</b>
<b>Entity:</b> Tuscarawas County YMCA	<b>EAR:</b> 05/05/08
<b>Field Office:</b> SEDO	<b>DWL:</b> N/A
<b>Contact:</b> Urvi Doshi/Tom Kalman	<b>F&amp;Os:</b> 04/02/10
<b>Attorney:</b> Marcus Glasgow	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** On December 4, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to the Tuscarawas County YMCA, a 501 C non-profit corporation, located at 600 Monroe Street in Dover, Ohio, to attempt an administrative settlement of the violations of the Asbestos Emission Control Standards associated with a renovation of the facility in or about December 2007. The renovation included the removal of two boilers and associated piping from the boiler room of the facility.

The boiler room equipment contained above threshold levels of regulated asbestos-containing material. Therefore, the project was subject to the inspection, notification and work practice requirements of the Asbestos Emission Control Standards. The removal of the two boilers and the associated piping was performed by M-COR Corporation without any abatement of the asbestos therein and most of the debris was taken to a facility not permitted as an asbestos-containing waste material disposal facility. M-COR was hired by Lee Good Engineering, the engineering firm hired by the YMCA for the renovation, and M-COR was paid by the YMCA. Lee Good Engineering claimed the YMCA informed it that asbestos in the boiler room was not a problem and that information was passed on to M-COR.

The F&Os proposed to require the YMCA to pay a civil penalty of \$60,000, of which \$48,000 was to be due to Ohio EPA within 14 days after the effective date of the F&Os and \$12,000 was to be due 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 proposed F&Os also cited the YMCA for the following violations:

- (1) Failing to have an asbestos inspection performed of the boiler room prior to commencing work in order to determine rule applicability, in violation of OAC

Rule 3745-20-02(A); (On January 25, 2008, an asbestos survey was subsequently submitted for the remaining renovation and cleanup.)

- (2) Failing to submit a notification of intent to renovate at least 10 working days prior to beginning the renovation operation, in violation of OAC Rule 3745-20-03(A);
- (3) Failing to have an authorized representative present at the location of the renovation operation, who was trained in the provisions of OAC Chapter 3745-20, from at least December 14 to 18, 2007;
- (4) Failing to wet the regulated asbestos-containing material that had been removed or stripped until collected and contained or treated in preparation for disposal, from at least December 13, 2007 until January 31, 2008, in violation of OAC Rule 3745-20-04(A)(6)(a);
- (5) Failing to deposit all asbestos-containing waste material as soon as was practical at an approved disposal facility from at least December 13, 2007 to January 23, 2008, when the waste was taken from the disposal site to a permitted asbestos disposal facility, in violation of OAC Rule 3745-20-05(A);
- (6) Failing to use one of the asbestos emission control methods specified in paragraphs (B)(1) to (B)(4) to control visible emissions during the handling of asbestos-containing waste material from collection to disposal from at least December 13, 2007 to January 31, 2008, in violation of OAC Rule 3745-20-05(B);
- (7) Failing to keep waste shipment records for the disposal of asbestos-containing waste material from the facility beginning on at least December 13, 2007 to January 23, 2008, in violation of OAC Rule 3745-20-05(E); and
- (8) Failing to comply with the above rules that were adopted by the Director pursuant to ORC Chapter 3704, in violation of ORC § 3704.05(G).

In January 2008, a licensed asbestos abatement contractor was employed by the YMCA to properly cleanup the boiler room and to remove the asbestos-containing waste material from the disposal site to a permitted asbestos disposal facility. A final cleanup of the boiler room was completed on January 31, 2008.

(See the EC Meeting Minutes of December 17, 2009 for additional background information.)

On January 6, 2010, a meeting was held with Tuscarawas County YMCA officials and their attorney to discuss the proposed F&Os and civil penalty. The officials indicated that they never told any of the contractors that asbestos in the boiler room was not a problem. Also, they indicated that \$8,000 was the most they could pay in light of their financial condition. Financial documents were to be submitted to Ohio EPA to support their position. DAPC agreed to have the financial documents reviewed and indicated that the architect, Harris Day, also may be pursued for penalties.

The YMCA submitted its financial documents to Ohio EPA, and they were reviewed by the Ohio EPA Fiscal Office. In an IOC dated January 26, 2010, the Fiscal Office reported that the YMCA had the ability to pay the full \$60,000 penalty.

DAPC decided to accept the offer from the YMCA in light of its being a non-profit organization and the significant litigation risk involved in pursuing it for the violations that occurred.

**Action:** On April 2, 2010, final F&Os were issued to the Tuscarawas County YMCA in settlement of its liability for the violations. The F&Os require the YMCA to pay a civil penalty of \$8,000, of which \$6,000 is due to Ohio EPA within 14 days after the effective date of the F&Os and \$2,000 is due to the Ohio EPA's Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os.

It was decided not to pursue any additional parties that were involved in the boiler removal project because of the difficulty in determining each party's culpability in light of conflicting statements.

**Case Closed**



<b>Case Number:</b> 2827	<b>Dates:</b>
<b>Entity:</b> Evelyn M. Koch	<b>EAR:</b> 06/01/09
<b>Field Office:</b> M-TAPCA	<b>DWL:</b> N/A
<b>Contact:</b> Urvi Doshi/Tom Kalman	<b>F&amp;Os:</b> N/A
<b>Attorney:</b> Marcus Glasgow	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** On June 1, 2009, the Mahoning-Trumbull Air Pollution Control Agency (“M-TAPCA”) submitted an Enforcement Action Request (“EAR”) to Central Office concerning illegal demolition and open burning by Gene and Evelyn Koch of Rogers, Ohio, at their former lake cottage grounds located at 1627 North East River Road (near Lake Milton) in Milton Township of Mahoning County. The EAR requested that enforcement action via administrative orders with civil penalty be pursued against Gene and Evelyn Koch for violating the building inspection and notification requirements of the Ohio Asbestos Emission Control Standards and the open burning rules. The property is owned by Ms. Koch. Mr. Koch is now deceased. The cottages at the site apparently were at one time rented out.

The matter began on July 3, 2008, when M-TAPCA received a complaint from the Chief of the Milton Township Fire Department regarding open burning and the possible demolition of multiple structures at 1627 North East River Road in Milton Township, Mahoning County, after Fire Department visits on June 24 and July 2, 2008, when large piles of debris were found burning.

On July 8, 2008, an M-TAPCA inspector visited the site and observed that approximately 18 structures had been demolished, and the debris from those demolitions had been open burned at the site. Two burn piles of ashes and debris were located on the property. One pile of about 20 feet in diameter and 7 feet high was located at the rear of the property. The other pile of about 6 feet in diameter was located southwest of the larger pile. No one was present at the time of the inspection.

A Notice of Violation (“NOV”) letter was sent to Gene and Evelyn Koch on July 21, 2008 that cited them with violations of OAC Rules 3745-20-02(A), 3745-20-03(A), and 3745-19-04(A) and requested that certain information be submitted regarding the demolition. DAPC agrees that those regulations and ORC § 3704.05(G) were violated.

Ms. Koch responded to the NOV letter in a letter dated July 26, 2008. She indicated her husband died two weeks after his 81<sup>st</sup> birthday on February 18, 2008. Furthermore, she stated her husband designed and built the structures, and he began the demolition about two years ago and it ended in the middle of July. She also indicated that she

would be 71 years old in August, is in frail health, and often bedfast for long and short periods, and has a lack of funds. She said she turned to friends for assistance who admired her husband when the Lake Milton Zoning Board and the Mahoning County District Board of Health found the structures to be a public nuisance and demanded that the structures be demolished and removed. Specifically, the Lake Milton Zoning Board sent Gene and Evelyn Koch a letter dated April 18, 2006, wherein she was informed of the need to discontinue use of the premises or abate the nuisance within 30 days or the matter would be referred to the Mahoning County Prosecutor for appropriate legal action. Also, it was mentioned that fines of \$100 per day may be assessed along with liens against the property. Likewise, the Mahoning County District Board of Health sent a letter to Gene Koch wherein it informed Mr. Koch that the Board declared the property to be a public health nuisance and ordered it cleaned up within 30 days or court proceedings would be initiated. Ms. Koch's friends conducted the demolition of the remaining structures and open burned the debris on or about June 24, 2008.

**Action:** On January 12, 2010, DAPC prepared proposed Director's Final Findings and Orders ("F&Os") for Ms. Koch, which assessed a proposed penalty of \$16,000 for the violations that occurred, and circulated the document to the Director for approval and signing of the cover letter. The Director discussed the matter during a staff meeting with DAPC and indicated he did not wish to pursue enforcement against Ms. Koch in light of her personal and financial situation and the appearance of heavy-handedness on the part of the Agency. Therefore, this case is being closed with no further enforcement action.

**Case Closed**



<b>Case Number:</b> 2856	<b>Dates:</b>
<b>Entity:</b> Dorothy Jeannine Slessman	<b>EAR:</b> 09/14/09
<b>Field Office:</b> NWDO	<b>DWL:</b> N/A
<b>Contact:</b> Muhammad Mereb/Tom Kalman	<b>F&amp;Os:</b> N/A
<b>Attorney:</b> Marcus Glasgow	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** On September 14, 2009, Central Office received an Enforcement Action Request ("EAR") from Northwest District Office ("NWDO") for violations of the open burning rules by Dorothy Jeannine Slessman that occurred on her 15-acre residential property located at 4990 Ladow Road, New Haven Township, Huron County, Ohio.

NWDO requested that unilateral Director's Final Findings and Orders ("F&Os") with civil penalty pursuant to OAC Rule 3745-19-06 be issued to Ms. Slessman as the property owner.

The matter began when Ms. Slessman granted permission to her son, John Slessman, to dump demolition debris and some of the contents of a demolished house in the woods behind her house with the understanding that he was to sort the debris and trash and dispose of it properly at a later date. On this basis, her son brought the debris and trash to the property.

On August 2, 2009, the Willard Fire Department responded to a fire call at Ms. Slessman's property and found six separate burn sites consisting of five piles of demolition debris and a pile of approximately 30 tires. Material found in the debris included concrete block, cinder block, dimensional lumber, household trash, medical grade oxygen cylinders, miscellaneous metal parts and metal furniture, wood furniture, a mattress and a garage door. The Fire Department extinguished the fires and determined that the source of the debris was a demolished house.

On August 8, 2009, NWDO inspected the property and observed the remains of the recent fires. During the investigation, Ms. Slessman stated that she did not give her son permission to start the fire. John Slessman and two other workers agreed that they dumped the debris on the property but stated they did not start the fires or know who started the fires.

On August 11, 2009, NWDO sent a notice of violation ("NOV") letter to Ms. Slessman, since she is the property owner on which the fires occurred, which cited her for violating OAC Rule 3745-19-04(A). Also, Ms. Slessman violated ORC § 3704.05(G) by violating that rule.

On August 19, 2009, NWDO received Ms. Slessman's reply to the NOV letter. She informed NWDO that the burned material had been cleared up and disposed of properly at a landfill by her other son Jim.

DAPC prepared unilateral F&Os for the violation of OAC Rule 3745-19-04(A) and ORC § 3704.05(G) that occurred on August 2, 2009. The unilateral F&Os cited Ms. Slessman for violating OAC Rule 3745-19-04(A) and ORC § 3704.05(G), required her to pay a civil penalty in the amount of \$250 within 30 days, and required her to remain in compliance with the requirements of OAC Chapter 3745-19.

The Ohio EPA Legal Office reviewed the draft unilateral F&Os and determined that the Agency had no evidence that Ms. Slessman had caused or allowed the open burning, nor that her son and/or workers had caused or allowed the open burning. DAPC argued that by allowing the waste materials to be dumped on her property, one could argue that she was also allowing the open burning that could not have occurred if the waste materials were not present. However, it was decided to not present this case to the Director on the basis of Legal's analysis.

**Action:** It was decided to not pursue any further enforcement action on this matter on the basis of a lack of evidence. Therefore, this case is closed.

**Case Closed**



<b>Case Number:</b> 2865	<b>Dates:</b>
<b>Entity:</b> The Great Lakes Construction Co.	<b>EAR:</b> 09/25/09
<b>Field Office:</b> HAMCO	<b>DWL:</b> N/A
<b>Contact:</b> Urvi Doshi/Tom Kalman	<b>F&amp;Os:</b> 04/02/10 (unil.)
<b>Attorney:</b> Donald L. Vanterpool	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** The Great Lakes Construction Co. ("GLC") owns a construction company located at 2608 Great Lakes Way, Hinckley, Ohio. The City of Cincinnati contracted with GLC to restore the 8<sup>th</sup> Street Viaduct in the Lower Price Hill neighborhood of Cincinnati.

OAC Rule 3745-19-03(A) prohibits any person or property owner from causing or allowing open burning in a restricted area except as provided in OAC Rule 3745-19-03(B) to (D) and in ORC § 3704.11. The 8<sup>th</sup> Street Viaduct site is in a restricted area as defined in the rules. The exemptions in the rule do not provide for the open burning of demolition debris at a commercial site.

On May 7, 2009, the Hamilton County Department of Environmental Services ("HAMCO") personnel responded to a fire call at the 8<sup>th</sup> Street Viaduct project in Lower Price Hill. When HAMCO personnel arrived at 9:00 a.m., they witnessed GLC personnel open burning construction debris in an open metal tank, with flames 10 to 15 feet in the air. HAMCO personnel informed the site foreman that open burning

construction debris was in violation of the state regulations. Additionally, HAMCO requested GLC to cease all open burning at the 8<sup>th</sup> Street Viaduct site.

On May 11, 2009, HAMCO sent a notice of violation (“NOV”) letter to GLC, wherein GLC was cited for violating OAC Rule 3745-19-03(A). GLC responded to the NOV on May 26, 2009, and informed HAMCO that it would cease all open burning at the work site.

On September 25, 2009, HAMCO submitted an Enforcement Action Request to Central Office for the violation that occurred on May 7, 2009. Unilateral Director’s Final Findings and Orders (“F&Os”), with civil penalty determined pursuant to OAC Rule 3745-19-06, were requested.

**Action:** On April 2, 2010, unilateral F&Os were issued to GLC in resolution of the violation. The F&Os cite GLC for violating OAC Rule 3745-19-03(A) and ORC § 3704.05(G) and require that GLC pay Ohio EPA a civil penalty of \$1,000 within 30 days after the effective date of the F&Os, and maintain compliance with the requirements of OAC Rule 3745-19-03(A). The \$1,000 civil penalty was determined using the penalty factor of \$1,000 per day for each separate open burning violation on a commercial property, as specified in OAC Rule 3745-19-06, and one violation. Although there was only one violation that occurred, enforcement action is being taken because of the large size of the fire and its location in an environmentally sensitive urban area.

**Case Closed**



<b>Case Number:</b> 2871	<b>Dates:</b>
<b>Entity:</b> MARA2-DNA INC., d.b.a. Nates Marathon	<b>EAR:</b> 10/15/09
<b>Field Office:</b> NEDO	<b>DWL:</b> N/A
<b>Contact:</b> Jim Kavalec/Tom Kalman	<b>F&amp;Os:</b> 04/02/10
<b>Attorney:</b> Stephen Feldmann	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** On December 3, 2009, proposed Director’s Final Findings and Orders (“F&Os”) were sent to Ali Mohammad, d.b.a. Marathon Oil 2992, concerning violations of the Stage II vapor control system requirements at his gasoline dispensing facility (“GDF”) located at 960 North Levitt Road in Amherst (Lorain County), Ohio. The

proposed F&Os addressed the violations of OAC Rule 3745-21-09(DDD)(1)(b) and (c) when the Stage II vapor control system was not properly maintained and failed two air-to-liquid ("A/L") ratio tests for several dispensers on May 12, 2008 and May 12, 2009, while Mr. Mohammad caused, allowed or permitted the transfer of gasoline from stationary storage tanks into motor vehicles. The failure to comply with these rules also was a violation of ORC § 3704.05(G).

The F&Os proposed to require Mr. Mohammad to do the following:

- (1) Conduct weekly inspections of the Stage II vapor control system for the next two ozone seasons (2010 and 2011), starting by March 15, 2010 and March 15, 2011 and continuing until October 31, 2010 and October 31, 2011, respectively, 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 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 of completion of each test; and
- (3) Pay Ohio EPA a civil penalty in the amount of \$12,425, of which \$9,940 of the civil penalty is due to Ohio EPA within 30 days after the effective date of the F&Os and \$2,485 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 December 17, 2009 for additional background information.)

