

AGENDA FOR THE APRIL 22, 2010 EC MEETING

CASES TO BE CLOSED:

Raman Patel, d.b.a. Marathon Quick Mart	#2806	NEDO	Final F&Os	Tom/Don
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PENDING CASES:

Complete Clearing, Inc.	#2789	NWDO	Prop. F&Os	Tom/Marc
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Michael A. Kernan/Salvatore Sorice, d.b.a. SMS Design and Construction, Inc.	#2841	M-TAPCA	Prop. F&Os	Tom/Steve
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Iten Industries, Inc.	#2844	NEDO	Prop. F&Os	Tom/Steve
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David Klein, d.b.a. Belle-Aire Cleaners	#2875	Akron	DWL	Tom/Don
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OTHER BUSINESS:

- (1) Distribute updated schedule of progress for resolving all "old" cases for 2009 and 2010.
- (2) Bryan 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, May 6, 2010 at 3:00 p.m. in DAPC Rm C. Marc is scheduled for food. (Future food schedule: Tom for May 20; Steve for June 3.)
- (4) Marc to give note on AGO attorney's fees and penalties.

ENFORCEMENT COMMITTEE MEETING MINUTES

(April 22, 2010)

Case Number: 2806	Dates:
Entity: Raman Patel, d.b.a. Marathon Quick Mart	EAR: 03/02/09
Field Office: MEDO	DWL: N/A
Contact: Jim Kavalec/Tom Kalman	F&Os: 04/20/10
Attorney: Donald L. Vanterpool	Referral: N/A
	Dismissal: N/A

Background: On May 14, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Raman Patel, d.b.a. Marathon Quick Mart, to attempt an administrative settlement of the violations of the Stage II vapor control system requirements in OAC Rule 3745-21-09(DDD) at his gasoline dispensing facility ("GDF") located at 3594 Liberty Street, Vermilion, Lorain County, Ohio. The proposed F&Os cited Mr. Patel for the following violations of OAC rules and ORC law:

- (1) OAC Rule 3745-21-09(DDD)(3)(a)(vi) for failure to maintain records demonstrating proof of attendance and completion of training required by Ohio EPA for the operator or local manager of the GDF from February 13, 2007 to the present;
- (2) OAC Rule 3745-21-09(DDD)(1)(c) for failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) from February 13, 2007 (date of failing air-to-liquid ("A/L") ratio test on dispensers 1, 2 and 6) to March 9, 2007 (date of passing test for last two dispensers), while causing, allowing, or permitting the transfer of gasoline from stationary storage tanks into motor vehicles;
- (3) OAC Rule 3745-21-09(DDD)(1)(c) for failure to perform successful annual tests pursuant to the testing requirements in OAC Rule 3745-21-09(DDD)(2) for 2008, while causing, allowing, or permitting the transfer of gasoline from stationary storage tanks into motor vehicles;
- (4) OAC Rule 3745-21-09(DDD)(2)(f) for failure to perform the annual testing requirements pursuant to OAC Rule 3745-21-09(DDD)(2) for 2008 for the GDF within one year from the last test (March 9, 2007);

- (5) OAC Rule 3745-21-09(DDD)(1)(c) for failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) from May 26, 2009 (date of failing A/L ratio test for dispensers 1, 2, 5, 6, 7 and 8) to June 11, 2009 (date of passing test), while causing, allowing, or permitting the transfer of gasoline from the stationary storage tanks into motor vehicles; and
- (6) ORC § 3704.05(G) for failure to comply with the above OAC rules which were adopted by the Director pursuant to ORC Chapter 3704.

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

- (1) Within 30 days after the effective date of the F&Os, submit a Permit-by-Rule notification to Ohio EPA for the facility per OAC Rule 3745-31-03(A)(4)(a);
- (2) Within 30 days after the effective date of the F&Os, demonstrate that the Stage II vapor control system is operating properly by having passing static leak and A/L ratio tests performed and submitting the results within 14 days of completion of the tests;
- (3) Within 60 days after the effective date of the F&Os, submit documentation to Ohio EPA demonstrating the proof of attendance and completion of the training required by OAC Rule 3745-21-09(DDD)(3)(a)(vi);
- (4) Conduct weekly inspections of the Stage II vapor control system for the next two ozone seasons (2010 and 2011), checking for leaks, malfunctions or damage to the systems and submit copies of records of these inspections and any repairs made 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;
- (5) Have static leak and A/L ratio tests performed on the Stage II vapor control system for the next two ozone seasons (2010 and 2011), prior to the beginning (during March) of each ozone season and during August of each ozone season and submit the results to Ohio EPA within 14 days after completion of the tests; and
- (6) Within 30 days after the effective date of the F&Os, pay Ohio EPA a civil penalty of \$20,000, of which \$4,000 is to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

Note that the Enhanced Enforcement Protocol penalty policy for Stage II vapor control systems does not apply here since no consecutive failed tests occurred. Instead, the USEPA's civil penalty policy was used to compute the penalty. Also, the penalty was mitigated by 50% for "other unique factors" due to this GDF being a small emission source.

(See the EC Meeting Minutes of May 21, 2009 for additional background information.)

On June 29, 2009, Mr. Patel submitted financial documents for an inability-to-pay analysis. On July 10, 2009, those documents were sent to the Ohio EPA Fiscal Office for an inability-to-pay analysis. On July 23, 2009, Fiscal issued a memo indicating its review of the documents indicated Mr. Patel could pay the entire civil penalty of \$20,000. On December 7, 2009, an attorney representing Mr. Patel submitted a letter along with some of the same financial information as previously submitted and some current information. A counteroffer of \$6,000 was provided.

On March 8, 2010, a meeting was held with Mr. Patel and his attorney. During the meeting, Ohio EPA presented a counteroffer of \$14,800 by lowering the size of violator penalty to reflect the actual assets of Mr. Patel and applied 10 percent mitigation for his cooperation in reaching a settlement. A settlement was reached during the meeting over the penalty amount and a payment plan was provided due to Mr. Patel worsening financial situation.

Action: On April 20, 2010, final F&Os were issued to Mr. Patel in resolution of the enforcement case. The F&Os are similar to the proposed version except that items (1) and (2) were removed because Mr. Patel submitted a PBR on June 26, 2009, and passed an A/L ratio test on June 11, 2009, and item (6) was revised to reflect the fact that the civil penalty was reduced to \$8,000, with payments of \$2,000 each due within 30, 120, 210 and 300 days after the effective date of the F&Os. \$1,600 of the first payment will be directed to the Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

Case Closed



Case Number: 2789	Dates:
Entity: Complete Clearing, Inc.	EAR: 02/05/09
Field Office: NWDO	DWL: N/A
Contact: Patty Porter/Tom Kalman	F&Os: 04/09/10 (prop.)
Attorney: Marcus Glasgow	Referral: N/A
	Dismissal: N/A

Background: Complete Clearing, Inc. ("CCI") is a demolition company with offices located at 510 Industrial Way, Marengo, Ohio. In 2008, the Galion City School District Board hired CCI to demolish its North Elementary School and Dawsett Elementary School in Galion, Ohio. The demolitions were to take place after LVI Environmental Services, Inc. ("LVI"), an asbestos abatement contractor, removed the regulated asbestos-containing material ("RACM") from the two schools.

Asbestos-containing material was identified in both school buildings in asbestos surveys that were performed prior to asbestos removal and demolition. The surveys identified the amount of RACM in each building that had to be removed prior to demolition, as well as the amount of Category I nonfriable asbestos-containing material that could remain in the buildings as long as such material was not made friable during the demolition and disposal. Specifically, the surveys identified Category I nonfriable asbestos-containing material that did not have to be removed prior to demolition, in the amounts of 14,679 and 26,654 square feet of flooring tiles and associated mastic at North Elementary School and Dawsett Elementary School, respectively.