On January 26, 2010, a meeting was held with Mr. Mohammad to attempt an administrative settlement via the F&Os. During the meeting, DAPC agreed to reduce its penalty to \$6,570 based on Mr. Mohammad's (1) providing financial statements showing actual net worth of the company that reduced the size of violator penalty by \$3,000; (2) submitting documentation showing the failing dispensers were repaired within 4 days of the May 12, 2008 failing test and Mr. Mohammad's statement that those failing dispensers were immediately bagged off on May 12, 2008, which resulted in the dropping of the \$2,125 length of time penalty for the May 12, 2008 failing test; and (3) cooperation resulting in mitigation of the revised penalty by 20% or \$1,460. Also, Mr. Mohammad requested that the financial documents he submitted during the meeting be

reviewed for inability to pay the civil penalty. Furthermore, DAPC was informed that the business is incorporated as "MARA2-DNA INC." and does business as "Nates Marathon" and that Mr. Mohammad is the Vice President.

In a memo dated February 2, 2010, Ohio EPA's Fiscal Office provided its conclusion on inability-to-pay after reviewing the financial documents submitted by Mr. Mohammad. It was found that the company had the ability to pay the full \$6,570 penalty. On February 10, 2010, Mr. Mohammad submitted additional information on costs associated with a gasoline leak at the GDF which he claimed further limited his ability to pay a civil penalty. He offered \$1,000 to settle the matter. Ohio EPA, Fiscal Office reviewed that information and still concluded that the company could pay the entire amount of the civil penalty. After providing additional mitigation for cooperation, Mr. Mohammad accepted a civil penalty counteroffer of \$5,000 payable in installments.

**Action:** On April 2, 2010, final F&Os were issued to MARA2-DNA INC., d.b.a. Nates Marathon. The F&Os continue to require the weekly inspection and testing of the Stage II vapor control system during the next two ozone seasons as provided in items (1) and (2) above. Also, the F&Os require the payment of a civil penalty of \$5,000 according to the following payment schedule:

- (1) \$250 payable to Ohio EPA within 30 days after the effective date of the F&Os;
- (2) Six payments of \$750 each payable to Ohio EPA beginning within 120 days after the effective date of the F&Os and continuing quarterly thereafter; and
- (3) \$250 payable to Ohio EPA within 660 days after the effective date of the F&Os.

**Case Closed**



<b>Case Number:</b> 2899	<b>Dates:</b>
<b>Entity:</b> Severstal Wheeling, Inc./Mingo Junction Energy Center, LLC	<b>EAR:</b> 02/01/10
<b>Field Office:</b> SEDO	<b>DWL:</b> N/A
<b>Contact:</b> Jim Orlemann	<b>F&amp;Os:</b> 03/30/10
<b>Attorney:</b> Bryan Zima	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** Severstal Wheeling, Inc. (“Severstal”), of 1134 Market Street in Wheeling, West Virginia, owns and operates a blast furnace and reheat furnaces at its Mingo Junction iron and steel production facility and coke oven batteries at its Follansbee, West Virginia coke manufacturing facility. Mingo Junction Energy Center LLC (“MJ Energy”) owns and operates a co-generation facility at Severstal’s Mingo Junction facility. The co-generation facility produces electricity and steam for Severstal, and is included as an air contaminant source in Severstal’s Title V operating permit for its Mingo Junction facility.

Severstal produces blast furnace gas as a byproduct in the manufacture of iron in its blast furnace. The blast furnace gas has been and can be used as a fuel in the four large boilers at MJ Energy’s co-generation facility. Severstal also produces coke oven gas as a byproduct in the manufacture of coke in its coke oven batteries in Follansbee, West Virginia. The coke oven gas has been and can be used to fuel several sources, including the coke ovens and reheat furnaces that heat large steel slabs so that they can be rolled.

As a result of diminished steel production, Severstal has had to idle the blast furnace and reheat furnaces. The idling of the blast furnace has eliminated the available fuel for the co-generation facility. The idling of the reheat furnaces has eliminated a user for coke oven gas, which will have to be wasted by being burned in a flare. Since Severstal now has the opportunity to resume full scale coke production at the Follansbee, West Virginia facility, Severstal and MJ Energy want to use coke oven gas to fuel the boilers at the co-generation facility.

Each boiler at the co-generation facility is subject to the requirements in PTI #06-06309 and a Title V permit issued to MJ Energy and the Title V permit issued to Severstal. In PTI #06-06309, each of the four boilers is described as a “180 MMBtu/hr boiler with natural gas and/or clean fuel blast furnace gas.” A change in the fuel type to allow the burning of coke oven gas in any of the boilers would be a change in the method of operation of the boilers that would result in an increase in the allowable emissions. Therefore, this fuel type change would be classified as a “modification” as defined in

OAC Rule 3745-31-01(PPP), and would require a PTI prior to the fuel switch unless otherwise exempted by rule.

In April 2009, at the request of Severstal, and pursuant to OAC Rule 3745-31-03, the Director authorized a temporary exemption for Severstal from the requirement to obtain a PTI for the fuel switch modification. The exemption allowed Severstal to test the feasibility of, and assess the air quality impacts from, the burning of desulfurized coke oven gas in the boiler at the co-generation facility.

In May 2009, MJ Energy submitted an application to Ohio EPA for a modification to PTI #06-06309 to install new low-NOx burners in two boilers at the co-generation facility to allow full capacity usage of coke oven gas in those two boilers. MJ Energy made several revisions to the application, with the last being made in February 2010. The revised application requested usage of coke oven gas in all four boilers at the co-generation facility, including those boilers in which new burners were not being installed. That application and its revisions thereto are still under review by Ohio EPA.

On December 21, 2009, at the request of Severstal, and pursuant to OAC Rule 3745-31-03, the Director authorized a second temporary exemption for Severstal from the requirement to obtain a PTI for the fuel switch modification. The exemption allowed Severstal to burn desulfurized coke oven gas in the boilers in order to investigate and evaluate other boiler efficiency-related improvements and facility operating practices associated with the delivery of the desulfurized coke oven gas to the boilers at the co-generation facility.

Both Severstal and MJ Energy also requested permission to install a new low-NOx burner in one of the boilers pending a decision on the PTI application for the two new low-NOx burners that was submitted in May 2009. This also was a modification to the boiler. On January 8, 2010, at the request of Severstal and MJ Energy, and pursuant to OAC Rule 3745-31-03, the Director authorized a third temporary exemption for Severstal and MJ Energy from the requirement to obtain a PTI for the fuel switch modification. The exemption allowed Severstal and MJ Energy to burn desulfurized coke oven gas in the boiler with a new burner, in addition to the other boilers, in order to evaluate the effectiveness of the new low-NOx burner, the emission rate of the new burner, and various production issues.

The third temporary exemption expired on or about March 26, 2010. As of that date, Severstal and MJ Energy may not cause, permit, or allow the modification of operations (in the form of burning of desulfurized coke oven gas in any boiler, including the boiler

with the new low-NOx burner) at the cogeneration facility without a PTI or new exemption authorizing them to do so).

As of on or about March 26, 2010, Severstal and MJ Energy have continued to burn desulfurized coke oven gas in the boilers at the co-generation facility, in violation of OAC Rule 3745-31-02(A)(1) and ORC § 3704.05(G). Severstal and MJ Energy state that if they are not permitted to continue to burn desulfurized coke oven gas in the boilers, install the second new low-NOx burner, and be able to use full capacity of coke oven gas in all of the boilers at the co-generation facility, full production at the coke oven batteries will not be possible. This will result in lost revenue and jobs, possible shutdown of facilities, and potentially significant adverse economic impact on the companies and community. In addition, since the excess coke oven gas would have to be flared, the associated heat content would be wasted.

Since the Director of Ohio EPA did not want to issue more temporary exemption letters, it was proposed to Severstal and MJ Energy that administrative orders with penalty be prepared to allow the companies to continue operation by burning desulfurized coke oven gas in the boilers at the co-generation facility until a certain time by which the companies could be operating in compliance with an appropriate PTI modification or cease burning such fuel and burn gases permitted under the current PTI. Proposed administrative orders were prepared by Ohio EPA and a settlement was eventually achieved over language and penalty amount.

**Action:** On March 30, 2010, Director's Final Findings and Orders ("F&Os") were issued to Severstal and MJ Energy. The F&Os require the parties, by no later than August 15, 2010, to obtain and achieve compliance with an appropriate PTI modification authorizing them to burn desulfurized coke oven gas in all boilers, including the boilers with new low-NOx burners, at the co-generation facility, or cease burning any fuel other than natural gas or clean blast furnace gas in any boiler in the co-generation facility, including the boilers with the new low-NOx burners. The total amount of coke oven gas that can be burned by all users at the four boilers in the co-generation facility, the Mingo Junction reheat furnaces 2, 3 and 4 (emissions units P006 through P008), Coke Batteries 1, 2, 3 and 8, the excess coke oven gas flare, and Boilers 6 to 10 in West Virginia, are not to exceed, in aggregate, the existing standard of 21,112,050 thousand cubic feet of coke oven gas, based on a rolling, 12-month summation.

Also, the F&Os require the parties to pay a civil penalty to Ohio EPA of \$15,000, within 30 days after the effective date of the F&Os, of which \$3,000 is to be directed to the Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

**Case Closed**



<b>Case Number:</b> 2823	<b>Dates:</b>
<b>Entity:</b> Charles J. Arendas	<b>EAR:</b> 05/11/09
<b>Field Office:</b> M-TAPCA	<b>DWL:</b> N/A
<b>Contact:</b> Felix Udeani/Tom Kalman	<b>F&amp;Os:</b> 04/02/10 (prop.)
<b>Attorney:</b> Donald L. Vanterpool	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** Charles J. Arendas of 6700 New Castle Road, Lowellville, Ohio, owns the residential properties located at 3307 and 3311 Upland Avenue in Coitsville Township, Mahoning County, Ohio. As detailed below, Mr. Arendas demolished the two residential structures on those properties in or about February 2009, in violation of the Asbestos Emission Control Standards in OAC Chapter 3745-20.

On February 17, 2009, an inspector with the Mahoning-Trumbull Air Pollution Control Agency ("M-TAPCA") visited the above-mentioned properties in response to a citizen's complaint that the structures thereon were being demolished. The inspector observed that the structures were completely demolished, the debris had been removed, and the sites had been graded. Mr. Arendas failed to have the two structures inspected for the presence of asbestos prior to beginning the demolitions and did not submit a notification to M-TAPCA or Ohio EPA of intent to demolish the structures prior to the commencement of demolition, in violation of OAC Rules 3745-20-02(A) and 3745-20-03(A), and ORC § 3704.05(G).

Since the residential structures were demolished, the debris was removed, and the sites were graded, and no asbestos inspection was performed and no notification was submitted, there was no opportunity for M-TAPCA to determine applicability of, and verify compliance with, the asbestos emission control standards and ensure public health was not adversely affected.

On February 27, 2009, M-TAPCA sent a Notice of Violation ("NOV") letter to Mr. Arendas, citing him with the above-mentioned violations.

On May 11, 2009, M-TAPCA submitted an Enforcement Action Request to Central Office for the violations committed by Mr. Arendas and requested that administrative orders with civil penalty be the course of action.

**Action:** On April 2, 2010, proposed Director's Final Findings and Orders ("F&Os") were sent to Mr. Arendas to attempt an administrative settlement of the violations. The F&Os propose to require Mr. Arendas to pay a civil penalty of \$18,700 to Ohio EPA within 14 days after the effective date of the F&Os, of which \$3,740 would be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP. The gravity portion of the penalty was augmented by 10% (i.e., \$1,700) because Mr. Arendas should have known about the asbestos emission control standards. This is because he received a letter from the Coitsville Township Zoning Department on November 17, 2008, in which he was advised to contact M-TAPCA prior to the demolition in order to obtain the requirements for building demolitions.

**Case Continued**



<b>Case Number:</b> 2897	<b>Dates:</b>
<b>Entity:</b> Clark Sunoco	<b>EAR:</b> 02/17/10
<b>Field Office:</b> CDAQ	<b>DWL:</b> N/A
<b>Contact:</b> Eric Yates/John Paulian	<b>F&amp;Os:</b> 04/02/10 (prop.)
<b>Attorney:</b> Marc Glasgow	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** Clark Sunoco owns and operates a gasoline dispensing facility ("GDF") located in Cleveland. A PTI was issued to the facility on October 17, 2002. This GDF is subject to the requirements of OAC Rule 3745-21-09(DDD) concerning Stage II vapor control systems and is required to conduct Stage II compliance tests, which consist of annual static leak and air-to-liquid ("A/L") ratio tests and a five-year dynamic pressure performance test. The purpose of these tests is to ensure that the Stage II vapor control system is working properly to capture gasoline vapors during vehicle fueling so they do not contribute to ozone formation.

Clark Sunoco failed the 2008 and 2009 annual Stage II vapor control system static leak tests. Clark Sunoco was dispensing gasoline the entire time the Stage II vapor control

system was not properly operating. 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).

**Action:** On April 2, 2010, proposed Director's Final Findings and Orders ("F&Os") were sent to Clark Sunoco. The F&Os propose to require Clark Sunoco to conduct weekly inspections of the Stage II vapor control system for the next two ozone seasons, checking for leaks, malfunctions or damage to the systems. Records of these inspections and any repairs made are required to be submitted to Ohio EPA. Also, during the next two ozone seasons, the F&Os propose to require Clark Sunoco to perform static leak and A/L ratio tests at this 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. Lastly, the proposed F&Os would require Clark Sunoco to pay Ohio EPA a civil penalty in the amount of \$10,000, \$2,000 of which will go towards Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

**Case Continued**



ACTIONS & MINUTES APPROVED BY:

  
\_\_\_\_\_  
Bob Hodanbosi, Chief, DAPC

**NEXT MEETING:**

April 22, 2010

3:00 p.m.

DAPC Room C

## PENDING AIR ENFORCEMENT COMMITTEE CASES

Total Unresolved Cases (79)

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2676	OmniSource Corporation - Lima Division	NWDO	MG/MM	02/23/06	11/08/07
2701 (VC)	City of Dayton, Advanced Wastewater Treatment Facility	RAPCA	BZ/JK	02/19/08	02/19/08
2726	Glick Real Estate LTD/AII-Type Demolition and Excavating (asbestos)	Canton	BZ/FU	05/19/06	05/19/08
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	Ellwood 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
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
2819	Masonic Temple/The New Victorians, Inc./AHC, Inc. (asbestos)	CDO	DV/	01/24/08	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

Updated: 04/08/10

## PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2823	Rudzik Excavating, Inc./Charles J. Arendas (asbestos)	MTAPCA	DV/FU	02/27/09	05/11/09
2826	Staker Alloys, Inc.	RAPCA	DV/FU	11/14/07	05/29/09
2829(VC)	ODNR, Division of Forestry (regarding the Shawnee State Forest open burning)	Ports.	DV/JP	04/24/09	06/03/09
2833	Veterans of Foreign Wars Post 6519 (asbestos)	Lake Co.	DV/TT	04/29/08	06/22/09
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	AOHW 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
2855	Lakeside Fuel Mini-Mart	NEDO	DV/JK	02/09/09	09/09/09
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
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

## PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
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
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/UD	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
2888	Titan Tire Corporation	NWDO	MG/MM	09/28/07	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/JP	11/10/08	01/25/10
2893	Sterling Professional Group, LLC/Cleveland Public Library (asbestos)	NEDO	SF/MM	11/09/09	01/28/10
2894	The University of Akron	Akron	MG/JK	05/23/08	02/01/10
2895	Medhurst Mason Contractors, Inc.	Akron	DV/FU	09/19/07	02/11/10
2896 (VC)	Lorain County II Landfill	NEDO	SF/JK	11/27/09	02/11/10
2897	Clark Sunoco	Cleve.	MG/JP	10/14/08	02/17/10
2898	Stark C & D Landfill/Marshall Land Company/The City of Canton	NEDO	DV/UD	11/13/09	02/23/10
2900	Clarkia Gas	Cleve.	MG/JP	02/10/09	03/01/10
2902	True North #316	Cleve.	DV/JP	02/24/09	03/17/10
2903	D & D Marathon	Cleve.	SF/JP	02/02/09	03/22/10
2904	United States Gypsum Company (HPV)	NWDO	MG/	03/14/07	03/24/10