On April 18 and May 5, 2008, LVI sent notifications to Ohio EPA for RACM removal relating to the demolitions at North Elementary School and Dawsett Elementary School, respectively. The notification for North Elementary School identified 670 linear feet of RACM on pipes and 9,658 square feet of RACM on other facility components that were to be removed from May 1 to 22, 2008. The notification for Dawsett Elementary School identified 460 linear feet of RACM on pipes and 220 square feet of RACM on other facility components that were to be removed from May 19 to 30, 2008. The notifications did not identify the Category I nonfriable asbestos-containing material to be left in the buildings, in violation of the notification content requirements in OAC Rule 3745-20-03(A)(4)(g) and ORC § 3704.05(G).

On May 19, 2008, CCI sent notifications of demolition to Ohio EPA for North Elementary School and Dawsett Elementary School. The notifications indicated the demolition for North Elementary School would be performed from May 26 to July 20, 2008, and for Dawsett Elementary School from June 9 to August 4, 2008. The notifications did not identify the Category I nonfriable asbestos-containing material to be left in the buildings, in violation of the notification content requirements in OAC Rule 3745-20-03(A)(4)(g) and ORC § 3704.05(G).

Between May 1 and 19, 2008, LVI removed all of the RACM from North Elementary School and Dawsett Elementary School that was identified in the notifications it submitted to Ohio EPA. The Category I nonfriable asbestos-containing material was left in both buildings.

After the RACM removal by LVI, CCI began demolition of both school buildings per its notifications. At North Elementary School, prior to demolition, CCI removed 98 to 99 percent of the Category I floor tiles and associated mastic, presumably to provide clean debris for backfilling. It then used a portable grinder to pulverize the concrete demolition debris so it could be used as backfill material to bring the demolition site up to grade. Some of the concrete demolition debris contained the remaining one to two percent of the asbestos-containing floor tiles and associated mastic. This action changed the Category I nonfriable asbestos-containing material to a friable form and classified it as RACM.

As a result of the pulverizing of the former Category I asbestos-containing material, CCI violated the following rules and laws in addition to the previously mentioned notification violation, at North Elementary School:

- (1) OAC Rule 3745-20-04(A)(1), by failing to remove all of the Category I nonfriable asbestos-containing material, that was made friable by pulverizing, before beginning the demolition operation on or before July 1, 2008;
- (2) OAC Rule 3745-20-04(B)(1), by failing to have a representative adequately trained in the provisions of OAC Chapter 3745-20 at the site during the demolition project and subsequent processing;
- (3) OAC Rule 3745-20-05(B)(2), by failing to adequately wet the fill material that was generated by the pulverizing of the asbestos-contaminated concrete debris from on or before July 1 to July 2, 2008;
- (4) OAC Rule 3745-20-05(A), by failing to deposit the asbestos-contaminated concrete debris as soon as practical at one of the acceptable waste disposal sites specified in such rule from at least July 2 until August 29, 2008, when removal and proper disposal of the pulverized and backfilled asbestos-contaminated concrete debris was completed; and
- (5) ORC § 3704.05(G), for violating the above-mentioned rules that were adopted by the Director pursuant to ORC Chapter 3704.

From August 5 to 8, 2008, CCI had Bureau Veritas North America, Inc. excavate the backfilled asbestos-containing pulverized concrete debris, properly bag the waste, and haul it to an approved asbestos landfill for disposal. On August 28, 2008, Ohio EPA

visited the North Elementary School demolition site and observed that the site was completely excavated and all contaminated debris had been removed.

The floor tiles and associated mastic at the Dawsett Elementary School had not been subject to any grinding; however, demolition operations (i.e., equipment running over the material during removal of the debris by CCI) had made friable at least 160 square feet of floor tiles and mastic. Thus, the operation was subject to the work practice requirements as RACM.

As a result of making friable some of the former Category I nonfriable asbestos-containing material at the Dawsett Elementary School site, CCI violated the following rules and law in addition to the previously mentioned notification violation:

- (1) OAC Rule 3745-20-04(C), by failing to ensure that the asbestos-containing material that was damaged and made friable by demolition was repaired, encapsulated, or removed for proper disposal prior to the removal of emission controls;
- (2) OAC Rule 3745-20-04(B)(1), by failing to have a representative adequately trained in the provisions of OAC Chapter 3745-20 at the site during the demolition project and subsequent processing;
- (3) ORC § 3704.05(G), for violating the above-mentioned rules that were adopted by the Director pursuant to ORC Chapter 3704.

After initial inspection by Ohio EPA of the Dawsett Elementary School site, CCI maintained the damaged RACM adequately wet until it was properly removed and disposed of in accordance with OAC Chapter 3745-20 on or after August 5, 2008. A final visual verification of cleanup was made by Ohio EPA on August 18, 2008.

Before beginning the cleanup of both sites, CCI submitted amended notifications to Ohio EPA that included the Category I nonfriable asbestos-containing material.

On February 5, 2009, Ohio EPA, Northwest District Office submitted an Enforcement Action Request to Central Office for the violations that occurred.

Action: On April 9, 2010, proposed Director's Final Findings and Orders ("F&Os") were sent to CCI to attempt an administrative settlement of the violations that occurred. The F&Os propose to require CCI to pay Ohio EPA a civil penalty of \$30,000 of which

\$6,000 would be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP. Payment would be due within 14 days after the effective date of the F&Os.

The civil penalty was mitigated by (1) 20 percent (\$12,140) for CCI's cooperation in properly cleaning up of both sites and for contacting Ohio EPA concerning possible violations at the Dawsett Elementary School site, and (2) by 30 percent (\$18,200) for CCI's likely reliance on LVI's notifications which failed to identify the Category I nonfriable asbestos-containing material as being left in the school buildings.

Case Continued



Case Number: 2841	Dates:
Entity: Michael A. Kernan/Salvatore Sorice, d.b.a. SMS Design and Construction	EAR: 06/27/09 DWL: N/A F&Os: 04/15/10 (prop.) Referral: N/A Dismissal: N/A
Field Office: M-TAPCA	
Contact: Muhammad Mereb/Tom Kalman	
Attorney: Stephen Feldmann	

Background: Michael A. Kernan, of 1273 Redtail Hawk Ct. in Boardman Township of Mahoning County, Ohio, is the owner of the property located at 1001 Bears Den Road in Youngstown, Ohio, on which formerly stood a 1, 440 square foot commercial building. Salvatore Sorice, d.b.a. SMS Design and Construction, Inc., has an address of 1160 Fox Den Trail in Canfield, Ohio. SMS Design and Construction, Inc. was incorporated with the Secretary of State to do business in Ohio since September 13, 1995; however, Mr. Sorice failed to pay the corporation's franchise tax and, on July 26, 2007, the Secretary of State cancelled the Articles of Incorporation/Certification of Authority for SMS Design and Construction, Inc. Consequently, subsequent actions taken by SMS Design and Construction, Inc. will make Mr. Sorice personally liable.

On February 5, 2009, Mr. Sorice contacted the Mahoning-Trumbull Air Pollution Control Agency ("M-TAPCA") to inquire about a demolition at this address. Mr. Sorice indicated the roof and siding of the structure were to be removed and no demolition of any load-supporting walls was to take place. M-TAPCA informed Mr. Sorice that if the plan changed and any load-supporting walls were to be removed, an asbestos survey would

need to be conducted and an Ohio EPA notification of demolition form would need to be submitted to M-TAPCA prior to any demolition taking place.

On or about February 15, 2009, Mr. Sorice demolished the 1,440 square foot commercial building on the property at 1001 Bears Den Road. On February 18, 2009, an inspector from M-TAPCA observed that the commercial building located at 1001 Bears Den Road had been demolished and only wood, concrete, roofing, and steel siding were observed. Mr. Sorice was on site at the time and indicated that no asbestos survey was performed and no notification of intent to demolish had been submitted to M-TAPCA as required by OAC Chapter 3745-20.

The M-TAPCA inspector did not find any suspected regulated asbestos-containing material ("RACM") to sample among the remaining debris. However, M-TAPCA was not able to determine the amount of asbestos in the commercial structure, if there was any, due to a lack of a complete and thorough asbestos survey prior to demolition.

Based on the investigation, it was determined that Mr. Sorice, as operator of the demolition operation, and Mr. Kernan, as owner of the demolished structure, violated the following OAC rules and ORC law as a result of the demolition operation:

- (1) OAC Rule 3745-20-02(A), for failing to have the building thoroughly inspected for the presence of asbestos by a certified asbestos hazard evaluation specialist prior to commencing demolition;
- (2) OAC Rule 3745-20-03(A), for failure to provide Ohio EPA with a written notification of intent to demolish a facility at least ten working days before beginning demolition operations; and
- (3) ORC § 3704.05(G), for violating the prohibition against the violation of any rule adopted by the Director pursuant to ORC Chapter 3704.

On March 13, 2009, M-TAPCA sent a notice of violation ("NOV") letters to Mr. Kernan and Mr. Sorice. The NOV letters cited both individuals with the above-mentioned violations and requested additional information concerning the demolition. On March 19, 2009, M-TAPCA received a notification of demolition form from Mr. Sorice. The notification indicated the dates of demolition as February 15 and 16, 2009. The notification form did not provide any information on the amount of asbestos-containing material in the structure.

On June 27, 2009, M-TAPCA submitted an Enforcement Action Request to Central Office for the violations that occurred.

Action: On April 15, 2010, proposed Director's Final Findings and Orders ("F&Os") in the name of both parties were sent individually to Mr. Kernan and Mr. Sorice to attempt an administrative settlement of the violations. The F&Os propose to require Mr. Kernan and Mr. Sorice to pay Ohio EPA a civil penalty of \$17,000, of which \$3,400 would be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP. Payment to Ohio EPA is to be made within 14 days after the effective date of the F&Os.

Enforcement action is being taken in this matter since the applicability of the work practice requirements of OAC Chapter 3745-20 to this demolition operation could not be completely determined due to the lack of a building survey and a notification and the inability to fully examine and sample all materials in the debris, and because Mr. Sorice knew about the requirements of OAC Chapter 3745-20 based on his discussions with M-TAPCA.

Case Continued



Case Number: 2844	Dates:
Entity: Iten Industries, Inc.	EAR: 07/28/09
Field Office: NEDO	DWL: N/A
Contact: Muhammad Mereb/Tom Kalman	F&Os: 04/22/10 (prop.)
Attorney: Stephen Feldmann	Referral: N/A
	Dismissal: N/A

Background: Iten Industries, Inc. ("Iten") owns and operates a facility for the manufacture of thermoplastic and thermoset plastic parts, which is located at 4001 Benefit Avenue in Ashtabula, Ohio. At the facility, Iten employs the following five emissions units which are identified as emissions units K001 through K004 and P003:

Emissions unit K001 (Treater #2); Egan treater for paper and fabric coating with phenolic and epoxy resins;

Emissions unit K002 (Treater #1); Egan treater for paper and fabric coating with phenolic and epoxy resins;

Emissions unit K003 (Treater #3); Epoxy and phenolic resin coating of paper and fabric;

Emissions unit K004 (Treater #4); Epoxy and melamine coating of fiberglass fabric; and

Emissions unit P003 (Phenolic Resin Mixing); Phenolic resin and epoxy resin mixing for use at treaters.

Volatile organic compounds ("VOC") emissions from emissions units K001 through K004 and organic material ("OM") emissions from emissions unit P003 are all captured and vented to a common thermal oxidizer for combustion.

Iten's Title V permit became effective on January 16, 2003, and has an expiration date of January 16, 2008. However, as provided in OAC Rule 3745-77-06(A), the terms and conditions of the expired Title V permit remain in effect until final action is taken by the Director on Iten's timely filed renewal Title V permit application.

The terms and conditions of the Title V permit specify that Iten maintain emissions units K001 through K004 in compliance with an overall VOC control efficiency of at least a certain value and a VOC destruction efficiency of at least a certain value as specified in OAC Rule 3745-21-09(B)(6) in lieu of the requirements of OAC Rule 3745-21-09(F) and (G). That means the capture and control equipment must provide not less than 81 percent reduction, by weight, in the overall VOC emissions from these coating lines and that the control equipment has a destruction efficiency of not less than 90 percent, by weight, for the VOC emissions vented to the control equipment.

Furthermore, the terms and conditions of Iten's Title V permit specify that Iten maintain emissions unit P003 in compliance with an overall OM control efficiency of at least 85 percent, by weight, and that 90 percent or more of the carbon in the OM be oxidized to carbon dioxide in the thermal oxidizer as provided in OAC Rule 3745-21-07(G)(2) and (G)(6). On and after February 18, 2008, OAC Rule 3745-21-07(M)(1) and (M)(2) replaced the requirements of OAC Rule 3745-21-07(G)(2) and (G)(6) for emissions unit P003. The requirements of OAC Rule 3745-21-07(M)(1) and (M)(2) specify the same percentages of overall OM control efficiency and destruction efficiency as provided in the Title V permit.

Pursuant to the testing requirements in the Title V permit, on December 28, 2007, performance testing was performed while emissions unit K001, K002, K004 and P003 were in operation. (Per the request of Iten, on February 25, 2008, the Director sent a

letter to Iten granting an exemption from testing for emissions unit K003 and restricting the operations to three of the four treaters at any one time. Iten's request was based on the fact that emissions unit K003 is rarely used, has only 69 percent of the capacity of the other three units due to its width limitation, and historically only up to three treaters have been used at any one time.) The average overall control efficiency was determined to be 75.5 percent, by weight, and the average destruction efficiency of the thermal oxidizer was determined to be 75.5 percent, in violation of OAC Rule 3745-21-09(B)(6), former OAC Rule 3745-21-07(G)(2), former OAC Rule 3745-21-07(G)(6), OAC Rule 3745-21-07(M)(2), the Title V permit, and ORC § 3704.05(G) and (J)(2).

On April 18, 2008, Northeast District ("NEDO") of Ohio EPA sent a notice of violation ("NOV") letter to Iten for failing to meet the efficiency requirements and requested a compliance plan and schedule.

On April 29, 2008, NEDO received Iten's compliance plan. Iten indicated that the problem had been determined to be cracks in several of the VOC pre-heater tube bundles within the unit prior to VOC combustion and these cracks allowed uncombusted emissions to escape to the egress point. Iten anticipated repairs to be completed within 30 days. In a letter dated August 10, 2009, Iten indicated that the thermal oxidizer was shut down from May 18 through 28, 2008 for major repairs.

On July 17, 2008, Iten performed testing on emissions unit K001, K002, K004 and P003. The average overall control efficiency was 98.68 percent. The average destruction efficiency of the thermal oxidizer was 98.68 percent. Based on these results, NEDO informed Iten in a letter dated September 23, 2008 that it had returned to compliance.

On July 28, 2009, NEDO submitted an Enforcement Action Request to Central Office for the violations that occurred.

Action: On April 22, 2010, proposed Director's Final Findings and Orders ("F&Os") were sent to Iten to attempt an administrative settlement of the violations that occurred. The F&Os propose to require Iten to pay a civil penalty of \$57,000 within 14 days after the effective date of the F&Os, of which \$11,400 would be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

Case Continued



Case Number: 2875	Dates:
Entity: David Klein, d.b.a. Belle-Aire Cleaners	EAR: 11/13/09
	DWL: 04/15/10
Field Office: Akron	F&Os: N/A
Contact: Muhammad Mereb/Tom Kalman	Referral: N/A
Attorney: Donald L. Vanterpool	Dismissal: N/A

Background: David Klein owns and operates Belle-Aire Cleaners, which is located at 649 Storer Avenue, Akron, Ohio. At this facility, Mr. Klein operates a perchloroethylene (“PCE”) transfer machine system, which consists of a Midwest Model #4101 washer and a Hoyt Model #SF 130 dryer, for the dry cleaning of clothing. The system is identified by Ohio EPA as “emissions unit D001.” Emissions unit D001 is subject to the National Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities in 40 CFR Part 63, Subpart M.

The July 27, 2006 revisions to Section 63.322(o)(3) of 40 CFR Part 63, Subpart M, required all existing transfer machines to eliminate any emissions of PCE during the transfer of articles between the washer and the dryer, by July 28, 2008. The regulations define a “transfer machine system” as a multiple-machine dry cleaning operation in which washing and drying are performed in different machines. Emissions unit D001, which was installed in 1971 at the facility, is a transfer machine system.