**PENDING AIR ENFORCEMENT COMMITTEE CASES**

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2905	Pilot Travel Centers, LLC (Pilot #0002)	NEDO	DV/JK	12/10/09	03/24/10
2906	Denison Gas USA	Cleve.	SF/JP	09/16/08	03/29/10
2907	Vicky L. Walls	SWDO	MG/JP	10/14/09	04/02/10

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

## January

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
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 the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2010

### February

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2813	S. H. Bell Company (Little England and Stateline facilities)	3	NEDO	TK	JO	MG	04/21/09					02/08/10	
2887	Kimberly Dailey	3	SWDO	JP	EY	SF	01/07/10					02/01/10	
2671	Mar-Zane, Inc. (Plant 1)	3	CDO	JP	JP	MG	10/25/07						02/18/10

**Total for the month of February = 3**

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

**March**

<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>
2685	Quikrete-Cleveland	3	Akron	TK	UD	DV	12/14/07					02/26/10	
2731 (112r)	H. B. Fuller Company	3	N/A	TK	KJ	DV	06/04/08					03/10/10	
2824	Ariel Corporation	3	CDO	JP	EY	MG	05/18/09					03/09/10	
2834	Foti Contracting, LLC	3	Akron	TK	FU	MG	06/29/09					03/10/10	
2879 (112r)	City of Youngstown, Wastewater Treatment Plant	3	N/A	TK	SS	MG	12/04/09					03/10/10	
2901	Rumpke Sanitary Landfill, Inc.	3	HAMCO	TK	JO	BZ	03/01/10					03/18/10	
2527	Carmeuse Lime, Inc. (Maple Grove Facility)	3	NWDO	TK	FU	DV	06/19/06					03/19/10	
2820	Bailey-PVS Oxides Delta LLC.	3	NWDO	TK	JK	MG	04/27/09					03/19/10	

**Total for the month of March = 8**

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

### April

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2722	Tuscarawas County YMCA (asbestos)	3	SEDO	TK	UD	BZ	05/05/08					04/02/10	
2827	Evelyn M. Koch	1	MTAPCA	TK	UD	MG	06/01/09			Closed-NFA	04/08/10		
2856	Dorothy Jeannine Slessman	1	NWDO	TK	MM	MG	09/14/09			Closed-NFA	04/08/10		
2865	The Great Lakes Construction Co.	3	HAMCO	TK	UD	DV	09/25/09					04/02/10	
2871	MARA2-DNA Inc., d.b.a. Nates Marathon	3	NEDO	TK	JK	SF	10/15/09					04/02/10	
2899	Servestal Wheeling, Inc./Mingo Junction Energy Center, LLC	3	SEDO	TK	JO	BZ	02/01/10					03/30/10	

**Total for the month of April = 6**

# Summary of Compliance with Effective Findings and Orders

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Ball & Sons Construction (11/08/96)	Civil penalty: (\$1,000)	563513	11/22/96	Y	FSC**	
Smith Foundry & Machine Co. (12/31/96)	Civil penalty: (\$25,000)					
	\$5,000	530404	01/31/97		01/23/97	
	\$5,000	530405	01/31/98		01/23/98	
	\$5,000	530406	01/31/99	Y	01/19/99	
	\$5,000	530407	01/31/00	Y	ACT**	
	\$5,000	541831	01/31/01		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. The facility has been permanently shut down since some time in 2006. Incorporation status w/ Secretary of State was dissolved in 2006.						
Mark Fuerst (02/08/00)	Civil penalty: (\$10,000)					
	OEPA \$2,000	172154	04/08/00	Y	FSC**	
	\$2,000	172155	05/08/00	Y	*	
	\$2,000	172156	06/08/00	Y	FSC**	
	\$2,000	172157	07/08/00	Y	FSC**	
	ODNR \$2,000	606212	03/08/00	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)					
	OEPA \$2,000	206005	01/12/01		01/16/01	
	ODNR \$500	564224	01/29/01			
Anco Properties (06/19/01)	Civil penalty: (\$23,000)					
	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**	
	ODNR \$4,600	613129	07/19/01	Y	FSC**	
Superior Demolition and Excavating (12/28/01)	Civil penalty: (\$15,000)					
	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**	
	ODNR \$3,000	270395	01/11/02		01/10/02	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Richard and Joby Hackett (04/04/02)	Civil penalty: (\$3,000)					
	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**
	ODNR	\$ 150		05/04/02		
	\$ 150		06/04/02			
	\$ 150		07/04/02			
	\$ 150		08/04/02			
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Schloss Materials Company (09/18/02)	Civil penalty: (\$6,000)					
	OEPA	\$4,000	304257	10/02/02		09/30/02
	ODNR	\$2,000	564243	10/18/02	N	
	pave entrance & access road to facility			10/31/02		06/03/04*
-----						
City of Oregon (09/16/02)	Civil penalty: (\$10,000)					
	OEPA	\$8,000	304257	09/30/02		09/30/02
	ODNR	\$2,000	564243	09/30/02	N	
	conduct asbestos fire training			02/01/03		01/18-14-15&29/03
-----						
Cleveland Industrial Drum Servic Service, Inc. (10/30/02)	Civil penalty: (\$1,000)					
	OEPA	\$800	314152	11/13/02		06/24/03
	ODNR	\$200	564255	11/30/02	N	
-----						
M & J Excavating (11/27/02)	Civil penalty: (\$2,450)					
	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*
	ODNR	\$490	564257	12/27/02		09/25/02
-----						
Chris Corso (12/02/02)	Civil penalty: (\$7,000)					
	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
	ODNR	\$1,400	614162	01/02/03	N	
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Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Goldline Wrecking Co. (12/23/02)	Civil penalty: (\$35,000)					
	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**
	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)					
	EPA	\$ 500	336723	03/06/03	Y	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*
	ODNR	\$1,700	583375	03/06/03	Y	

\* 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)					
	Submit modeling analysis			413303	01/31/04	01/07/04
				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	C y/n	Complete Date	Check # / 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	
Submit cost of P <sup>2</sup> study			03/28/05		N/A		
			04/05/05				
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Kerry's Motor World (05/13/04)	Civil penalty: (\$3,000)	443684	05/27/04	Y			
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John Dubuk (12/29/04)	Civil penalty: (\$10,000)						
	\$834	489979	01/28/05		01/24/05		
	\$834	489980	02/27/05		02/24/05		
	\$834	489981	03/29/05		03/26/05		
	\$834	489982	04/28/05	Y	07/29/06		
	\$834	489983	05/28/05	Y	UNC**		
	\$834	489984	06/27/05	Y	07/29/06		
	\$834	489985	07/27/05	Y	UNC**		
	\$834	489986	08/26/05	Y	UNC**		
	\$834	489987	09/25/05	Y	UNC**		
	\$834	489988	10/25/05	Y	UNC**		
	\$834	489989	11/24/05	Y	UNC**		
	\$826	489990	12/24/05	Y	UNC**		
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C & J Contractors (12/21/04)	Civil penalty: (\$5,600)	479998	01/21/05	Y	*		
* This account is Certified and still open--various payments have been made (10/05-05/06) totaling \$2,150, leaving a balance of \$3,450.							
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Bohanan Investments, Inc. (04/14/05 - Court Order, Default Judgement)	Civil penalty: (\$127,900)	550712	04/14/05	Y			
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Columbus Steel Drum (07/06/05 - Consent Order)	Civil penalty: (\$500,000)						
	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			

Facility Name	Milestone or Requirement*	Revenue	Deadline	C	Complete	Check	
		ID	in F&O	y/n	Date	# / Date	
Columbus Steel Drum (con't) (07/06/05 - Consent Order)	OEPA	\$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			12/01/09		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		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.							
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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			
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Shell Construction, Inc. (09/26/05)	Civil penalty: (\$3,700)						
	OEPA	\$100	526004	10/26/05		09/27/05	
		\$100	526005	11/25/05		11/10/05	
		\$100	526006	12/25/05		12/20/05	
		\$100	526007	01/24/06		10/28/06	
		\$100	526008	02/23/06		10/28/06	
		\$100	526009	03/25/06		10/28/06	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date	
Shell Construction, Inc. (con't) (09/26/05)	\$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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	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		
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Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Cargill, Incorporated (03/03/06 - Consent Decree)	Civil penalty: (\$61,538)					
	OEPA \$30,769	551695	03/27/06		04/03/06	
* - CD modification on 11/26/08	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	*	02/26/10	
	Test and establish an allowable short-term VOC limit for each scrubber stack serving P032, P033 and P034 at Dayton		02/28/10	*	02/26/10	
	Submit permit apps for P032, P033 and P034 at Dayton to incorporate control equipment operating parameters and VOC emission limits		09/01/10	*		
	Submit PTI app 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			
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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			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Sunoco, Inc. (con't) (03/20/06-Consent Decree)	Install WGS for FCCU		12/31/09			
	Comply w/ NSPS for SO <sup>2</sup> and opacity for FCCU		12/31/09			
	Comply w/ NSPS for PM for FCCU		03/20/06		03/20/06	
	Comply w/ NSPS for CO for FCCU		03/20/08		03/27/08	
	Reduce NOx emissions from heaters & boilers greater than 40mm Btu/hr by at least 2,189 tons/yr		03/20/14			
	Achieve 2/3 of 2,189 tons/yr NOx		03/20/10			
	Submit a detailed NOx Control Plan		07/20/06		07/05/06	
	Install a second Claus train & 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		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	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
David Scholl (09/25/06)	Civil penalty: (\$400)	584589	10/25/06		12/11/06* 05/26/07*	
* Made a partial payment of \$200 on 12/11/06. \$200 was certified to AGO. A payment of \$180 + \$20 for AGO was made on 5/26/07						
Alpha-Omega Chemical Co. (12/14/06)	Civil penalty: (\$4,000)					
	OEPA \$1,000	605635	05/14/07		08/20/07	
	\$1,000	605636	09/14/07	Y		
	\$1,200	625637	12/14/07	Y		
	Bus Fund \$ 800	625638	01/14/07	Y	07/29/07	
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	08/11/07	Y	ACT	
Eslich Wrecking Company (07/16/07 - Consent Order)	Civil penalty: (\$44,853) (\$44,853 = 45% of \$99,674)	623581	08/16/07		8/20/2007	
	Submit survey and plan to install protective physical barrier		08/16/07			
	Install cap				w/i 60 days of OEPA approval of survey & 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			
Tim Weiland (09/06/07)	Civil penalty: (\$250)	624378	10/06/07	Y	SKP	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Alfred Nickles Bakery, Inc. (11/08/07)	Civil penalty: (\$60,250)					
	OEPA \$46,200	634724	12/08/07		11/02/07	222582
	Bus Fund \$14,050	634725	12/08/07		11/02/07	222583
	Submit P2 report		02/08/07			
	Submit P2 report		05/08/07			
	Submit P2 report		08/08/07			
	Submit final P2 report		10/08/07			
	Submit cost documentation		w/i 30 days of approval of report by OEPA			
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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 NOx/MMBtu for heaters and boilers		12/31/08		12/10/08	
	Install controls to meet .060 lb NOx/MMBtu for heaters and boilers		12/31/11			
	Submit plan to meet .044 lb NOx/MMBtu for heaters and boilers		12/31/10			
	Install controls to meet .044 lb NOx/MMBtu for heaters and boilers		12/31/13			
	Submit report that demonstrates compliance with limits for heaters & boilers		03/31/12		03/31/14	
	Submit report re: the NOx concentration emissions for the FCCU thru optimization of O2 CS		03/01/12			
	Submit report that demonstrates compliance w/ <u>interim</u> NOx system-wide average for FCCUs		03/31/11			
	Submit report that demonstrates compliance w/ final Nox system-wide average for FCCUs		03/31/14			
	Commence implementation of SO2 ad-sorbing 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			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O y/n	C Complete Date	Check # / Date
The Premcor Refining Group, Inc. (Con't)	Submit alternative monitoring plan application for NSPS subpart J monitoring for SO2 at FCCU		12/31/08	12/19/08	
	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 SOP		** 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		12/30/09	12/18/09	
	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	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
The Premcor Refining Group, Inc. (Con't)	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)		12/30/09			
	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 specification		02/20/08		01/18/08	
	Transfer \$50,000 to Ohio Environmental Council for control of emissions from municipal trucks and buses		02/20/08		01/18/08	
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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 SO2 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 SO2 limit		11/01/10			
	Submit a complete T5 permit application for Consent Decree SO2 limits		09/01/11			
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Converters Prepress (12/06/07 - Consent Order)	Civil penalty: (\$5,004)					
	OEPA \$139	644190	01/06/08		02/22/08	
	\$139	644191	02/06/08		03/26/08	
	\$139	644192	03/06/08		03/26/08	
	\$139	644193	04/06/08		04/04/08	
	\$139	644194	05/06/08		05/05/08	
	\$139	644195	06/06/08		05/30/08	
	\$139	644196	07/06/08		07/14/08	
	\$139	644197	08/06/08		08/04/08	
	\$139	644198	09/06/08		08/29/08	
	\$139	644199	10/06/08		09/29/08	
	\$139	644200	11/06/08		11/06/08	
	\$139	644201	12/06/08		12/02/08	
	\$139	644202	01/06/09		12/30/08	
\$139	644203	02/06/09		02/09/09		
\$139	644204	03/06/09		03/11/09		

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Converters Prepress (con't) (12/06/07 - Consent Order)	\$139	644205	04/06/09		03/31/09	
	\$139	644206	05/06/09		05/05/09	
	\$139	644207	06/06/09		06/01/09	
	\$139	644208	07/06/09		07/06/09	
	\$139	644209	08/06/09		08/07/09	
	\$139	644210	09/06/09		08/24/09	8256
	\$139	644211	10/06/09		09/28/09	8316
	\$139	644212	11/06/09		10/27/09	8368
	\$139	644213	12/06/09		11/24/09	8427
	\$139	644214	01/06/10		12/28/09	8474
	\$139	644215	02/06/10		01/25/10	8521
	\$139	644216	03/06/10		03/02/10	
	\$139	644217	04/06/10			
	\$139	644218	05/06/10			
	\$139	644219	06/06/10			
	\$139	644220	07/06/10			
	\$139	644221	08/06/10			
	\$139	644222	09/06/10			
	\$139	644223	10/06/10			
	\$139	644224	11/06/10			
	\$139	644225	12/06/10			

Real Spaces Property for Rent (12/31/07)	Civil penalty: (\$17,700)					
	OEPA	\$ 600	645338	01/30/08	02/07/08	
		\$ 600	645339	02/29/08	03/12/08	
		\$ 600	645340	03/30/08	05/05/08	
		\$ 600	645341	04/29/08	06/09/08	
		\$ 600	645342	05/29/08	07/03/08	
		\$ 600	645343	06/28/08	08/04/08	
		\$ 600	645344	07/28/08	09/11/08	
		\$ 600	645345	08/27/08	11/17/08	
		\$ 600	645346	09/26/08	01/13/09	
		\$ 600	645347	10/26/08	Y 01/27/10*	
		\$ 600	645348	11/25/08	Y	
		\$ 600	645349	12/25/08	Y	
		\$ 600	645350	01/24/09	Y	
		\$ 600	645351	02/23/09	Y	
		\$ 600	645352	03/25/09	Y	
		\$ 600	645353	04/24/09	Y	
		\$ 600	645354	05/24/09	Y	
		\$ 600	645355	06/23/09	Y	
		\$3,360	645356	07/23/09	Y	
	Bus Fund	\$3,560	645357	07/23/09	Y	

\* Partial pymt of \$300 made, of which \$30 went to AGO.