On October 7, 2009, an inspector from the Akron Regional Air Quality Management District (“ARAQMD”) visited the facility and observed that emissions unit D001 was still operational in a manner allowing the emission of PCE during the transfer of articles between the washer and dryer, in violation of 40 CFR Part 63, Subpart M.

ARAQMD sent a notice of violation (“NOV”) letter to Mr. Klein on December 19, 2009, wherein he was requested to submit a compliance plan and schedule to bring emissions unit D001 into compliance. Mr. Klein failed to respond to the NOV letter. Therefore, on November 13, 2009, ARAQMD submitted an Enforcement Action Request to Central Office to obtain enforcement assistance in bringing Mr. Klein’s operation into compliance. It was decided to recommend to the Director that he sign a warning letter to Mr. Klein in order to provide one last chance to comply before taking stronger measures.

Action: On April 15, 2010, a Director’s warning letter was sent to Mr. Klein. The letter requests that he submit a compliance plan and schedule to ARAQMD within 14 days of receipt of the letter in order to bring emissions unit D001 into compliance with 40 CFR

Section 63.322(o)(3). Furthermore, the letter indicates that if a compliance plan and schedule are not received, and Mr. Klein continues to operate emissions unit D001 in violation of the above-mentioned regulations, then Ohio EPA will consider its enforcement options, including referral of the matter to the Ohio Attorney General's Office to obtain compliance and the assessment of civil penalties.

Case Continued



ACTIONS & MINUTES APPROVED BY:



Bob Hodanbosi, Chief, DAPC

NEXT MEETING:

May 6, 2010
10:00 a.m.
DAPC Room C

PENDING AIR ENFORCEMENT COMMITTEE CASES

Total Unresolved Cases (83)

Case #	Facility Name	Field		Zero Date for SOL	EAR Date Received
		Office	Atty./Staff		
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/All-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/JUD	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/JUD	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)	SEDO	DV/PP	01/13/09	02/26/09
2810	(multi-media case, DSIWM lead)				
2811	Ellwood Engineered Castings Co. (HPV)	NEDO	DV/TT	02/25/09	03/13/09
2814	NewKor, Inc.	Cleve.	SF/EY	01/27/09	03/30/09
2815	Barrett Paving Materials, Inc. (HPV)	HAMCO	SF/PP	01/16/08	04/01/09
2819	Royal Sebring Properties, Inc., a.k.a. Zee Tech Warehousing	M-TAPCA	MG/JK	09/17/07	04/02/09
2821	Masonic Temple/The New Victorians, Inc./AHC, Inc. (asbestos)	CDO	DV/	01/24/08	04/27/09
2822	OmniSource Corporation, Mansfield Division	NWDO	MG/MM	05/08/08	05/04/09
2823	J. S. Paris Excavating, Inc./Signature Development Group, LLC (asbestos)	MTAPCA	SF/TT	03/11/08	04/28/09
	Rudzik Excavating, Inc./Charles J. Arendas (asbestos)	MTAPCA	DV/FU	02/27/09	05/11/09

Updated: 04/22/10

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
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
2908	Oglebey Norton Glass Rock Plant (HPV)	SEDO	DV/		04/13/10
2909	Puritas Gas	Cleve.	SF/JP		04/13/10
2910(VC)	Dan & Sheryl Nellis (regarding outdoor wood-fired boiler)	NEDO	MG/		03/26/10
2911	International Paint, LLC	Cleve.	DV/JP		04/26/10
2912	Wallace L. Geuy	SWDO	SF/JP		04/23/10

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

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
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 Afco 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
2817	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

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
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	Carneuse 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	
2806	Raman Patel, d.b.a. Marathon Quick Mart	3	NEDO	TK	JK	DV	03/02/09					04/20/10	

Total for the month of April = 7

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		
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*
* CDAQ inspection date.						
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	

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 ² reports			07/28/04		07/26/04	
				10/28/04		10/25/04	
				01/28/05		01/21/05	
			03/28/05		N/A		
Submit cost of P ² study			04/05/05				

Kerry's Motor World (05/13/04)	Civil penalty: (\$3,000)	443684	05/27/04	Y			

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**		

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.							

Bohanan Investments, Inc. (04/14/05 - Court Order, Default Judgement)	Civil penalty: (\$127,900)	550712	04/14/05	Y			

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.							

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 ² report			11/24/05			
	Submit P ² report			02/24/06			
	Submit final P ² report			05/24/06			
	Submit documentation of costs			08/24/06			

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			

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	

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)					
* - CD modification on 11/26/08	OEPA \$30,769	551695	03/27/06		04/03/06	
	RAPCA \$30,769	----	03/27/06		03/29/06	
	Pay Title V permit fees \$216,133.86		02/27/06		09/28/05	
	Contribute \$75,000 to RAPCA's wood stove replacement program		04/15/06		03/21/06	
	Retire B005		09/01/07		09/14/06	
	Install LNB & FGR for B006		03/03/11			
	Propose final VOC solvent loss limit for Sidney		02/27/09			
	Comply w/final VOC solvent loss limit for Sidney		02/27/10			
	Meet 95% control for VOC or 10 ppm for P067 & P582 at Dayton		02/27/09		06/17/08	
	Meet 98% control for VOC for P057, P031, P052, P088 & P072 at Dayton		09/01/10			
	Meet control equipment operating parameters for P032, P033 and P034 at Dayton		02/28/10	*	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			

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 ² 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			

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	

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			

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)	666334	08/16/08	Y	*	
	* Partial payment of \$350 received 10/20/08					
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	659538	08/08/08	Y		
	Bus Fund \$2,000	659539	08/08/08	Y		
Ford Motor Company (07/31/08)	Civil penalty: (\$1,400,000)					
	OEPA \$1,120,000	666337	08/31/08		08/18/08	
	Bus Fund \$ 280,000	666338	08/31/08		08/18/08	
	Shut down cupola 3 and mold line 7		12/31/08		12/11/08	
	Shut down cupola 1 & 2 and mold lines 2 & 3		12/31/10			

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.						

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	

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			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date	
Ultimate Industries, Inc. (con't)	\$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				

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		04/14/10	30308	
	Bus Fund \$4,000	707978	04/23/09		04/22/09	29426	

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	

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				

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Chemtrade Logistics Inc /Marculex (con't)	Submit permit applications:	Oregon	07/01/11			
		Cairo	07/01/11			
				01/01/13		
			Oregon Cairo	(365 days after acceptance of short-term limit)		
	Submit report re: how compliance will be	Oregon Cairo	07/01/11 07/01/11			

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	

George Rank (04/16/09)	Civil penalty: (\$500)	713237	05/16/09	Y		

Richard Morrow (05/01/09)	Civil penalty: (\$3,000)	713246	05/15/09	Y		

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

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	

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)	714660	07/30/09	Y		
	Have all vehicles tested and report results		12/31/09			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date	
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)	714842	08/07/09		08/17/09	49645	
	Have all vehicles tested and report results		11/02/09				
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			
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		

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date	
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				

Aleris International, Inc., et. al.	Civil penalty: (\$334,545)		when U.S. Bankruptcy				
	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			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
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			

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			

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			
	\$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			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
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		

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		
	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

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

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
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		

Robert Schiekh (12/22/09)	Civil penalty: (\$750) 747648 01/22/10					

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

Randy Wise (12/23/09)	Civil penalty: (\$250) 747654 01/23/10					

Mark A. Mirich, d.b.a. All Demolition (12/28/09 - CO)	Civil penalty: (\$25,000)					
	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		

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Mark A. Mirich, d.b.a. All Demolition (con't)	\$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			
	\$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				

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O y/n	C Complete Date	Check # / Date
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		