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Christopher Vincent (02/15/08)	Civil penalty: (\$1,000)	653134	03/16/08	Y	ACT	
James Brown 3/11/2008	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		
Peter Backer (07/01/08)	Civil penalty: (\$750)	657790	07/31/08	Y		
W. A. Miller (07/16/08)	Civil penalty: (\$1,000) * Partial payment of \$350 received 10/20/08	666334	08/16/08	Y		*
Lanny Reynolds (07/16/08)	Civil penalty: (\$750)	666335	08/16/08	Y		
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 Bus Fund \$2,000	659538 659539	08/08/08 08/08/08	Y Y		
Ford Motor Company (07/31/08)	Civil penalty: (\$1,400,000) OEPA \$1,120,000 Bus Fund \$280,000 Shut down cupola 3 and mold line 7 Shut down cupola 1 & 2 and mold lines 2 & 3	666337 666338	08/31/08 08/31/08 12/31/08 12/31/10		08/18/08 08/18/08 12/11/08	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
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 tool \$1,069.55 for its collection efforts. ** AGO took \$240 of this amount for its collect 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/l 60 days of startup of 2009 season if permit issued after		08/11/09	
	Pay emissions fees of \$7,330 for 1995 thru 2007 for Sandusky and for 1999 thru 2005 for Portage		10/24/08		10/09/08	
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	4969
	\$28,000	709527	01/15/10		01/27/10	5049
	Bus Fund \$ 7,000	709528	02/14/09		02/11/09	4968
	\$ 7,000	709529	01/15/10		01/29/10	5048
	Submit complete approvable synthetic minor PTIO app.		w/i 60 days of resuming operations			
	Submit FERs for 1999-2007 & pay \$8,000 in past emission		upon receipt of invoice from OEPA		06/12/09	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Ultimate Industries, Inc. (02/05/09 - Consent Order)	Civil penalty: (\$4,200)					
	OEPA	\$175	712529	03/05/09		05/12/09
		\$175	712530	04/05/09		06/15/09
		\$175	712531	05/05/09		08/07/09
		\$175	712532	06/05/09		09/28/09
		\$175	712533	07/05/09		
		\$175	712534	08/05/09		
		\$175	712535	09/05/09		
		\$175	712536	10/05/09		
		\$175	712537	11/05/09		
		\$175	712538	12/05/09		
		\$175	712539	01/05/10		
		\$175	712540	02/05/10		
		\$175	712541	03/05/10		
		\$175	712542	04/05/10		
		\$175	712543	05/05/10		
		\$175	712544	06/05/10		
		\$175	712545	07/05/10		
		\$175	712546	08/05/10		
		\$175	712547	09/05/10		
	\$175	712548	10/05/10			
	\$175	712549	11/05/10			
	\$175	712550	12/05/10			
	\$175	712551	01/05/11			
	\$175	712552	02/05/11			
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N-Viro International Corp. (03/24/09)	Civil penalty: (\$16,000)					
	OEPA	\$4,000	707974	07/22/09		07/21/09 29631
		\$4,000	707975	10/20/09		10/19/09 29861
		\$4,000	707976	01/18/10		01/15/10 30034
		\$4,000	707977	04/18/10		
	Bus Fund	\$4,000	707978	04/23/09		04/22/09 29426
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Brush Wellman, Inc. (03/24/09)	Civil penalty: (\$40,000)					
	OEPA	\$28,000	711745	04/24/09		03/26/09 101226491
	Bus Fund	\$12,000	711746	04/24/09		03/26/09 101226492
	Install 3 TRIBO.d2 particulate emission monitors			09/24/09		09/16/09
	Submit documentation of SEP cost			10/24/09		10/13/09
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Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date	
Chemtrade Logistics Inc/Marcule (04/02/09 - Consent Decree)	Civil penalty: (\$120,000)						
	OEPA \$72,000	712639	05/02/09		05/26/09	280088323	
	Bus Fund \$24,000	712640	05/02/09		05/26/09	280088325	
	ODNR \$24,000		05/02/09				
	Comply w/ short-term and long-term SO2 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 SO2 CEMS:	Oregon	07/01/11				
		Cairo	07/01/11				
	Perform compliance tests:	Oregon	07/01/11				
		Cairo	07/01/11				
	Submit O&M Plans:	Oregon	07/01/11				
		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	Oregon	07/01/11					
	Cairo	07/01/11					
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Lagrange Township Trustees (04/14/09)	Civil penalty: (\$250)	713233	05/14/09	Y	07/26/09	23728	
	Report the results of vehicle inspections		12/31/09		04/20/09		
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George Rank (04/16/09)	Civil penalty: (\$500)	713237	05/16/09	Y			
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Richard Morrow (05/01/09)	Civil penalty: (\$3,000)	713246	05/15/09	Y			
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Container Recyclers, Inc. (d.b.a. Columbus Steel Drum) (06/08/09 Amended Consent Order for stipulated penalties)	Civil penalty: (\$87,050)						
	OEPA \$21,762.50	713429	10/23/09		10/21/09	22101	
	\$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	21779	
	\$10,881.25	713433	07/17/09		07/16/09	21859	
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Plasti-Kote Company, Inc. (06/17/09)	Civil penalty: (\$240,000)						
	OEPA \$192,000	714631	07/01/09		08/21/09	6000197973	
	Bus Fund \$ 48,000	714632	07/17/09		08/21/09	6000197973	
	Submit either a Title V permit app or synthetic minor PTI/FESOP appl. (FEPTIO appl.)		10/17/09		10/12/09		
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Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
T. S. Trim Industries, Inc. (06/17/09)	Civil penalty: (\$85,200)					
	OEPA \$68,160	714704	07/17/09		06/25/09	146684
	Bus Fund \$17,040	714705	07/17/09		06/25/09	146683
	Conduct emission tests		08/07/09			
	Submit test report		09/07/09			
Village of North Randall (06/30/09)	Civil penalty: (\$1,500)					
	Have all vehicles tested and report results	714660	07/30/09	Y		
Precision Aggregates III, LLC (07/08/09)	Civil penalty: (\$15,000)					
	OEPA \$4,500	715181	09/15/09		09/14/09	5008
	\$7,500	715182	09/15/10			
	Bus Fund \$3,000	715183	09/15/09		09/14/09	5010
Village of Oakwood (07/07/09)	Civil penalty: (\$2,500)					
	Have all vehicles tested and report results	714842	08/07/09		08/17/09	49645
The Belden Brick Company, L.L. (07/06/09 - Consent Decree)	Civil penalty: (\$850,000)					
	OEPA \$170,000	717042	08/06/09		08/17/09	9044400714
	\$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	9044400715
	Pay \$334,514.43 for Title V permit emission fees for CY 2001 thru 2006				Upon receipt of invoice from OEPA	08/14/09
	Submit SO2 FERs for CY 1993 thru 2000		01/06/10			12/23/09
	For Plant 8, pay difference in emission fees for CY 1999 and 2000				Upon receipt of invoice from OEPA	
	Saif Khan, d.b.a. Lakeland Citgo (08/20/09)	Civil penalty: (\$10,000)				
OEPA \$ 500		726488	09/20/09		08/06/09	23336993
\$2,500		726489	12/20/09		11/30/09	23469420
\$2,500		726490	03/20/10		03/23/10	
\$2,500		726491	06/20/10			
Bus Fund \$2,500	726492	09/20/09		08/06/09	23336992	
Joseph Parker (08/18/09)	Civil penalty: (\$250)					
	725188	09/18/09	Y			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Speedway SuperAmerica, LLC (09/22/09)	Civil penalty: (\$35,880)					
	OEPA	\$28,704	727238	10/05/09	09/29/09	960292
	Bus Fund	\$ 7,176	727239	10/22/09	09/29/09	960291
	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		
				09/14/10		
	Submit results of static leak and A/L ratio tests for 2011			04/14/10		
			09/14/10			
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		
Stein, Inc. (10/13/09)	Civil penalty: (\$50,000)					
	OEPA	\$10,000	735696	05/13/10		
		\$10,000	735697	08/13/10		
		\$10,000	735698	11/13/10		
		\$10,000	735699	02/13/11		
	Bus Fund	\$10,000	735700	11/13/09	10/23/09	16035
Joseph and Marie Eberz (10/19/09 - CO)	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	3802097
	Bus Fund	\$ 46,000	735800	11/19/09	11/05/09	3802098
	Submit Title V permit application			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		

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Aleris International, Inc., et. al. (10/19/09 - 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			
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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	555299730
	Bus Fund \$20,000	735798	12/04/09		11/13/09	555299731
	Perform static leak & A/L ratio tests at each GDF		03/31/10			
			08/31/10			
		03/31/11				
		08/31/11				
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Rascal House Pizza (11/12/09)	Civil penalty: (\$10,000)					
	OEPA \$1,250	746346	12/12/09		12/07/09	2353
	\$1,250	746347	03/12/10		03/12/10	2723
	\$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			
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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	06/01/10			
	\$1,000	746097	07/01/10			
	\$1,000	746098	08/01/10			
\$1,000	746099	09/01/10				

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Great Plains Exploration (con't) (11/12/09)	Civil penalty: (\$19,000)					
	OEPA	\$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		
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Sunoco, Inc. (Toledo Refinery) (11/12/09)	Civil penalty: (\$32,250)					
	OEPA	\$25,800	746355	11/26/09	11/06/09	6.9E+09
	Bus Fund	\$6,450	746356	12/12/09	11/06/09	6.9E+09
	Complete corrective actions in Finding 15(a) and submit documentation			12/31/09		
	Correct deficiencies in butane sphere inspection reports & submit documentation			06/30/10		
	Resolve compliance audit findings in Finding 14(c) and submit documentation			12/31/09		
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Thermo-Rite Manufacturing Company, Inc. (12/02/09)	Civil penalty: (\$36,000)					
	OEPA	\$800	747314	03/01/10	02/26/10	52818
		\$2,000	747315	04/01/10	03/26/10	
		\$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			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Thermo-Rite Manufacturing (con't) Company, Inc. (12/02/09)	Bus Fund \$2,000	747329	12/01/09		11/30/09	52386
	\$2,000	747330	01/01/10		12/23/09	52520
	\$2,000	747331	02/01/10		01/21/10	52664
	\$1,200	747332	03/01/10		02/26/10	52819
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D & R Supply, Inc. (12/02/09)	Civil penalty: (\$20,000)					
	OEPA \$5,000	746313	01/01/10		12/22/09	3847
	\$2,750	746314	04/01/10		03/10/10	
	\$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	3791
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Emery Oleochemicals, LLC (12/17/09)	Civil penalty: (\$57,400)					
	OEPA \$28,700	747345	12/31/09		12/09/09	1004602
	Bus Fund \$28,700	747346	12/31/09		12/09/09	1004605
	For odor emission control system for P004 (penalty credit project):					
	Submit plans				03/01/10	
	issue purchase orders				07/01/10	
	initiate construction				10/01/10	
	complete construction				12/31/10	
	submit documentation of spending at least \$340,000				01/31/11	
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Robert Schiekh (12/22/09)	Civil penalty: (\$750)		747648	01/22/10		
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D. Todd Hosea, d.b.a. Hosea Project Movers (12/23/09)	Civil penalty: (\$22,000)					
	OEPA \$4,400	747655	03/23/10		03/25/10	
	\$4,400	747656	06/23/10			
	\$4,400	747657	09/23/10			
	\$4,400	747658	12/23/10			
	Bus Fund \$4,400	747659	01/23/10		01/25/10	2058
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Randy Wise (12/23/09)	Civil penalty: (\$250)		747654	01/23/10		
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Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Mark A. Mirich, d.b.a.	Civil penalty: (\$25,000)					
All Demolition (12/28/09 - CO)	OEPA	\$800	748952	02/15/10		
		\$800	748953	03/15/10		
		\$800	748954	04/15/10		
		\$800	748955	05/15/10		
		\$800	748956	06/15/10		
		\$800	748957	07/15/10		
		\$800	748958	08/15/10		
		\$800	748959	09/15/10		
		\$800	748960	10/15/10		
		\$800	748961	11/15/10		
		\$800	748962	12/15/10		
		\$800	748963	01/15/11		
		\$800	748964	02/15/11		
		\$800	748965	03/15/11		
		\$800	748966	04/15/11		
		\$800	748967	05/15/11		
		\$800	748968	06/15/11		
		\$800	748969	07/15/11		
		\$800	748970	08/15/11		
		\$800	748971	09/15/11		
		\$800	748972	10/15/11		
		\$800	748973	11/15/11		
		\$800	748974	12/15/11		
		\$800	748975	01/15/12		
		\$800	748976	02/15/12		
		\$200	748977	02/15/10		
		\$200	748978	03/15/10		
		\$200	748979	04/15/10		
		\$200	748980	05/15/10		
		\$200	748981	06/15/10		
		\$200	748982	07/15/10		
		\$200	748983	08/15/10		
		\$200	748984	09/15/10		
		\$200	748985	10/15/10		
		\$200	748986	11/15/10		
		\$200	748987	12/15/10		
		\$200	748988	01/15/11		
		\$200	748989	02/15/11		
		\$200	748990	03/15/11		
		\$200	748991	04/15/11		
		\$200	748992	05/15/11		
		\$200	748993	06/15/11		

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
All Demolition (con't) (12/28/09 - CO)	\$200	748994	07/15/11			
	\$200	748995	08/15/11			
	\$200	748996	09/15/11			
	\$200	748997	10/15/11			
	\$200	748998	11/15/11			
	\$200	748999	12/15/11			
	\$200	749000	01/15/12			
	\$200	749001	02/15/12			
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Tinkler Construction, Co. (12/30/09 - CO)	Civil penalty: (\$14,500)					
	OEPA \$11,600	752584	01/30/10			
	Bus Fund \$ 2,900	752585	01/30/10			
-----						
New Day Farms, LLC, et al. (01/11/10)	Civil penalty: (\$55,200)					
	OEPA \$44,160	752672	02/11/10			
	Bus Fund \$11,040	752673	02/11/10			
-----						
ConSun Food Industries, Inc. (01/14/10)	Civil penalty: (\$17,250)					
	OEPA \$1,600	751928	02/14/10		02/05/10	290041
	\$4,000	751929	05/14/10			
	\$4,000	751930	08/14/10			
	\$4,200	751931	11/14/10			
	Bus Fund \$3,450	751932	02/14/10		02/05/10	290042
	Perform static leak & A/L ratio tests at each GDF		03/31/10		02/22/10	
			08/31/10			
		03/31/11				
		08/31/11				
-----						
Brent Saionz, d.b.a. Simon Excavating (01/13/10)	Civil penalty: (\$2,000)					
	753503	01/27/10				
-----						
The Afco Group (01/20/10)	Civil penalty: (\$1,000)					
	OEPA \$250	753493	02/20/10			
	\$250	753494	03/18/10			
	\$250	753495	04/18/10			
	\$250	753496	05/18/10			
-----						

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Lehigh Gas Corporation (01/20/10)	Civil penalty: (\$12,000)					
	OEPA \$9,600	753405	02/03/10			
	Bus Fund \$2,400	753406	03/05/10			
	Perform static leak & A/L ratio tests at each GDF		03/31/10			
			08/31/10			
			03/31/11			
			08/31/11			
-----						
S. H. Bell Company (02/08/10)	Operate and maintain a mobile, wet suppression system for the straight-sided dock barge unloading and loading, and truck loading (F016)		01/15/10			
	Install a building enclosure connected to the PA truck load out and vented to the existing baghouse, for the truck dump unloading of incoming materials (F013)		01/22/10			
	Operate and maintain a mobile, wet suppression system for F009		02/15/10			
	Operate and maintain a mobile, wet suppression system for the railcar unloading and loading (F015)		02/15/10			
	Install capture system and baghouse for F005 and F008		03/12/10			
	Cease handling, processing, and storage of AM at the Little England Facility		03/31/10			
	Install wet suppression system (with impingement spray nozzles) for the dump hoppers in F006 and F007 as an interim control measure until the capture system and baghouse are installed		04/01/10			
	Cease placing AM storage piles (F002) in any stall-type storage building unless the building has been modified to make it a full enclosure		06/15/10			
	Install capture system and baghouse for F006 and F007		11/19/10			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
S. H. Bell Company (con't) (02/08/10)	Either cease processing AM or install either a wet suppression system with fogging nozzles) or a capture system and baghouse for the building fugitive emissions at P901		11/19/10			
-----						
INEOS ABS Corporation (02/04/10 - Consent Decree)	Civil penalty: (\$3,100,000)					
	U.S.	\$1,480,000	N/A		03/06/10	
	USEPA Hazardous Substances Superfund	\$ 70,000	N/A		03/06/10	
	HAMCO	\$ 382,500	N/A		03/06/10	
	Bus Fund	\$ 229,500	753743		03/06/10	
	SERC Fund	\$ 20,000	753742		03/06/10	
	OEPA, DAPC	\$ 256,000	753740		03/06/10	
	OEPA, EEF	\$ 612,000	753741		03/06/10	
	ODNR	\$ 50,000			03/06/10	
	Submit summary of FTIR testing and recommend NHVFG				07/06/10	
	Comply with NHVFG of 200 Btu/scf or alternative value approved by USEPA				08/06/10	
	<b><u>Biofilter milestones:</u></b>					
	Submit work plan		03/21/10		03/19/10	
	Issue purchase orders		~ 05/04/10*			
	Initiate construction (Phase I)		~ 06/04/10			
	Complete construction (Phase I)		~ 12/04/10			
	Perform emission testing		~ 3/4/2011			
	Submit monitoring procedures/ maintenance plan		~ 5/4/2011			
	Complete construction (Phase II)		~ 6/1/2011			
	(* ~ assuming 2 weeks to approve work plan)					
	Submit a new and/or revised SOP for the Main Duct		03/06/10			
	<b><u>LDAR program milestones:</u></b>					
	Develop a written facility-wide LDAR Program Plan		05/06/10			
	Monitor all equipment in accordance with more stringent frequencies		05/06/10			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
INEOS ABS Corporation (con't) (02/04/10 - Consent Decree)	Begin replacing "leaking" valves and connectors with "low-leaking" technology		11/06/10			
	Perform the first audit of the LDAR		05/06/10			
-----						
Spectrum Metal Finishing, Inc. (02/19/10 - Consent Order)	Civil penalty: (\$100,000)					
	OEPA	\$20,000	753753		03/31/11	
		\$20,000	753754		06/30/11	
		\$20,000	753755		09/30/11	
		\$20,000	753756		12/31/11	
	Bus Fund	\$ 5,000	753757		03/31/11	
		\$ 5,000	753758		06/30/11	
		\$ 5,000	753759		09/30/11	
		\$ 5,000	753760		12/31/11	
		Submit synthetic minor PTI application for K002				03/21/10
	Complete construction of RTO				w/i 230 days after PTI is issued	
	Submit odor abatement study				w/i 90 days of notice by OEPA	
-----						
Quikrete-Cleveland (02/26/10)	Civil penalty: (\$16,250)	753762	03/12/10		03/04/10	1006152
	Complete the asphalt paving SEP project		02/26/11			
-----						
H. B. Fuller Company (03/10/10)	Civil penalty: (\$9,375)					
	OEPA	\$6,000			05/10/10	03/18/10
	Bus Fund	\$3,375			04/10/10	03/08/10
	Submit a schedule for completion of the SEP				04/10/10	
-----						
City of Youngstown, WWTP (03/10/10)	Civil penalty: (\$12,405)					
	OEPA	\$9,924			03/24/10	03/26/10
	Bus Fund	\$2,481			03/24/10	03/26/10
	Submit documentation that RMP deficiencies have been corrected				04/10/10	
-----						

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O y/n	C Complete Date	Check # / Date
Lafarge North America, Inc. (Paulding) (03/18/10 - Consent Decree)	Civil penalty: (\$55,250)				
	OEPA \$44,200		04/18/10		
	Bus Fund \$11,050		04/18/10		
	Install NOx and SO2 CEMs for both kilns		03/18/11		
	Install SNCR and DAA for one kiln		11/01/11		
	Install SNCR and DAA for the other kiln		12/01/11		
-----					
Rumpke Sanitary Landfill, Inc. (03/18/10)	Civil penalty: (\$98,000)				
	OEPA \$78,400		04/18/10		
	Bus Fund \$19,600		04/18/10		
-----					
Carmeuse Lime, Inc. (Maple Grove Facility) (03/19/10)	Civil penalty: (\$180,740)				
	OEPA \$144,592		04/19/10		
	Bus Fund \$ 36,148		04/19/10		
	Submit Title V permit modification for transloaders and roadways		06/19/10		
	Submit PTI application for the modification of P905		06/19/10		
-----					
Bailey-PVS Oxides Delta LLC. (03/19/10)	Civil penalty: (\$55,000)				
	OEPA \$ 8,800		07/19/10		
	\$ 8,800		10/19/10		
	\$ 8,800		01/19/11		
	\$ 8,800		04/19/11		
	\$ 8,800		07/19/11		
	Bus Fund \$11,000		04/19/10		
Submit PTIO applications		04/19/10			
-----					
Tuscarawas County YMCA (04/02/10)	Civil penalty: (\$8,000)				
	OEPA \$6,000		04/16/10		
	Bus Fund \$2,000		05/02/10		
-----					
The Great Lakes Construction Co. (04/02/10)	Civil penalty: (\$1,000)		05/02/10		
-----					
MARA2-DNA, Inc. (Nates Marathon) (04/02/10)	Civil penalty: (\$5,000)				
	OEPA \$250		05/02/10		
	\$750		08/02/10		
	\$750		11/02/10		
	\$750		02/02/11		
	\$750		05/02/11		

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
MARA2-DNA, Inc. (con't) (Nates Marathon) (04/02/10)	Civil penalty: (\$5,000)					
	\$750		08/02/11			
	\$750		11/02/11			
	\$250		02/02/12			
				04/30/10		
	Perform static leak & A/L ratio tests at each GDF			08/31/10		
				04/30/11		
			08/31/11			
-----						
Severstal Wheeling, Inc. (03/30/10)	Civil penalty: (\$15,000)					
	OEPA \$12,000		04/30/10			
	Bus Fund \$ 3,000		04/30/10			
	Obtain and achieve compliance w/ PTI modification for burning COG in the co-generation boilers		08/15/10			
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Demetrius "Duke" Ball, d.b.a. Ball Wrecking Company (03/10/10 - Court Order)	Civil penalty: (\$7,000)		04/10/10			
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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

April 2, 2010

**CERTIFIED MAIL**

Ms. Kristin R. Zemis, Esq.  
Partner  
Black, McCuskey, Hanhart,  
Deeds & Bauer  
130 West Third Street  
P. O. Box 2330  
Dover, Ohio 44622

Re: Final Findings and Orders for:  
air pollution control law and rule  
violations by Tuscarawas County  
YMCA, 600 Monroe Street, Dover,  
Ohio

Dear Ms. Zemis:

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)  
Brian Zima, Legal Office  
Urvi Doshi, DAPC  
Bruce Weinberg/Steve Lowry, SEDO  
Keith Lands, TC YMCA

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

OHIO E.P.A.

BEFORE THE

APR -2 2010

**OHIO ENVIRONMENTAL PROTECTION AGENCY** REVISED DIRECTOR'S JOURNAL

In the Matter of:

Tuscarawas County YMCA  
600 Monroe Street  
Dover, Ohio 44266

:  
:  
:

Director's Final Findings  
and Orders

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.

**PREAMBLE**

It is agreed by the parties hereto as follows:

By: [Signature] Date: 4.2.10

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Tuscarawas County YMCA ("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 property identified below 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. Tuscarawas County YMCA ("Respondent"), whose business address is 600 Monroe Street, Dover, Ohio 44266, is the owner of the structure located at that address. In late 2007, Respondent conducted a major renovation of the structure, which included the removal of two boilers and associated piping in the boiler room of the structure. The structure constituted a "facility," as defined in Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(18).

2. Respondent is an "owner or operator," as defined in OAC Rule 3745-20-01(B)(39)(a), of the renovation of the boiler room at the facility.

3. In early December, Respondent had dismantled the two boilers with piping and associated asbestos at the facility and placed the debris in a dumpster at the facility around December 27, 2007. Samples taken of material covering the boilers and around associated piping showed that the materials contained regulated asbestos-containing material ("RACM"), as defined in OAC Rule 3745-20-01(B)(42).

4. On or about December 3, 2007, the boilers and associated piping were removed from the facility by M-COR, Inc. ("M-COR"), a contractor hired by Respondent. An estimated 61 cubic feet of RACM was removed from the facility. About 59 cubic feet of that amount was taken to the Warmington Road Recycling Center, a scrap yard, located at 780 Warmington Street SW, Navarre, Ohio. Roughly 2 cubic feet of that amount remained at the facility. Since the amount of RACM exceeded 35 cubic feet off of facility components, this renovation project was subject to the notification and work practice requirements of OAC Rules 3745-20-03, 3745-20-04 and 3745-20-05, pursuant to the provisions of OAC Rule 3745-20-02(B)(4). In removing the RACM as part of the boiler removal, Respondent failed to comply with the notification and work practice requirements of those rules, in violation of those rules.

5. On January 17, 2008, Ohio EPA sent a notice of violation ("NOV") letter to Respondent in reference to the renovation of Respondent's facility.

6. Final cleanup of the boiler room at the facility was completed by Cardinal Environmental on January 31, 2008.

7. On February 4, 2008, Ohio EPA received a response to the NOV, which included documentation that the RACM associated with the boilers and piping had been removed to an approved asbestos waste disposal facility. The materials had initially been disposed of at a recycling center, the Warmington Road Recycling Center.

8. As a result of its removal of the boiler and associated boiler equipment and piping on or about December 3 to 14, 2007, Respondent committed the following violations.

**Failure to have the facility inspected for the presence of asbestos by a certified asbestos hazard evaluation specialist prior to beginning any renovation operation:**

9. OAC Rule 3745-20-02(A), in part, requires each owner or operator of any renovation operation to have the affected facility or part of the facility, where a renovation operation will occur, thoroughly inspected by a certified asbestos hazard evaluation specialist, in accordance with OAC Rule 3701-34-02 prior to the commencement of the renovation operation for the presence of asbestos, including Category I and Category II nonfriable asbestos-containing material.

10. Prior to but at least beginning on December 13, 2007, Respondent failed to have the facility inspected for asbestos by a certified asbestos hazardous evaluation specialist prior to commencement of the renovation, in violation of OAC Rule 3745-20-02(A).

11. On January 25, 2008, Ohio EPA received a copy of the asbestos survey for the renovation at the Facility including the boiler room.

**Failure to submit written notification to Ohio EPA at least 10 days prior to beginning the renovation operation:**

12. OAC Rule 3745-20-03(A), in part, requires each owner or operator of any renovation operation described in OAC Rule 3745-20-02(B)(4) to provide the Director of Ohio EPA with written notice of intention to renovate at least ten working days before the beginning of any renovation operation.

13. Prior to but at least beginning on December 13, 2007, Respondent failed to notify Ohio EPA of the renovation activities at least 10 days prior to beginning the renovation, in violation of OAC Rule 3745-20-03(A).

**Failure to have a trained authorized representative present at the location of the renovation operation:**

14. OAC Rule 3745-20-04(B)(1), in part, prohibits any regulated asbestos-containing material from being stripped, removed, or otherwise handled or disturbed at a facility regulated by OAC Chapter 3745-20 unless at least one authorized representative, trained in the provisions of OAC Chapter 3745-20 and the means of complying with them, is present at the location of operations.

15. Prior to but at least beginning on December 14, 2007, and continuing until December 18, 2007, Respondent failed to have an authorized representative, trained in the asbestos regulations and means of complying with them, present on site, in violation of OAC Rule 3745-20-04(B)(1).

**Failure to adequately wet the materials and ensure that the materials remain adequately wet until collected and contained or treated in preparation for disposal:**

16. OAC Rule 3745-20-04(A)(6)(a), in part, requires each owner or operator of a renovation operation subject to this rule, for all regulated asbestos-containing material including material that has been removed or stripped, to adequately wet the materials and ensure that the materials remain adequately wet until collected and contained or treated in preparation for disposal in accordance with OAC Rule 3745-20-05.

17. Prior to but at least beginning on December 13, 2007 and continuing until January 31, 2008, Respondent failed to adequately wet the RACM that was removed or stripped and ensure the RACM remains adequately wet until collected and contained for disposal, in violation of OAC Rule 3745-20-04(A)(6)(a).

**Failure to deposit all asbestos-containing waste material as soon as is practical by the waste generator at an approved disposal facility:**

18. OAC Rule 3745-20-05(A), in part, requires that all asbestos-containing waste material from an affected facility be deposited as soon as is practical by the waste generator at (a) a waste disposal site in Ohio operated in accordance with the provisions of OAC Rule 3745-20-06 or (b) a waste disposal site not in Ohio operated in accordance with the provisions of 40 CFR 61.154, or (c) a site that converts RACM and asbestos-containing waste material into nonasbestos material in accordance with the provisions of OAC Rule 3745-20-13.

19. Prior to but at least beginning on December 13, 2007, and until January 23, 2008, Respondent disposed of asbestos-containing waste material at the Warmington Road Recycling facility in Ohio, which is not a waste disposal site operated in accordance with the provisions of OAC Rule 3745-20-06, in violation of OAC Rule 3745-20-05(A).

**Failure to use one of the methods listed in the rule for the control of visible emissions during handling of asbestos-containing waste material:**

20. OAC Rule 3745-20-05(B), in part, requires each owner or operator of any renovation operation subject to this rule to use one of the methods specified in paragraphs (B)(1) to (B)(4) of this rule for the control of visible emissions during the collection, processing, packaging, transporting, or deposition of any asbestos-containing waste material.

21. Prior to but at least beginning on December 13, 2007 and continuing until January 31, 2008, Respondent failed to use one of the methods specified in OAC Rule 3745-20-05(B) to control visible emissions, primarily the failure to keep asbestos-containing waste material adequately wet at all times during and after demolition, and handling, transport, and disposal at an active waste disposal site, in violation of OAC Rule 3745-20-05(B).

**Failure to keep waste shipment records:**

22. OAC Rule 3745-20-05(E), in part, requires each waste generator and owner or operator of a waste disposal site to maintain waste shipment records that are legible, complete, signed and dated by the waste generator and waste disposal site operator and contain the items listed in such rule.

23. Prior to but at least beginning on December 13, 2007 and continuing until January 23, 2008, Respondent failed to keep waste shipment records for the asbestos-containing waste material taken from the facility to the Warmington Road Recycling facility, in violation of OAC Rule 3745-20-05(E).

**Failure to comply with State law by violating the rules of OAC Chapter 3745-20 as shown above:**

24. ORC § 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.

25. Respondent violated ORC § 3704.05(G) by violating the rules identified in the above findings.

26. 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. Respondent shall pay the amount of eight thousand dollars (\$8,000) 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 six thousand dollars (\$6,000) 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  
P.O. Box 1049  
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining two thousand dollars (\$2,000) of civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$2,000 to Ohio EPA's Clean Diesel School Bus Program 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 \$2,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD, to the above-stated address.

3. 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

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$2,000 of the civil penalty in accordance with the procedures in Order 1.

#### **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, the operations of 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:

Southeast District Office  
2195 Front Street  
Logan, Ohio 43138  
Attn: Steve Lowry

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
50 West Town Street, Suite 700, P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Thomas Kalman, Manager, Enforcement Section

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

3/31/10  
Date

**AGREED:**

**Tuscarawas County YMCA**

  
\_\_\_\_\_  
Signature

3/25/10  
Date

KEITH A. LANDS  
Printed or Typed Name

EXECUTIVE DIRECTOR  
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

APR 02 2010

**CERTIFIED MAIL**

Mr. Mark E. Bacon  
Vice President Project Management  
The Great Lakes Construction Co.  
2608 Great Lakes Way  
Hinckley, Ohio 44233

**Re: Director's Final Findings and Orders for open burning rule and law violations at the 8<sup>th</sup> Street Viaduct Project in Cincinnati, Ohio**

Dear Mr. Bacon:

Transmitted herewith are Director's 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.

These Orders are being issued pursuant to OAC Rule 3745-19-06(A) which states, in part, that through unilateral orders the Director of Ohio EPA may assess a penalty of not more than one thousand dollars (\$1,000) per day for each separate violation of the rules in this Chapter for open burning on commercial property. A copy of the rule is attached.

Should you fail to comply with these Orders, the Director of Ohio EPA, under the authority of ORC § 3704.06, may refer this matter to the Ohio's Attorney General's Office and may request the Attorney General to initiate legal action to seek penalties of up to \$25,000 per day of violation.

You are hereby notified that this action by the Director is final and may be appealed to the Environmental Review Appeals Commission ("Commission") pursuant to Chapter 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Commission at the following address:

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



Mr. Mark E. Bacon  
Vice President Project Management  
The Great Lakes Construction Co.  
Page 2

Environmental Review Appeals Commission  
309 South Fourth Street, Room 222  
Columbus, Ohio 43215

Sincerely,

A handwritten signature in black ink that reads "James A. Orlemann". The signature is written in a cursive style with a large initial "J" and "O".