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			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
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			
	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			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O y/n	Complete Date	Check # / Date	
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		
	<u>Biofilter milestones:</u>					
	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			
<u>LDAR program milestones:</u>						
Develop a written facility-wide LDAR Program Plan			05/06/10			
Monitor all equipment in accordance with more stringent frequencies			05/06/10			
Begin replacing "leaking" valves and connectors with "low-leaking" technology			11/06/10			
Perform the first audit of the LDAR			05/06/10			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
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)					
		Complete the asphalt paving SEP project	753762	03/12/10	03/04/10	1006152
			02/26/11			

H. B. Fuller Company (03/10/10)	Civil penalty: (\$9,375)					
	OEPA	\$6,000	757445	05/10/10	03/18/10	165805
	Bus Fund	\$3,375	757446	04/10/10	03/08/10	165806
		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	757447	03/24/10	03/26/10	71966
	Bus Fund	\$2,481	757448	03/24/10	03/26/10	71965
		Submit documentation that RMP deficiencies have been corrected		04/10/10		

Lafarge North America, Inc. (Paulding) (03/18/10 - Consent Decree)	Civil penalty: (\$55,250)					
	OEPA	\$44,200	757491	04/18/10		
	Bus Fund	\$11,050	757492	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		

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O y/n	C Complete Date	Check # / Date
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	757439	04/19/10	03/31/10	252166
	Bus Fund \$ 36,148	757440	04/19/10	03/31/10	252165
	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	757469	07/19/10		
	\$ 8,800	757470	10/19/10		
	\$ 8,800	757471	01/19/11		
	\$ 8,800	757472	04/19/11		
	\$ 8,800	757473	07/19/11		
	Bus Fund \$11,000	757473	04/19/10		
Submit PTIO applications		04/19/10			

Tuscarawas County YMCA (04/02/10)	Civil penalty: (\$8,000)				
	OEPA \$6,000	757480	04/16/10	03/25/10	1228
	Bus Fund \$2,000	757481	05/02/10	03/25/10	1229

The Great Lakes Construction Co. (04/02/10)	Civil penalty: (\$1,000)	757482	05/02/10		

MARA2-DNA, Inc. (Nates Marathon) (04/02/10)	Civil penalty: (\$5,000)				
	OEPA \$250	757483	05/02/10		
	\$750	757484	08/02/10		
	\$750	757485	11/02/10		
	\$750	757486	02/02/11		
	\$750	757487	05/02/11		
	\$750	757488	08/02/11		
	\$750	757489	11/02/11		
	\$250	757490	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			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Severstal Wheeling, Inc. (03/30/10)	Civil penalty: (\$15,000)					
	OEPA \$12,000	757477	04/30/10			
	Bus Fund \$ 3,000	757478	04/30/10			
	Obtain and achieve compliance w/ PTI modification for burning COG in the co-generation boilers		08/15/10			

Demetrius "Duke" Ball, d.b.a. Ball Wrecking Company (03/10/10 - Court Order)	Civil penalty: (\$7,000)	757422	04/10/10			

Raman Patel, d.b.a. Marathon Quick Mart (04/20/10)	Civil penalty: (\$8,000)					
	OEPA \$ 400	758060	05/20/10			
	\$2,000	758061	08/20/10			
	\$2,000	758062	11/20/10			
	\$2,000	758063	02/20/11			
	Bus Fund \$1,600	758016	05/20/10			
				03/30/10		
Perform static leak & A/L ratio tests at each GDF			08/31/10			
			03/30/11			
			08/31/11			
Submit proof of training			05/20/10			



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 20, 2010

CERTIFIED MAIL

Ms. Suzanne M. Fisher-Edwards, Esq. Re: Final Findings and Orders for : Raman
McMahon DeGulis LLP Pat, d.b.a. Marathon Quick Mart,
1335 Dublin Road 3594 Liberty Street, Vermilion, Lorain
Suite 216A County, Ohio
Columbus, Ohio 43215

Dear Ms. Fisher-Edwards:

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)
Donald L. Vanterpool, Legal Office
Jim Kavalec, DAPC
Ed Fasko/Tim Fischer, NEDO
Raman Patel, Marathon Quick Mart

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

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OHIO E.P.A.

APR 20 2010

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Raman Patel	:	<u>Director's Final Findings</u>
d.b.a. Marathon Quick Mart	:	<u>and Orders</u>
3594 Liberty Street	:	
Vermilion, Ohio 44089	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Raman Patel, d.b.a. Marathon Quick Mart ("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 heirs and successors in interest liable under Ohio law. No change in ownership of the 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 regulations promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a gasoline dispensing facility ("GDF") located at 3594 Liberty Street, Vermilion, 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: Dina Lassiter Date: 4-20-10

2. ORC § 3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. OAC Rules 3745-21-09(DDD) and 3745-31-02 were adopted by the Director pursuant to ORC Chapter 3704.
3. OAC Rule 3745-21-09(DDD)(1)(c) states, in part, that no owner or operator of a GDF may cause, allow, or permit the transfer of gasoline from a stationary tank at a GDF into a motor vehicle unless the vapor control system successfully passes the testing requirements contained in OAC Rule 3745-21-09(DDD)(2).
4. 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 is 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.
5. OAC Rule 3745-21-09(DDD)(3)(a)(vi) state, in part, that any owner or operator of a gasoline dispensing facility subject to the requirements of paragraph (DDD)(1) shall maintain records demonstrating proof of attendance and completion of training required by Ohio EPA for the operator or local manager of the gasoline dispensing facility.
6. On February 13, 2007, Ohio EPA conducted an inspection at this GDF to determine compliance with requirements of OAC Rule 3745-21-09(DDD). During this inspection, Ohio EPA discovered that proof of completion of Stage II training was not available, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(vi) and ORC § 3704.05(G). Also, the annual Stage II vapor control system tests were conducted during this inspection. The static leak test passed; however, the A/L ratio test failed for dispensers 1, 2 and 6. On February 22, 2007, a retest was conducted. At this time, dispenser 2 passed the A/L ratio test while dispensers 1 and 6 failed. Respondent was operating these dispensers prior to and after the failed A/L ratio tests. The failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle was a violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G). Dispensers 1 and 6 passed an A/L ratio retest on March 9, 2007.
7. By letter dated October 21, 2008, Ohio EPA notified Respondent that Respondent had failed to perform and comply with the annual testing requirements for this GDF within one year from the last test (March 9, 2007). Therefore, the Director has determined that Respondent has caused, allowed, or permitted the transfer of gasoline from a stationary storage tank into a motor vehicle without successfully passing the testing requirements contained in OAC Rule 3745-21-09(DDD)(2) and failed to perform and complete a successful passing static leak test and a passing A/L ratio test within one year from the last test (March 29, 2007), in violation of OAC Rules 3745-21-

09(DDD)(1)(c) and (2)(f) and ORC § 3704.05(G).

8. On May 26, 2009, Respondent conducted a Stage II compliance test at this GDF. The static leak test passed; however, the A/L ratio test failed for dispensers 1, 2, 5, 6, 7 and 8. Respondent was operating these dispensers prior to and after the failed A/L ratio tests. The failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle was a violation of OAC Rule 3745-21-09(DDD)(1)(c) and ORC § 3704.05(G). On June 11, 2009, Respondent passed an A/L ratio test at this GDF. Also, on June 26, 2009, Respondent submitted a permit by rule notification, to Ohio EPA, for this GDF in accordance with OAC Rule 3745-31-03(A)(4)(a).

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 to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Within thirty (30) days from the effective date of these Orders, Respondent shall submit documentation, to Ohio EPA, demonstrating the proof of attendance and completion of the training referenced in Finding No. 6 of these Orders.
2. 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 at this GDF, checking for leaks, malfunctions or 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 the 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 each year. Copies of the weekly inspection records for August 1 through October 31 shall be submitted by November 14 of each year.
3. 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 and pass 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. Respondent shall notify Ohio EPA of such testing within fourteen (14) days prior to any test. The results of these tests shall be submitted to Ohio EPA within fourteen (14) days after completion of the tests.

4. 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. Payment shall be made by official checks made payable to "Treasurer, State of Ohio" for six thousand four hundred dollars (\$6,400) of the total amount, which shall be paid in installments per the following schedule:

a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of four hundred dollars (\$400);

b. Within one hundred and twenty (120) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two thousand dollars (\$2,000);

c. Within two hundred and ten (210) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two thousand dollars (\$2,000); and

d. Within three hundred (300) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two thousand dollars (\$2,000).