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

JO:UD:ud

Enclosure

xc: Tom Kalman, DAPC  
Urvi Doshi, DAPC  
Priscilla Roberson, DAPC  
Donald L. Vanterpool, Legal Office  
Karen Castlen/John Barlage/Michael Fair, HCDOES  
Brenda Case, Fiscal Office (Agency # 14)  
Carol Hester, PIC

**Open burning unilateral order.**

- (A) The director may assess and collect administrative penalties from any person who violates any of the rules in this chapter. Through unilateral orders, the director may assess a violator not more than two hundred-fifty dollars per day for each separate violation of the rules in this chapter for open burning on residential property and not more than one thousand dollars per day for each separate violation of the rules in this chapter for open burning on industrial, commercial, institutional, or municipal property. Commercial property includes construction sites, including, but not limited to, the construction of residential homes, if the sites are not properly permitted under section 3704.11(C) of the Revised Code. A separate violation is assessed for each day (24-hour period) the violation occurs.
- (B) The director's authority under paragraph (A) of this rule is in addition to, and not in limitation of, the director's authority under section 3704.06 of the Revised Code to request the attorney general to initiate legal action to seek penalties of not more than twenty-five thousand dollars for each day of each violation for the violation of rules in this chapter.

3745-19-06

2

Effective: 07/07/2006

R.C. 119.032 review dates: 07/07/2011

CERTIFIED ELECTRONICALLY

Certification

06/27/2006

Date

Promulgated Under: 119.03  
Statutory Authority: R.C. Section 3704.03(E)  
Rule Amplifies: R.C. Section 3704.03(A), 3704.03(E)

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.  
APR -2 2010

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

The Great Lakes Construction Co. :  
2608 Great Lakes Way :  
Hinckley, OH 44233 :

**Director's Final Findings  
and Orders**

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.

**I. JURISDICTION**

These Director's Final Findings and Orders ("~~Orders~~") are issued to The Great Lakes Construction Co. ("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. 4/2/10

**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 property (as hereinafter defined) 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 owns a construction company located at 2608 Great Lakes Way, Hinckley, Ohio. The City of Cincinnati contracted with the Respondent to restore the 8<sup>th</sup> Street Viaduct in the Lower Price Hill neighborhood.
2. Ohio Administrative Code ("OAC") Rule 3745-19-03(A) prohibits any person or property owner from causing, allowing or permitting open burning in a restricted area except as provided in OAC Rule 3745-19-03(B) to (D) and in ORC § 3704.11. Respondent's property is located in a "restricted area" as the term is defined in OAC Rule 3745-19-01(K).
3. On May 7, 2009, Hamilton County Department of Environmental Services ("HCDOES"), Ohio EPA's contractual representative in Hamilton County, received a complaint concerning alleged illegal open burning on 8<sup>th</sup> Street Viaduct property. On May 7, 2009, HCDOES responded to a fire call at the work site for the 8<sup>th</sup> Street Viaduct project in Lower Price Hill. When HCDOES personnel arrived at 9:00 a.m., they witnessed open

burning of construction debris by Respondent, with flames 10 to 15 feet in the air. HCDOES personnel informed the site foremen that open burning of construction debris was in violation of the state regulations. Additionally, HCDOES requested the Respondent to cease all open burning at the 8<sup>th</sup> Street Viaduct site.

4. Respondent caused, allowed or permitted the open burning of construction debris at the 8<sup>th</sup> Street Viaduct site on May 7, 2009, in violation of OAC Rule 3745-19-03(A).

5. On May 11, 2009, HCDOES sent a notice of violation ("NOV") letter to Respondent. The NOV cited Respondent with violating OAC Chapter 3745-19.

6. On May 26, 2009, HCDOES received Respondent's response to the NOV letter of May 11, 2009. Respondent informed HCDOES that it will cease all open burning at the site.

7. The OAC violation cited in the above findings also constituted a violation of ORC § 3704.05(G), which 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 Chapter 3745-19 was adopted by the Director pursuant to ORC Chapter 3704.

8. Through unilateral orders and pursuant to OAC Rule 3745-19-06, the Director may assess a violator not more than thousand dollars (\$1,000) per day for each separate violation of the rules of OAC Chapter 3745-19 for open burning on commercial property. A separate penalty is assessed for each day the violation occurs. If the violator fails to comply with the Orders, the Director has the authority, under ORC § 3704.06, to request the Attorney General to initiate legal action to seek penalties of up to twenty-five thousand dollars (\$25,000) for each day of each violation.

9. 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 be derived from such compliance.

## **V. ORDERS**

The Director hereby issues the following Orders:

1. Respondent shall immediately cease all open burning in violation of OAC Rule 3745-19-03, and shall maintain compliance thereafter.

2. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA 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 3704.06. Payment shall be made by an official check made payable to "Treasurer, State of

Ohio" for \$1,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and the property, to the following address:

Ohio Environmental Protection Agency  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

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

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

#### **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 signed by Respondent and submitted to Ohio EPA.

#### **VII. 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.

#### **VIII. NOTICE**

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

Hamilton County Department of Environmental Services  
250 William Howard Taft Road  
Cincinnati, Ohio 45219  
Attn: Michael Fair

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.

#### **IX. RESERVATION OF RIGHTS**

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3704 or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

#### **X. EFFECTIVE DATE**

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

**IT IS SO ORDERED:**

**Ohio Environmental Protection Agency**



Chris Korleski  
Director

Date

3/31/12





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

April 2, 2010

**CERTIFIED MAIL**

Mr. Ali Mohammad  
MARA2-DNA Inc., d.b.a.  
Nates Marathon  
960 North Levitt Road  
Amherst, Ohio 44052

Re: Final Findings and Orders for:  
the violations of the Stage II vapor  
control system requirements of OAC  
Rule 3745-21-89(DDD) at Nates  
Marathon, 960 North Levitt Road,  
Amherst, Ohio

Dear Mr. Mohammad:

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 EPA is an Equal Opportunity Employer

OHIO E.P.A.

APR -2 2010

BEFORE THE

**OHIO ENVIRONMENTAL PROTECTION AGENCY** DIRECTOR'S JOURNAL

In the Matter of:

**MARA2-DNA INC.  
D.b.a. Nates Marathon  
960 North Levitt Road  
Amherst, Ohio 44052**

: 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 MARA2-DNA INC., d.b.a. Nates Marathon ("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's facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

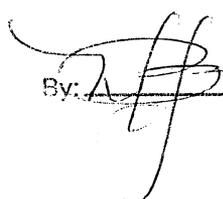
Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a gasoline dispensing facility ("GDF") located 960 North Levitt Road, in Amherst (Lorain County), Ohio. This GDF is 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:  Date: 4/2/10

2. On September 10, 2009, Respondent was issued a permit-by-rule ("PBR") by Ohio EPA, in accordance with OAC Rule 3745-31-03. The PBR required Respondent to comply with the requirements for Stage II vapor control systems as specified in OAC Rule 3745-21-09(DDD).

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 subject 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 subject 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 GDF, 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 May 12, 2008, Respondent attempted to conduct the annual Stage II compliance tests at this GDF. The static leak test passed but the A/L ratio test failed for dispensers 1 and 2 due to a malfunctioning vacuum pump. Respondent was dispensing gasoline prior to and after the failed A/L ratio test. The failure to properly operate and maintain the vapor control system and the failure to successfully pass the testing requirements contained 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 September 5, 2008, Respondent passed an A/L ratio retest for dispensers 1 and 2.

8. On May 12, 2009, Respondent attempted to conduct the annual Stage II compliance tests at this GDF. The static leak test passed but the A/L ratio test failed for dispensers 2, 3, 5, 6, 7, 8, 9 and 10. Respondent was dispensing gasoline prior to and after the failed A/L ratio test. The failure to properly operate and maintain the vapor

control system and the failure to successfully pass the testing requirements contained 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 June 24, 2009, Respondent passed an A/L ratio retest for dispensers 2, 3, 5, 6, 7, 8, 9 and 10.

9. By letter dated August 27, 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 at the beginning (during April) 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 five thousand dollars (\$5,000) 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" in quarterly 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 one hundred and twenty (120) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of seven hundred and fifty dollars (\$750);

c. Within two hundred and ten (210) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of seven hundred and fifty dollars (\$750);

d. Within three hundred (300) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of seven hundred and fifty dollars (\$750);

e. Within three hundred and ninety (390) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of seven hundred and fifty dollars (\$750);

f. Within four hundred and eighty (480) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of seven hundred and fifty dollars (\$750);

g. Within five hundred and seventy (570) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of seven hundred and fifty dollars (\$750); and

h. Within six hundred and sixty (660) 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

4. 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

## **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: Tom 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**

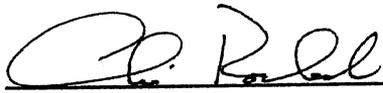
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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

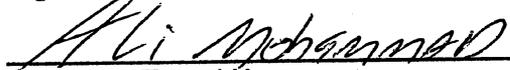
3/31/10  
Date

**AGREED:**

**MARA2-DNA INC., d.b.a. Nates Marathon**

  
\_\_\_\_\_  
Signature

3/15/10  
Date

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

  
\_\_\_\_\_  
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

March 30, 2010

**CERTIFIED MAIL**

Mr. Kenneth S. Komoroski, Esq.  
Kirkpatrick & Lockhart Preston  
Gates Ellis LLP  
Henry W. Oliver Building  
535 Smithfield Street  
Pittsburgh, PA 15222-2312

Re: Final Findings and Orders for:  
Severstal Wheeling, Inc. and Mingo  
Junction Energy Center LLC in Mingo  
Junction, Ohio, for violations of air  
pollution control laws

Dear Mr. Komoroski:

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  
Bruce Weinberg, SEDO

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

Ohio EPA is an Equal Opportunity Employer

OHIO E.P.A.

BEFORE THE

MAR 30 2010

OHIO ENVIRONMENTAL PROTECTION AGENCY DIRECTOR'S JOURNAL

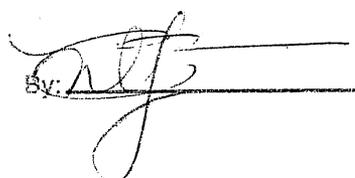
In the Matter of:

Severstal Wheeling, Inc  
1134 Market Street  
Wheeling, West Virginia 45209

Mingo Junction Energy Center, LLC  
150 South Wacker Drive  
Suite 2950  
Chicago, Illinois 60606

Director's Final Findings  
and Orders

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:  Date: 3.30.10

PREAMBLE

The parties agree as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Severstal Wheeling, Inc. ("Respondent Severstal") and Mingo Junction Energy Center, LLC ("Respondent Energy Center," and, collectively, "Respondents") pursuant to the authority vested in the Director ("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 Respondents and successors in interest liable under Ohio law. No change in ownership of Respondents or of the facility (as hereinafter identified) shall in any way alter Respondents' obligations under these Orders.

III. DEFINITIONS

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

IV. FINDINGS

The Director makes the following findings:

1. Respondent Energy Center owns a facility ("the Co-Generation Facility") located in Mingo Junction, Ohio that produces electricity and steam. The Co-Generation Facility is located on Respondent Severstal's property and is operated on behalf of

Respondent Severstal. The Co-Generation Facility is included as an air contaminant source in Respondent Severstal's Title V Operating Permit issued by Ohio EPA.

2. In the manufacture of iron in blast furnaces, Respondent Severstal has generated blast furnace gas that has been and can be used as fuel in four large boilers at the Co-Generation Facility. The four boilers are used in the production of electricity and steam.

3. In the manufacture of coke, Respondent Severstal generates coke oven gas that has been and can be used to fuel several sources, including the coke ovens and reheat furnaces that heat large steel slabs so that the steel can be rolled.

4. Diminished steel production caused Respondent Severstal to idle the blast furnace and reheat furnaces. In light of the idling of a source of fuel (blast furnace gas) for the Co-Generation facility and the idling of a user (the reheat furnaces) of coke oven gas that would otherwise have to be wasted by being burned in a flare (that is subject to coke oven gas volume limitations), and in light of the opportunity to resume full scale coke production, Respondents wish to use coke oven gas to fuel the boilers at the Co-Generation Facility, instead of the reheat furnaces and blast furnace.

5. Each of the four boilers at the Co-Generation Facility is an "air contaminant source" as defined in OAC Rules 3745-31-01(I) and (X) and a "stationary source" as defined in OAC Rule 3745-31-01(RRRRR). Those sources are subject to the requirements of permit to install (PTI) #06-06309 and a Title V operating permit, both issued by the Director to Respondent Energy Center pursuant to ORC Chapter 3704. Those sources are also included in Respondent Severstal's Title V operating permit.

6. In PTI #06-06309, each of the four boilers is described as a "180 MMBtu/hr boiler fired with natural gas and/or clean blast furnace gas." A change in the fuel type to allow the burning of coke oven gas in any of the boilers is a "change in the method of operation of" an air contaminant source that results in an increase in the allowable emissions, and is therefore a "modification" as that term is defined in OAC Rule 3745-31-01(PPP).

7. OAC Rule 3745-31-02(A)(1) provides that "except as provided in rule 3745-31-03 of the Administrative Code, no person shall . . . cause, permit, or allow the modification of an air contaminant source, without first obtaining a permit-to-install from the director." OAC Rule 3745-31-02 is a rule issued under ORC Chapter 3704. ORC § 3704.05(G) prohibits any person from violating any order, rule, or determination of the Director issued, adopted or made under ORC Chapter 3704.

8. In April of 2009, at the request of Respondent Severstal, the Director authorized pursuant to OAC Rule 3745-31-03 a temporary exemption for Respondent Severstal from the requirement to obtain a permit-to-install for the modification. The

exemption was issued to allow Respondent Severstal to test the feasibility of, and assess the air quality impacts from, the burning of desulfurized coke oven gas in the boilers at the Co-Generation Facility.

9. In May 2009, Respondent Energy Center submitted an application for a modification of PTI #06-06309 to install new low-NOx burners in two boilers at the Co-Generation Facility to allow full capacity usage of coke oven gas in those two boilers at the Co-Generation Facility. Following some earlier revisions, in February 2010, Respondent revised its application to request usage of coke oven gas in all four boilers at the Co-Generation Facility, including those boilers in which new burners were not being installed. That application, and revisions to the application, are being reviewed by Ohio EPA.

10. On December 21, 2009, at the request of Respondent Severstal, the Director authorized pursuant to OAC Rule 3745-31-03 a second temporary exemption for Respondent Severstal from the requirement to obtain a permit-to-install for the modification. This exemption was issued to allow Respondent Severstal to burn desulfurized coke oven gas in the boilers in order to investigate and evaluate other boiler efficiency-related improvements and facility operating practices associated with the delivery of the desulfurized coke oven gas to the boilers at the Co-Generation Facility.

11. Respondents also requested permission to install a new low-NOx burner in one of the boilers pending a decision on the permit to install application for two new low-NOx burners that was submitted in May 2009. The installation was a modification of the boiler. On January 8, 2010, at the request of Respondents, the Director authorized pursuant to OAC Rule 3745-31-03 a third temporary exemption for Respondents from the requirement to obtain a permit-to-install for a modification. This exemption was issued to allow Respondents to burn desulfurized coke oven gas in the boiler with a new burner, in addition to the other boilers, in order to evaluate the effectiveness of the new low-NOx burner, the emission rate of the new burner, and various production issues.

12. The third of the temporary exemptions expires on or about March 26, 2010. As of that date, Respondents may not cause, permit, or allow the modification of operations (in the form of the burning of desulfurized coke oven gas in any boiler, including the boiler with the new low-NOx burner) at the Co-Generation Facility without a permit-to-install or new exemption authorizing them to do so. As of that date Respondents do not have a permit-to-install or any exemption authorizing them to burn desulfurized coke oven gas in any boiler, including the boilers with new low-NOx burners.

13. Beginning on March 26, 2010, Respondents have continued to burn desulfurized coke oven gas in the boilers at the Co-Generation Facility in violation of OAC Rule 3745-31-02(A)(1) and ORC §3704.05(G). Respondents have also proceeded to install the second new low-NOx burner identified in the permit application, also in violation of OAC Rule 3745-31-02(A)(1) and ORC §3704.05(G). Respondents state that if they are not permitted to continue to burn desulfurized coke oven gas in the boilers, install the

second new low-NOx burner and be able to use full capacity of coke oven gas in all of the Co-Generation Facility boilers, full production at the coke ovens will not be possible. This will result in lost revenue and jobs, possible shutdown of facilities, and potentially significant adverse economic impact on the companies and community. In addition, since the excess coke oven gas would have to be flared, the associated heat content would be wasted.

14. 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 orders:

1. By no later than August 15, 2010, Respondents shall obtain and achieve compliance with an appropriate permit-to-install modification authorizing them to burn desulfurized coke oven gas in all boilers, including the boilers with the new low-NOx burners, at the Co-Generation Facility, or shall cease burning any fuel other than natural gas or clean blast furnace gas in any Co-Generation Facility boiler, including the boilers with the new low-NOx burners, at the Co-Generation Facility. The total amount of coke oven gas that can be burned by all users at the stationary source, comprised of the four boilers at the Co-Generation Facility, the Mingo Junction reheat furnaces 2, 3 and 4 (P006-P008), Coke Batteries 1, 2, 3 and 8 (W.Va. P001 – P004), the excess coke oven gas flare (W.Va. P024-1), and Boilers 6 to 10 (W. Va. P017 to P020), shall not exceed, in aggregate, the existing standard of 21,112,050 thousand cubic feet of coke oven gas, based upon a rolling, 12-month summation.

2. Pursuant to ORC § 3704.06, Respondents are assessed a civil penalty of fifteen thousand dollars (\$15,000) in settlement of Ohio EPA's claims for civil penalties. Within thirty (30) days after the effective date of these Orders, Respondents shall pay Ohio EPA twelve thousand dollars (\$12,000) of the total penalty amount. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$12,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents, to:

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

A copy of the check 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

3. In lieu of paying the remaining three thousand dollars (\$3,000 of the civil penalty to Ohio EPA, Respondents shall fund the supplemental environmentally beneficial project ("SEP") identified in Order 4. In the event Respondents defaults or otherwise fail to complete the SEP as specified in Order 4, the \$3,000 for the SEP shall immediately become due and payable to Ohio EPA. Such payment shall be made by an official check made payable to "Treasurer, State of Ohio" and sent to Brenda Case, or her successor, together with a letter identifying the Respondents, to the above-stated address. A copy of the check shall be sent to James A. Orlemann, or his successor, at the above-stated address.

4. Respondents shall fund a SEP by making a contribution of three thousand dollars (\$3,000) to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondents shall make payment within thirty (30) days after the effective date of these Orders by an official check made payable to "Treasurer, State of Ohio" for \$3,000. The official check shall specify that such monies are to be deposited into Fund 5CD0 established by Ohio EPA for the Clean Diesel School Bus Program. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents and Fund 5CD0, to the above-stated address. A copy of this check also shall be sent to James A. Orlemann, or his successor, at the above-stated address.

## **VI. TERMINATION**

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have 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 Respondents of the obligations that have not been performed, in which case Respondents 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 Respondents to Ohio EPA and shall be signed by a responsible official of each Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-77-01(GG)(1) for a corporation or a duly authorized representative of each Respondent as that term is defined in the above-

referenced rule.

## **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 Respondents' 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 Respondents.

## **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 Respondents, or either of them, pursuant to these Orders shall be addressed to:

Southeast District Office  
Ohio Environmental Protection Agency  
2195 Front Street  
Logan, Ohio 43138  
Attention: Bruce Weinberg

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: Thomas Kalman, Manager, Enforcement Section

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

## **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondents 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, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for the Respondents' liability for the violations specifically cited herein.

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

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

## **XIII. EFFECTIVE DATE**

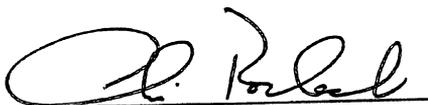
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

## **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

3/30/10

Date

**AGREED:**

Severstal Wheeling, Inc.

\_\_\_\_\_  
Signature

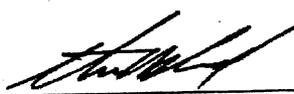
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Date

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

\_\_\_\_\_  
Title

**AGREED:**

Mingo Junction Energy Center, LLC

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
March 29, 2010

\_\_\_\_\_  
Date

\_\_\_\_\_  
Thomas H. Shepard  
Printed or Typed Name

\_\_\_\_\_  
President  
Title

Ohio Environmental Protection Agency

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

\_\_\_\_\_  
Date

**AGREED:**

Severstal Wheeling, Inc.

Wilbur B. Winland 3/30/10  
Signature Date

WILBUR B. WINLAND  
Printed or Typed Name

PRESIDENT & GM  
Title

**AGREED:**

Mingo Junction Energy Center, LLC

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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





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

**APR 02 2010**

**CERTIFIED MAIL**

Mr. Charles J. Arendas  
6700 New Castle Road  
Lowellville, Ohio 44436

Re: Proposed Findings and Orders for the violations of the Asbestos Emission Control Standards (OAC Chapter 3745-20) for the demolition of the residential properties located at 3307 and 3311 Upland Avenue in Coitsville Township, Mahoning County, Ohio

Dear Mr. Arendas:

My staff in Ohio EPA's Division of Air Pollution Control ("DAPC") informed me of the violations associated with the complete demolition of the residential structures at the above-mentioned locations, which was performed by you. You failed to comply with the pre-demolition inspection and notification requirements for building demolitions, in violation of OAC Rules 3745-20-02(A) and 3745-20-03(A), respectively, and ORC § 3704.05(G). As a result, Ohio EPA was unable to verify applicability and compliance with the work-practice requirements of OAC Rule 3745-20-04 and 3745-20-05 and ensure protection of public health.

In order to resolve this matter, I am proposing to issue the enclosed Findings and Orders prepared by Ohio EPA which include 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. Because this letter and the accompanying document summarize a proposed settlement, I consider them to be inadmissible by you for any purpose in any enforcement action which may be taken by the State if we are unable to reach agreement on these Findings and Orders.

Please note that the proposed Findings and Orders include a voluntary provision for a portion of the total civil penalty amount to go toward the funding of a supplemental environmental project. The project involves diverting 20 percent of the total penalty amount to go toward funding an Ohio EPA program for the retrofitting of school buses with

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

*Ohio EPA is an Equal Opportunity Employer*

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., particulates less than 2.5 microns in diameter). Information on this project is enclosed with this letter for your examination.

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 Donald L. Vanterpool, Ohio EPA Staff Attorney, at (614) 644-3037. If he does not hear from you within fourteen (14) days of the 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.

Enclosed are copies of guidance on the administrative enforcement process, which you may find helpful in answering any questions on Ohio EPA's enforcement process.

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/CO  
Tom Kalman, DAPC/CO  
Felix Udeani, DAPC/CO  
Donald L. Vanterpool, Legal Office  
Misty Koletich/Bill Slanina, M-TAPCA

Enclosures

CK:FU:fu

# 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 (NO<sub>x</sub>) 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.

*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**

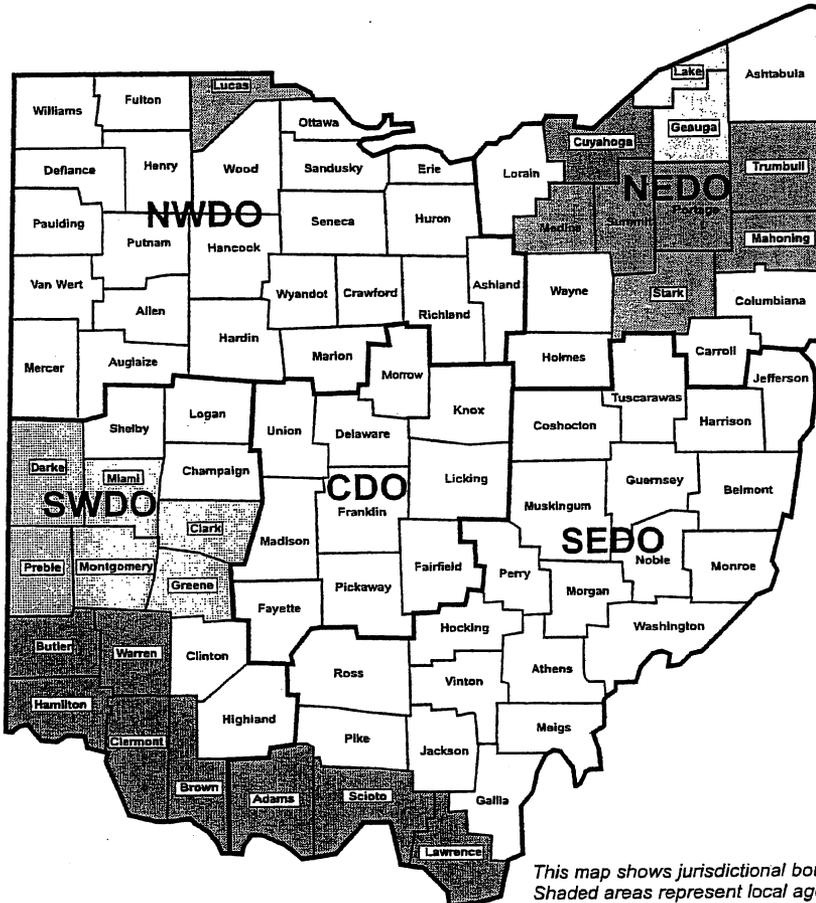
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about 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**  
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: Rnsmeth@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

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

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

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

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

**In the Matter of:**

Charles J. Arendas	)	<u>Director's Final Findings</u>
6700 New Castle Road	)	<u>and Orders</u>
Lowellville, Ohio 44436	)	

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Charles J. Arendas ("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 owns the residential properties located at 3307 and 3311 Upland Avenue, in Coitsville Township, Mahoning County, Ohio ("facility"). Respondent demolished the two structures on these properties. These structures constituted a "facility" as defined in Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(18).
2. Mahoning-Trumbull Air Pollution Control Agency ("M-TAPCA") is Ohio EPA's contractual representative in Mahoning County for the administration of Ohio Administrative Code ("OAC") Chapter 3745-20 ("Asbestos Emission Control Standards").

3. "Owner or operator," as defined by OAC Rule 3745-20-01(B)(39), means any person who owns, leases, operates, controls, or supervises a facility being demolished or renovated or any person who owns, leases, operates, controls or supervises a demolition or renovation or both.

4. "Demolition," as defined by OAC Rule 3745-20-01(B)(13), means, in part, the wrecking, or taking out, of any load-supporting structural member of a facility together with any related handling operations.

5. 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 Chapter 3745-20 was adopted by Ohio EPA pursuant to ORC Chapter 3704.

6. OAC Rule 3745-20-02(A) states, in part, that each owner or operator of any demolition operation shall have the affected facility where a demolition operation will occur thoroughly inspected, prior to commencement of the demolition, for the presence of asbestos, including Category I and Category II nonfriable asbestos-containing material ("ACM"), as defined in OAC Rules 3745-20-01(B)(9) and 3745-20-01(B)(10), in order to determine the applicability of OAC Rules 3745-20-03 and 3745-20-04.

7. OAC Rule 3745-20-03(A)(3) states, in part, that each owner or operator of a demolition operation, as defined in OAC Rules 3745-20-02(B)(1) and 3745-20-02(B)(2), shall provide the Director of Ohio EPA with a written notice of intention to demolish by not later than 10 days prior to beginning demolition.

8. In a letter dated November 17, 2008, Coitsville Township Zoning Department informed Respondent of the need to meet the relevant Ohio EPA regulations and to contact M-TAPCA for the requirements if Respondent intended to demolish the facility.

9. On February 17, 2009, M-TAPCA received a citizen complaint concerning the demolition of Respondent's facility which occurred on February 12, 2009, in Coitsville Township of Mahoning County. On February 17, 2009, an M-TAPCA inspector visited the site and observed that the facility was completely demolished, the debris had been removed, and the site had been graded. Respondent did not perform an asbestos inspection prior to the demolition and did not submit a notification form to Ohio EPA prior to the demolition.

10. Since this project constituted a "demolition," as defined in OAC Rule 3745-20-01(B)(13), pursuant to OAC Rule 3745-20-02(B)(2), this project was at least subject to the inspection and notification requirements of OAC Rules 3745-20-02(A) and 3745-20-03(A), respectively, and pursuant to OAC Rule 3745-20-02(B)(1), may also have been subject to the work practice requirements of OAC Rules 3745-20-04 and 3745-20-05 if the amount of regulated asbestos-containing material exceeded the specified threshold levels.

11. Respondent was an "owner or operator," as defined in OAC Rule 3745-20-01(B)(39)(a) of the demolition operation. Because Respondent did not provide M-TAPCA with a written notice of intention to demolish and there was no pre-demolition asbestos inspection performed, the applicability of the work practice requirements of OAC Rules 3745-20-04 and 3745-20-05 could not be determined.

12. Respondent's failure to have the facility thoroughly inspected by a certified asbestos hazard evaluation specialist prior to commencement of the demolition and failure to provide M-TAPCA or Ohio EPA with a written notice of intention to demolish the facility by at least 10 working days prior to the commencement of the demolition constituted violations of OAC Rules 3745-20-02(A) and 3745-20-03(A), respectively, and ORC § 3704.05(G).

13. On February 27, 2009, M-TAPCA sent a notice of violation ("NOV") letter to the Respondent. The NOV, in part, cited Respondent for the violations of OAC Rules 3745-20-02(A) and 3745-20-03(A).

14. 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. Respondent shall pay the amount of eighteen thousand seven hundred dollars (\$18,700) 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 fourteen thousand nine hundred and sixty dollars (\$14,960). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent, to:

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

2. In lieu of paying the remaining three thousand seven hundred and forty dollars (\$3,740) of the civil penalty, Respondent shall, within fourteen (14) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$3,740 to the Ohio EPA's Clean Diesel School Bus Program

Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$3,740. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to the above-stated address.

3. 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

4. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$3,740 of the civil penalty in accordance with the procedures in Order 1.

#### **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, the operations of 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:

Mahoning-Trumbull Air Pollution Control Agency  
345 Oak Hill Ave., Suit 200  
Youngstown, Ohio 44502  
Attention: Bill Slanina, Asbestos Coordinator

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: Thomas Kalman, Manager, Enforcement Section

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:**

**Charles J. Arendas**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**PENALTY CALCULATION WORK SHEET FOR VIOLATIONS INVOLVING  
ASBESTOS DEMOLITION OR RENOVATION PROJECTS**

**ENTITY NAME:** Charles J. Arendas

**LOCATION(S) OF VIOLATION:** 3307 and 3311 Upland Avenue, Coitsville Township, Mahoning County, Ohio

Enter "NA" in "Input" column if the requested data is not applicable. Strictly no entries in both "Initial Output" and "Final Output" columns		Input	Initial Output	Final Output	Comment
<b>A. ECONOMIC BENEFIT COMPONENT:</b>					
<b>(1) For asbestos on pipes-</b>					
Linear feet involved in project, ft:		0			The amount of RACM improperly removed (if any) is unknown; therefore, ECOBEN (if any) could not be determined.
Amount improperly removed:		0			
Dollar amount per linear foot:		\$0			
Percent improperly removed (auto-computed):			0.00%		
Penalty amount: (Do not enter; auto-computed)				\$0	
<b>(2) For asbestos on other components</b>					
<b>(a) Square feet involved in project, ft:</b>					
Amount improperly removed:					The amount of RACM improperly removed (if any) is unknown; therefore, ECOBEN (if any) could not be determined.
Dollar amount per Square foot:		\$0			
Percent improperly removed (auto-computed):			0.00%		
Penalty amount: (Do not enter; auto-computed)				\$0	
<b>(b) Cubic feet involved in project, ft:</b>					
Amount improperly removed:		0			Violations of OAC Rules 3745-20-02(A) and 3745-20-03(A) for failure to perform an asbestos inspection and failure to submit a complete notification form to M-TAPCA, respectively, prior to demolition.
Dollar amount per cubic foot:		0			
Percent improperly removed (auto-computed):			0.00%		
Penalty amount: (Do not enter; auto-computed)				\$0	
<b>TOTAL ECONOMIC BENEFIT:</b>					
				\$0	
<b>B. GRAVITY COMPONENT:</b>					
Note: Complete appropriate sections only.					
<b>1. No notice per section 3745-20-03</b>					
Enter 1 for first, 2 for second, 3 for subsequent					
Must enter 1 or 2 or 3,4,5, ... or NA					
Penalty amount: (Do not enter; auto-computed)					
		1		\$15,000	