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

5. In lieu of paying the remaining one thousand six hundred dollars (\$1,600) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$1,600 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 \$1,600. 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.

6. 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

5. Should Respondent fail to fund the SEP within the required time frame set forth in Order 5, Respondent shall immediately pay to Ohio EPA \$1,600 of the civil penalty in accordance with the procedures in Order 4.

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 and submitted by Respondent to Ohio EPA.

VII. OTHER CLAIMS

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

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

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

X. NOTICE

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

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

and to:

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

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

XI. RESERVATION OF RIGHTS

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

XII. WAIVER

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

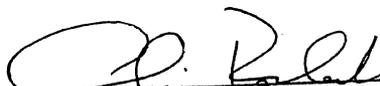
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

4/16/10
Date

AGREED:

Raman Patel, d.b.a. Marathon Quick Mart



Signature

3/31/2010
Date



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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

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

MAILING ADDRESS:

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

APR 09 2010

CERTIFIED MAIL

Mr. Kevin Farson, Owner
Complete Clearing, Inc.
510 Industrial Way
Marengo, Ohio 43334

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

Dear Mr. Farson:

My staff has informed me of violations of Ohio Administrative Code ("OAC") Rules 3745-20-03, 3745-20-04 and 3745-20-05 and ORC § 3704.05(G) associated with the demolitions in May 2008 of North Elementary School and Dawsett Elementary School previously located in Galion, Ohio. I understand that the sites have now been properly cleaned and the asbestos-containing waste materials were properly removed. Also, I have been informed that you hired an environmental service company to assure that the removal, disposal and cleanup complied with the requirements of OAC Chapter 3745-20.

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

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 environmentally beneficial project. The project involves diverting 20 percent of the total civil penalty amount to go toward funding an Ohio EPA program for the retrofitting of school buses with control equipment to reduce diesel particulate emissions. This 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 particulate emissions (i.e., particles less than 2.5 microns in diameter). A copy of information on this program is enclosed with this letter for your information.

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

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

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Mr. Kevin Farson
Complete Clearing, Inc.
Page 2 of 2

to try to negotiate a settlement, please contact Marcus Glasgow, Ohio EPA Attorney, at (614) 644-3037. If he does not hear from Complete Clearing, Inc. within fourteen (14) days of the receipt of this letter concerning its willingness to accept the Findings and Orders as currently written, or with mutually agreed upon modifications, I will consider alternative enforcement mechanisms including referral of the matter to the Ohio Attorney General's Office for legal action.

A copy of Ohio EPA's guidance document on the administrative enforcement process is enclosed for your information and to facilitate your review of the attached Findings and Orders and your understanding of the Division of Air Pollution Control's administrative enforcement process.

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

Sincerely,



Chris Korleski
Director

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Patty Porter, DAPC
Marcus Glasgow, Legal Office
Chad Delbecq/Tom Sattler, NWDO

enclosures

CK:PP:pp

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A guide to the . . .

Administrative Enforcement Process

Within the Division of Air Pollution Control

Introduction

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

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

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

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

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

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

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

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

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

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

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

What will happen at the meeting?

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

Why do I have to pay a civil penalty?

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

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

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

Who from Ohio EPA will be at the meeting?

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

Who should I bring to the meeting?

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

News releases

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

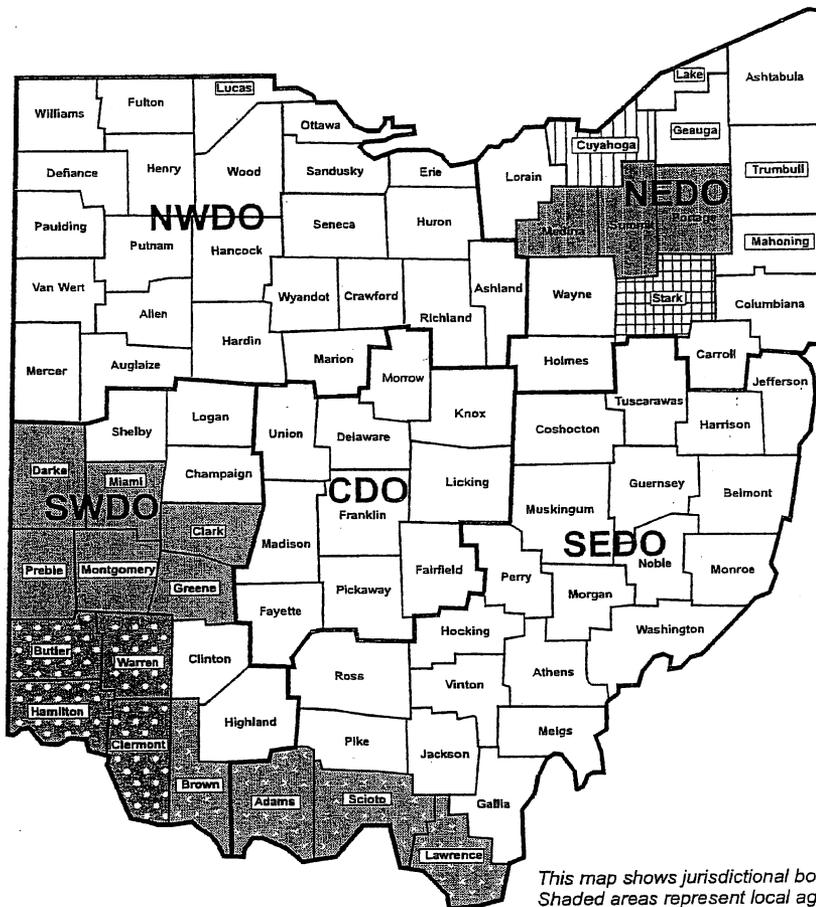
District Office and Local Air Agency Addresses and Phone Numbers

See the following pages.

Air Permit Review Agencies

Division of Air Pollution Control
Ohio EPA, Central Office
(614) 644-2270

www.epa.state.oh.us/dapc/general/dolaa.html



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

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

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

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

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

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

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

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Complete Clearing, Inc.	:	<u>Director's Final Findings</u>
510 Industrial Way	:	<u>and Orders</u>
Marengo, Ohio 43334	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

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

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent 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 is a demolition company with an office located at 510 Industrial Way in Marengo, Morrow County, Ohio. Respondent was contracted by the Galion City School District Board to demolish North Elementary School and Dawsett Elementary School, both of which are located in Galion, Ohio. Prior to demolition activities, asbestos surveys were performed and asbestos-containing materials were identified in both schools. The surveys identified regulated asbestos-containing material ("RACM"), as defined in Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(42), that had to be removed from the schools prior to demolition and Category I nonfriable asbestos-containing material, as defined in OAC Rule 3745-20-01(B)(9), that could

remain during demolition as long as steps were taken to ensure that the asbestos-containing material did not become friable. Category I non-friable asbestos-containing material at North Elementary School that was not required to be removed prior to demolition included 14,679 square feet of flooring tiles and associated mastic. Category I nonfriable asbestos-containing material at Dawsett Elementary School that was not required to be removed prior to demolition included 26,654 square feet of flooring tiles and associated mastic.

2. On April 18, 2008 and May 5, 2008, LVI Environmental Services, Inc. ("LVI"), an asbestos remediation company, sent a Notification of Demolition ("Notification") to Ohio EPA for the RACM removal at North Elementary School and Dawsett Elementary School, respectively. The Notification identified 670 linear feet of RACM on pipes and 9,658 square feet of RACM on other facility components that were to be removed from North Elementary School from May 1, 2008 to May 22, 2008 and 460 linear feet of RACM on pipes and 220 square feet of RACM on other facility components that were to be removed from Dawsett Elementary School from May 19, 2008 to May 30, 2008. Similarly, on May 19, 2008, Respondent sent Notifications for the demolitions of North Elementary and Dawsett Elementary schools, which were to be performed from May 26, 2008 to July 20, 2008 and June 9, 2008 to August 4, 2008, respectively. None of the Notifications identified Category I non-friable asbestos-containing material to be left in the facilities.