<p><b>2. No notice but substantive compliance</b>                  First (1) Second (2) Subsequent (3)                  Must enter 1 or 2 or 3,4,5, ... or NA                  Penalty amount: (Do not enter; auto-computed)</p>	<p>NA</p>	<p>\$0</p>			
<p><b>3. Late/incomplete/inaccurate notice See B.9 below:</b>                  Penalty amount: (auto-computed in B.9)</p>					
<p><b>4. Substantive violations:</b>                  First (1) Second (2) Subsequent (3)                  Must enter 1 or 2 or 3,4,5, ... or NA</p>	<p>1</p>				
<p><b>5. Number of Asbestos Units:</b>                  (Do not enter units) auto-computed</p>		<p>0.00</p>			
<p><b>6. Additional day(s) of violation of work practice requirements:</b>                  [ List Fed./state rule(s) violation(s) relevant to your case if different from the ones listed in the sub-section(s) below ]</p>					
<p>(a) Inspection Finding(s):</p>					
<p>(i) OAC Rule 3745-20-02(A) - Failure to inspect-                  Penalty/additional day(auto-computed)                  Enter additional days this rule was violated                  Penalty amount: (Do not enter; auto-computed)</p>	<p>NA</p>	<p>\$0</p>			
<p>(ii) OAC Rule 3745-20-04(A)(1)                  Penalty/additional day(auto-computed)                  Enter additional days this rule was violated                  Penalty amount: (Do not enter; auto-computed)</p>	<p>NA</p>	<p>\$0</p>			
<p>(iii) OAC Rule 3745-20-04(A)(6) failure to keep wet until disposal. Penalty/additional day(auto-computed)                  Enter additional days this rule was violated                  Penalty amount: (Do not enter; auto-computed)</p>	<p>NA</p>	<p>\$0</p>			

<p>(iv) OAC Chapter 3745-20-06(A)-for visible emission during handling/processing. <i>Penalty/additional day(auto-computed)</i>                  Enter additional days this rule was violated  <i>Penalty amount: (Do not enter; auto-computed)</i></p>	<p>NA</p>	<p>\$0</p>	<p>\$0</p>	
<p>(v) OAC Chapter 3745-20-05(A)-improper disposal  <i>Penalty/additional day(auto-computed)</i>                  Enter additional days this rule was violated                  Total Administrative Penalty  <i>Penalty amount: (Do not enter; auto-computed)</i></p>	<p>NA</p>	<p>\$0</p>	<p>\$0</p>	
<p><b>7. Penalty per violation according to USEPA:</b>                  Number of sections violated:  <i>Penalty amount: (Do not enter; auto-computed)</i></p>	<p>NA</p>	<p>\$0</p>	<p>\$0</p>	
<p><b>8. Size of violator(SV):</b>                  Must enter entity's assets or X if 0;  <i>Initial unadjusted SV penalty (auto-computed)</i>                  ECOBEN + Gravity- unadjusted SV penalty: (auto-computed)                  Actual SV penalty amount: ([adjusted?];auto-computed)</p>	<p>\$10,000</p>	<p>\$2,000</p>	<p>\$15,000</p>	<p>Mr. Arendas is not duly registered with the Secretary of State's Office to do business in the State of Ohio. Ohio EPA could not determine from Reference USA or Columbus Metropolitan Library, Mr. Arendas' net current assets. Therefore, minimum penalty of \$2,000 was used.</p>
<p><b>9. Late, Incomplete or Inaccurate Notice</b>                  (a.) Notice submitted after asbestos removal is completed tantamounts to no notice                  Enter 1 for first, 2 for second, 3 for subsequent                  Must enter 1 or 2 or 3,4,5, ... or NA  <i>Penalty amount: (Do not enter; auto-computed)</i></p>	<p>NA</p>	<p>\$0</p>	<p>\$0</p>	
<p>Below, enter "X" if applicable otherwise leave as "NA"                  (Also in sections (b) to (i) below, only one-time penalty is allowed.                  Therefore, choose the highest penalty and leave the rest as NA)</p>	<p>NA</p>	<p></p>	<p></p>	
<p>(b) Notice lacks both job location and asbestos removal starting and completion dates.  <i>Penalty amount: (Do not enter; auto-computed)</i></p>	<p>NA</p>	<p></p>	<p>\$0</p>	
<p>(c) Notice submitted while asbestos removal was</p>	<p>NA</p>	<p></p>	<p></p>	

<p>in progress. Penalty amount: (Do not enter; auto-computed)</p>																																										
<p>(d) Notice lacks either job location or asbestos removal starting and completion dates Penalty amount: (Do not enter; auto-computed)</p>	NA																																									
<p>(e) Failure to update notice when the amount of asbestos changes by at least 20%. Penalty amount: (Do not enter; auto-computed)</p>	NA																																									
<p>(f) Failure to provide telephone and written notice when start date changes. Penalty amount: (Do not enter; auto-computed)</p>	NA																																									
<p>(g) Notice lacks either asbestos removal starting or completion dates, but not both. Penalty amount: (Do not enter; auto-computed)</p>	NA																																									
<p>(h) Amount of asbestos in notice missing, improperly dimensioned, or for multiple facilities. Penalty amount: (Do not enter; auto-computed)</p>	NA																																									
<p>(i) Notice lacks any other required information. Penalty amount: (Do not enter; auto-computed)</p>	NA																																									
<p>(j) Notice submitted late but prior to asbestos removal starting date. Penalty amount: (Do not enter; auto-computed)</p>	NA																																									
<p>(k) <b>Waste Shipment Violation.</b> Enter "X" if applicable otherwise, enter "NA" (i) Failure to maintain records which precludes discovery of waste disposal activity Penalty amount: (Do not enter; auto-computed)</p>	NA	NA																																								
<p>(ii) Failure to maintain records but other information regarding waste disposal available Penalty amount: (Do not enter; auto-computed)</p>	NA																																									
<p>(iii) Failure to mark waste transport vehicles during loading and unloading (assess for each day of shipment) No. of days shipment occurred (must enter 1,2,3..or NA) Penalty/day : (Do not enter; auto-computed)</p>	NA	NA																																								

<i>Total penalty amount: (Do not enter; auto-computed)</i>					\$0
<b>10. TOTAL GRAVITY COMPONENT (GC):</b>					\$17,000
<b>11. Preliminary deterrent amount (PDA):</b> <i>(sum of benefit and gravity components)</i>		\$17,000			
<b>C. FLEXIBILITY ADJUSTMENT FACTOR (GC only):</b> All augmentation (+) and mitigation (-) in decimal:					
<b>1. Degree of Willfulness or Negligence:</b> Percentage augmentation of gravity component <i>Penalty amount: (Do not enter; auto-computed)</i>	10.00%				\$1,700
<b>2. Degree of Cooperation:</b> Percentage mitigation of gravity component <i>Penalty amount: (Do not enter; auto-computed)</i>	0%				\$0
<b>3. History of noncompliance:</b> Total Administrative Penalty Percentage augmentation of gravity component <i>Penalty adjustment: (auto-computed)</i>	0%				\$0
<b>4. Ability to pay:</b> Percentage mitigation of gravity component <i>Penalty adjustment: (auto-computed)</i>	0%				\$0
<b>5. Other unique factors:</b> Percentage mitigation or augmentation of gravity component <i>Penalty adjustment: (auto-computed)</i>	0%				\$0
<b>6. Net Flexibility-Adjustment Factor (NAF):</b>					\$1,700
<b>Total minimum settlement amount:</b> <i>(PDA+NAF)</i>					\$18,700

Based on the letter from Coitsville Township Zoning Department of November 17, 2008, Mr. Arendas was aware of Ohio EPA regulations but chose not to comply.





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

**APR 02 2010**

**CERTIFIED MAIL**

Mr. Sam Kaila  
Clark Sunoco  
5300 Superior Avenue  
Cleveland, Ohio 44103

**Re:** Proposed Director's Final Findings and Orders for Clark Sunoco

Dear Mr. Kaila:

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 5300 Superior Avenue, in Cleveland, Ohio. 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 has been 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 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 your violations of the State's air pollution control laws. Also, enclosed is an administrative enforcement process guide to facilitate your 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. Sam Kaila  
Clark Sunoco  
Page 2 of 2

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 Marc Glasgow 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  
Eric Yates, DAPC  
Marc Glasgow, Legal Office  
Andrew Kenney, CDAQ  
Linda Kimmy, CDAQ

Enclosures

CK:EY:ey

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>.

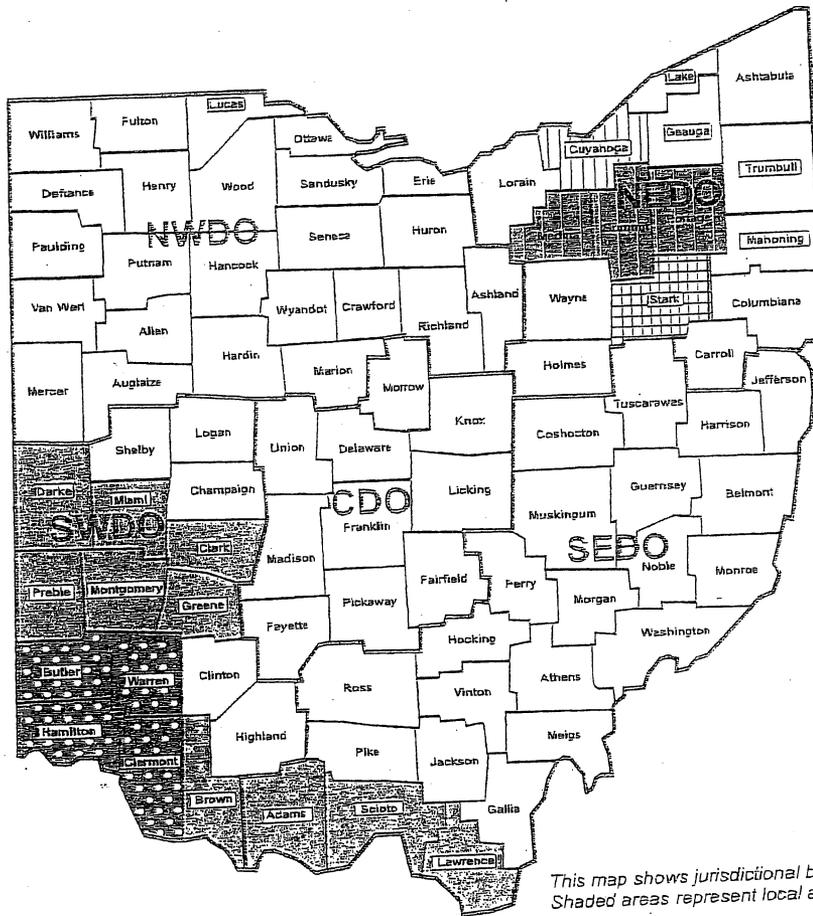
### District Office and Local Air Agency Addresses and Phone Numbers

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/dolaz.html](http://www.epa.state.oh.us/dapc/general/dolaz.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



**Frank Markunas, Interim 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: markuf@ci.akron.oh.us



**Richard L. Nemeth, Commissioner**  
Cleveland Dept. of Public Health  
Division of Air Quality  
75 Erieview Plaza, 2nd Floor  
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  
Public Health Dayton and Montgomery Cnty.  
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**  
Depl. 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 diesel particulate filters and crankcase filters 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 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.

Based on the comparative effectiveness of the three types of particulate emission controls, only particulate filters and crankcase filters will be considered for this retrofit program.

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

Only school buses that meet the following criteria should 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 in operation at least 4 days per week during the school year and travel at least 10,000 miles per year.
- d. The school bus model year must be 1994 or newer.

4. **Which types of diesel particulate filters and crankcase filters would be acceptable for installation?**

The USEPA has published a list of "Verified Retrofit Technologies." A copy of this list can be accessed at the following website:

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

Only the particulate filters and crankcase filters 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. Field experience indicates it takes six to eight hours to install one of these diesel particulate filters. Crankcase filters are relatively simple to install and are easily serviced.

5. **How efficient are the diesel particulate filters and crankcase filters in reducing the particulate emissions?**

The diesel particulate filters will reduce the particulate emissions in the exhaust gases by 60 to 90 percent. These control devices also will reduce the emissions of organic compounds and carbon monoxide by 60 to 90 percent. Most particulate filters come with a 100,000 to 150,000-mile warranty and have a useful life of seven to 15 years. The filtration efficiency of crankcase filters averages between 80% and 97%.

6. **Is there a special type of fuel that must be used with the diesel particulate filters?**

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.

7. **What costs are associated with the installation and operation of the diesel particulate filters and crankcase filters?**

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.

8. **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 particulate filters and crankcase filters. 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 greater than \$5,000), 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 will establish for the retrofitting of school buses.

9. **How will the school systems receive the SEP monies for the diesel particulate filters and crankcase filters?**

A school system that desires to participate in the retrofit program must apply to Ohio EPA to receive funding to purchase and install the diesel particulate filters and crankcase filters. In the application, an eligible school system (i.e., one located in a nonattainment county for PM 2.5) must describe the proposed project, providing details such as the number and ages of the buses to be retrofitted, the types of filters that will be purchased and installed (must be on the USEPA-published list of "Verified Retrofit Technologies"), a schedule for installation of the filters, and a detailed cost breakdown. Ohio EPA will evaluate each application and provide funding to applicant school systems on a first come-first served basis as monies become available in the retrofit fund. Preference will be given to those applicants that include a commitment to implement an anti-idling program at the applicant's school system. Once or twice per year, the Ohio EPA will solicit applications from the eligible school systems.

10. **What oversight will be provided by the Ohio EPA to ensure that the diesel particulate filters are 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 diesel particulate filters and crankcase filters are being installed and maintained properly and that the monies are being spent appropriately.

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

In the Matter of:

<b>Clark Sunoco</b>	:	<u>Director's Final Findings</u>
<b>1303 Clark Avenue</b>	:	<u>and Orders</u>
<b>Cleveland, Ohio 44109</b>	:	

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Clark Sunoco ("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's facility (as hereinafter defined) 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 owns and operates a gasoline dispensing facility ("GDF") located 1303 Clark Avenue, in Cleveland (Cuyahoga County), Ohio. 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, 2002, Respondent was issued a permit-by-install ("PTI") by Ohio EPA, in accordance with OAC Rule 3745-31-02. The PTI required Respondent to comply with the requirements for Stage II vapor control systems as specified in OAC

Rule 3745-21-09(DDD).

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 subject 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 subject 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 GDF, 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 14, 2008, Respondent attempted to conduct the annual Stage II compliance tests at this GDF. During the test the system failed the static leak test. Respondent was dispensing gasoline prior to and after the failed static leak test. The failure to properly operate and maintain the vapor control system and the failure to successfully pass the testing requirements contained 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 November 12, 2008, Respondent passed the static leak test.

8. On November 11, 2009, Respondent attempted to conduct the annual Stage II compliance tests at this GDF. During the test the system failed the static leak test. Respondent was dispensing gasoline prior to and after the failed static leak test. The failure to properly operate and maintain the vapor control system and the failure to successfully pass the testing requirements contained 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 7, 2009, Respondent passed the static leak test.

9. By letters dated December 30, 2009 and February 16, 2010, 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 producing seasons (April 1, 2011 – October 31, 2011 and April 1, 2012 – October 31, 2012), starting two weeks prior to the start of the ozone season, i.e., by March 15, 2011 and March 15, 2012, and continuing until October 31, 2011 and October 31, 2012, 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, 2011 – October 31, 2011 and April 1, 2012 – October 31, 2012), 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 ten thousand dollars (\$10,000) 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 eight thousand dollars (\$8,000) 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

4. In lieu of paying the remaining two thousand dollars (\$2,000) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$2,000 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 \$2,000. 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.

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 \$2,000 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:

Cleveland Department of Public Health  
Division of Air Quality  
75 Erieview Plaza – 2<sup>nd</sup> Floor  
Cleveland, Ohio 44114  
Attn: George Baker

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: Jim Orlemann

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:**

**Clark Sunoco**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Title

**GDF PENALTY WORK SHEET**

Clark Sunoco

1303 Clark Avenue, Cleveland, 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 10/14/2008, Respondent failed the 2008 annual static leak test. On 11/12/2008, a retest was conducted and the static leak test passed. On 11/11/09, Respondent failed the 2009 annual static leak test. On 12/07/09, a retest was conducted and the static leak 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 are 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:			
a.			
b.			
4. Size of violator:	\$5,000		Net worth >\$100,000 based on facilities of similar size and location. Penalty associated with this amount is \$5,000.
<b>Preliminary Deterrence Amount:</b>		\$10,000	
<b>Initial Gravity Component:</b>		\$10,000	
<b>C. Adjustment Factors:</b>			
1. Degree of willfulness or negligence: (total gravity component times any	\$0		Not applicable

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>		\$10,000	
<b>E. Administrative Component:</b>		\$0	Not applicable
<b>F. Initial Settlement Amount:</b>		\$10,000	