3. OAC Rule 3745-20-03(A) requires, in part, the owner or operator of a demolition operation to provide Ohio EPA with written notice of intention to perform demolition prior to starting any activity that could break up, dislodge or similarly disturb asbestos material (i.e., asbestos or any material containing asbestos). The notification must be received at least ten (10) days before such an activity begins and must contain, in part, an estimate of the amount RACM to be removed from the facility and an estimate of the approximate amount of any Category I and Category II non-friable asbestos-containing material that will not be removed before demolition. Respondent failed to identify in the Notification for the demolitions the amount of Category I non-friable asbestos-containing material to be left in the facilities during the demolitions, in violation of OAC Rule 3745-20-03(A)(4)(g) and ORC § 3704.05(G).

4. Between May 1, 2008 and May 19, 2008, LVI removed all of the asbestos-containing material from Dawsett Elementary School and North Elementary School that was identified in the April 18, 2008 notification. However, approximately 26,654 square feet of non-friable asbestos-containing material remained at Dawsett Elementary School in the form of flooring tiles and associated mastic and 14,679 square feet of asbestos-containing material in the form of flooring tiles and associated mastic remained at North Elementary School.

5. Upon completion of asbestos removal activities at North Elementary School and Dawsett Elementary School by LVI, Respondent began to perform demolition operations at both sites. At North Elementary School, as part of the

demolition operation, Respondent removed 98 to 99 percent of the Category I floor tiles and mastic. Respondent then used a portable grinder to pulverize the concrete demolition debris so it could be used as backfill material to bring the demolition site up to grade. Some of the concrete demolition debris contained the remaining (i.e., between one to two percent) asbestos-containing floor tiles and mastic. The grinding operations classified the non-friable asbestos-containing floor tiles and mastic as RACM and subject to regulation.

6. OAC Rule 3745-20-01(B)(42)(c) states that RACM means Category I nonfriable asbestos-containing material that will be or has been subjected to sanding, grinding, cutting, or abrading.

7. OAC Rule 3745-20-04(A)(1) requires that each owner or operator of a subject demolition operation to whom this rule applies to remove all RACM from a facility being demolished before any activity begins that would break up, dislodge, or similarly disturb the materials or preclude access to the materials for subsequent removal. Additionally, OAC Rule 3745-20-04(B) prohibits the handling or disturbance of RACM without at least one adequately trained authorized representative present at the site location.

8. Respondent failed to remove between one to two percent of the floor tiles and mastic from the concrete substrate previously contained in the North Elementary School. Respondent later subjected the remaining floor tiles, mastic and concrete to grinding and used the pulverized asbestos-containing waste material as site grade fill. Ohio EPA observed pieces of dry floor tiles and mastic in the fill material that Respondent generated from grinding the concrete demolition debris at the site. Sampling performed by Ohio EPA on July 1, 2008, confirmed that the floor tiles and mastic retrieved from the demolished North Elementary School contained more than one percent asbestos (i.e., friable asbestos material). In accordance with OAC Rule 3745-20-01(B)(42)(c), any category I non-friable that will be subject to grinding is classified as RACM and is required to be removed before the commencing of demolition operations. On or before July 1, 2008, Respondent failed to remove all RACM from the structure before commencing demolition operations, in violation of OAC Rule 3745-20-04(A)(1). Additionally, Respondent failed to have a representative adequately trained in the provisions of OAC Chapter 3745-20 at the site location during the disturbance and handling of the RACM, in violation of OAC Rule 3745-20-04(B).

9. OAC Rule 3745-20-05(B)(2) requires the owner or operator, who demolished a facility where asbestos was not removed prior to demolition, to keep the asbestos-containing waste material adequately wet at all times during and after demolition, and during handling, loading, transport and disposal at an active waste disposal site.

10. During the July 1, 2008, inspection at North Elementary School, Ohio EPA observed dry asbestos-containing waste material that was used as back fill material.

Respondent failed to adequately wet the asbestos-containing waste material at the North Elementary School demolition operation. Specifically, Respondent failed to adequately wet the fill material that was generated from grinding concrete material that contained floor tile and mastic, in violation OAC Rule 3745-20-05(B)(2). On July 2, 2008, Respondent started to maintain the backfill material adequately wet.

11. OAC Rule 3745-20-05(A) requires the waste generator to deposit all asbestos-containing waste material as soon as practical at either a waste disposal site in Ohio operated in accordance with the provisions of OAC Rule 3745-20-06 of the Administrative Code, or a waste disposal site not in Ohio operated in accordance with the provisions of 40 CFR 61.154, or a site that converts regulated asbestos-containing material and asbestos-containing waste material into non-asbestos (asbestos-free) material in accordance with the provisions of OAC Rule 3745-20-13. Respondent is the waste generator, as defined in OAC Rule 3745-20-01(B)(52). Therefore, Respondent was required to deposit the asbestos-containing waste material in accordance with the options specified in OAC Rule 3745-20-05(A). Respondent failed to deposit the asbestos-containing waste material in one of these options. Therefore, Respondent violated the requirements of OAC Rule 3745-20-05(A). The violation occurred from at least July 2, 2008, date of the first inspection, and continued until August 29, 2008, when the removal of contaminated waste debris was completed.

12. OAC Rule 3745-20-04(C) requires each owner or operator of a demolition operation to ensure all RACM which has been damaged or made friable by demolition is repaired, encapsulated, or removed for disposal in accordance with OAC Rule 3745-20-05, prior to the removal of emission controls.

13. On July 3, 2008, Respondent contacted Ohio EPA and indicated that the Dawsett Elementary School project also involved floor tiles and mastic similar to those found at North Elementary School. Upon inspection, Ohio EPA confirmed that floor tiles and mastic containing asbestos were at Dawsett Elementary School; however, they had not been subject to grinding. But demolition operations (i.e., equipment running over the material during the removal of demolition debris) by Respondent at the school had made at least 160 square feet of the floor tiles and mastic friable and subject to OAC Rule 3745-20-04(C). Respondent failed to ensure that the RACM that was damaged and made friable by demolition was repaired, encapsulated or removed for proper disposal prior to the removal of emission controls, in violation of OAC Rule 3745-20-04(C). Respondent also failed to have a representative adequately trained in the provisions of OAC Chapter 3745-20 at the site location during the disturbance and handling of the RACM, in violation of OAC Rule 3745-20-04(B).

14. The OAC violations cited in the above findings also constituted violations of ORC § 3704.05(G), which prohibits any person from violating any OAC rule adopted by the Director of Ohio EPA. OAC Chapter 3745-20 was adopted by the Director pursuant to ORC Chapter 3704.

15. On July 9, 2008, Ohio EPA sent notice of violation ("NOV") letters to Respondent for the above-mentioned violations. On July 16, 2008, Respondent replied to the NOVs stating that it would maintain the RACM-laced debris at North Elementary School site adequately wet and amend the May 19, 2008, notifications to include the Category I nonfriable asbestos-containing material. Respondent also stated that it planned to have the contaminated material excavated, properly bagged and hauled to an appropriate landfill under the supervision of Bureau Veritas North America, Inc., an Environmental Service Company. Respondent worked closely with Ohio EPA to develop a plan to assure that both sites were cleaned back to their original grade and that any contaminated soil was removed. On August 5, 2008, Ohio EPA approved both sites' cleanup plans. From the approval date until approximately August 28, 2008 Respondent removed the asbestos-containing waste debris. On August 28, 2008, Ohio EPA visited the North Elementary School site and observed that the site was completely excavated and all contaminated material had been removed. Similarly, Respondent maintained the damaged RACM at the Dawsett Elementary School adequately wet until it was properly removed and disposed of in accordance with OAC Chapter 3745-20. Ohio EPA conducted a final visual check on August 18, 2008, of the Dawsett Elementary School and confirmed all contamination had been removed.

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

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of thirty thousand dollars (\$30,000) 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 twenty-four thousand dollars (\$24,000) 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 six thousand dollars (\$6,000) 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 \$6,000 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund

5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$6,000. 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.

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 \$6,000 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, operations by Respondent.

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

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

X. NOTICE

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

Ohio Environmental Protection Agency
Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402-9398
Attn: Tom Sattler

and to:

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

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

XI. RESERVATION OF RIGHTS

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

XII. WAIVER

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

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

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

or modified.

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date

AGREED:

Complete Clearing, Inc.

Signature

Date

Printed or Typed Name

Title

**CIVIL PENALTY WORKSHEET FOR
ASBESTOS DEMOLITION OR RENOVATION
PROJECTS**

ENTITY NAME: **Complete Clearing, Inc.**
 LOCATION OF PROJECT: **North Elementary School and Dawsett
 Elementary School in Galion, Crawford
 County, Ohio**

Note:
 Use "Input" and "Comment" columns only for data
 entry and comments, respectively. Enter "NA" in
 input column if the requested data is not
 applicable.

Input	Initial Output	Final Output	Comment
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A. GRAVITY COMPONENT:

Note: Complete (1) or (2) and (3) and (4) below:

(1) No notice per section 3745-20-03
 First (1) Second (2) Subsequent (3) **NA**
 Must enter 1 or 2 or 3,4,5, ... or NA **\$0**

(2) No notice but substantive compliance
 First (1) Second (2) Subsequent (3) **NA**
 Must enter 1 or 2 or 3,4,5, ... or NA **\$0**

(3) Late/incomplete/inaccurate notice (see below): **1** **\$200** **The Notice did not include
 the amount of Cat. I ACM.**

(4) Substantive violations:
 First (1) Second (2) Subsequent (3) **1**
 Must enter 1 or 2 or 3,4,5, ... or NA

Number of Asbestos Units:
 (Do not enter units) auto-computed **2** **[307/160 = Total Cat. I
 material improperly
 removed from North (146.8
 = 1% x 14, 679 sq. ft.) and
 Dawsett (160 sq. ft.)
 divided by 160 sq. feet.]**

	Input	Initial Output	Final Output	Comment
Violations of rule 3745-20-04: at North Elementary School & Dawsett Elementary School	4			Violation of OAC Rule 3745-20-04(A)(1)- failure to remove all RACM prior to commencing demolition operations at North Elementary School; OAC Rule 3745-20-04(C) failure to ensure that all damaged or made friable RACM was repaired, encapsulated or removed for disposal at Dawsett Elementary School; OAC Rule 3745-20-04(B) - failure to have a trained representative on site at both schools.
Violation(s) of rule 3745-20-05: North Elementary School	2			Violation of OAC Rule 3745-20-05(B)(2)- failure to keep the asbestos-containing waste material adequately wet; violation of OAC Rule 3745-20-05(A) - failure to deposit the asbestos-containing waste material at an acceptable location.
Penalty per violation according to USEPA				
Number of sections violated:	6			
(Do not enter amount) auto-computed		\$5,000	\$30,000	< 10 units
Enter additional days violation occurred	57			From 7/2/2008 (date of inspection at North Elementary School) until August 28, 2008 (date contaminated debris was completely removed)
Penalty/additional day(autocomputed)		\$500		
Total penalty (auto computed)			\$28,500	
Size of violator:				
Must enter entity's assets or X if 0;				Estimated net worth:
Initial penalty amount (auto computed)		\$2,000		Net worth information not publicly available - therefore, the lowest amount of net worth category is assumed.
Initial preliminary deterrent amount:		\$58,700		
Penalty amount adjusted(?):			\$2,000	size of violator
TOTAL GRAVITY COMPONENT:			\$60,700	

	Input	Initial Output	Final Output	Comment
B. ECONOMIC BENEFIT COMPONENT:				
	NA			
(1) For asbestos on pipes:				
Linear feet involved in project, ft:				
Amount improperly removed:				
Dollar amount per linear foot:				
Percent improperly removed (autocomputed):		0%		NA
(2) For asbestos on other components:				
Square feet involved in project, ft:	307			Total Cat. I material improperly removed from North (146.8 = 1% x 14, 679 sq. ft.) and Dawsett (160 sq. ft.)
Amount improperly removed:	307			1% from North + 160 sq. Ft. from Dawsett
Dollar amount per Square feet :	\$20.00			
Percent improperly removed (autocomputed):		NA		Cost not estimated.
TOTAL ECONOMIC BENEFIT:			\$0	No economic benefit due to cost of cleanup.
Late, Incomplete or Inaccurate Notice				
Enter "X" if applicable				
otherwise leave as "NA" .				
Notice submitted after asbestos removal completed (tantamount to no notice)				
Amount:	NA			\$0
Notice lacks both job location and asbestos removal starting and completion dates.				
Amount:	NA			\$0
Notice submitted while asbestos removal was in progress.				
Amount:	NA			\$0
Notice lacks either job location or asbestos removal starting and completion dates				
Amount:	NA			\$0
Failure to update notice when the amount of asbestos changes by at least 20%.				
Amount:	NA			\$0
Failure to provide telephone and written notice when start date changes.				
Amount:	NA			

	Input	Initial Output	Final Output	Comment
Notice lacks either asbestos removal starting or completion dates, but not both.	NA			
Amount:			\$0	
Amount of asbestos in notice missing, improperly dimensioned, or for multiple facilities.	NA			
Amount:			\$0	
Notice lacks any other required information.	X			
Amount:			\$200	
Notice submitted late but prior to asbestos removal date.	NA			
Amount:			\$0	
Semi-Total			\$200	
C. Flexibility-Adjustment Factors:				
1. Degree of Willfulness or Negligence: Percentage augmentation of gravity component.				
2. Degree of Cooperation: Percentage mitigation of gravity component.	20%		(\$12,140)	20% mitigation for cooperation for proper cleanup of both sites and for contacting Ohio EPA concerning possible violations at the Dawsett Elementary School site.
3. History of noncompliance: Percentage augmentation of gravity component.	0%		\$0	
4. Ability to pay: Percentage mitigation of gravity component.	0%		\$0	
5. Other unique factors: Percentage mitigation or augmentation of gravity component.	30%		(\$18,210)	30% mitigation for possible reliance on LVI's notifications which failed to list Category I ACM as being left in the facilities.
Net Flexibility-Adjustment Factor:			(\$30,350)	
Total minimum settlement amount:			\$30,350	rounded to \$30,000
^The amount of Category I material is based on the revised Notifications and does not reflect the total amount of asbestos-containing material involved in the project. Penalty calculations are based on the amount of improperly removed Cat. I material.				



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 15 2010

CERTIFIED MAIL

Mr. Michael A. Kernan
1273 Redtail Hawk Ct.
Boardman, Ohio 44512

Re: Proposed Director's Final Findings and Orders for violations of air pollution control regulations

Dear Mr. Kernan:

My staff has informed me of your violations of Ohio Administrative Code ("OAC") Rules 3745-20-02(A) and 3745-20-03(A), and Ohio Revised Code ("ORC") § 3704.05(G), associated with the demolition of a commercial building at the property located at 1001 Bears Den Road, Youngstown, Ohio (Mahoning County) in February 2009. The violations involved the failure to perform an asbestos inspection of the building and submit a notification of demolition, prior to beginning the project.

In order to resolve this matter, I am proposing to issue the enclosed Findings and Orders prepared by my staff which includes a provision for the settlement of the claims for civil penalties for the violations that occurred. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Also, enclosed is an administrative enforcement process guide to facilitate your review of the proposed Findings and Orders. Because this letter and the enclosed documents summarize a proposed settlement, I consider them to be inadmissible for any purpose in any subsequent 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 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., particulates 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. Michael A. Kernan
Proposed Director's Final Findings and Orders
Page 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 mutually acceptable settlement, please contact Stephen Feldmann, 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.

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,

A handwritten signature in black ink, appearing to read "Chris Korleski". The signature is fluid and cursive, with a large initial "C" and "K".

Chris Korleski
Director

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Muhammad Mereb, DAPC
Stephen Feldmann, Legal Office
Misty Koletich/William Slanina, M-TAPCA

Enclosures

CK:MM:mm

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

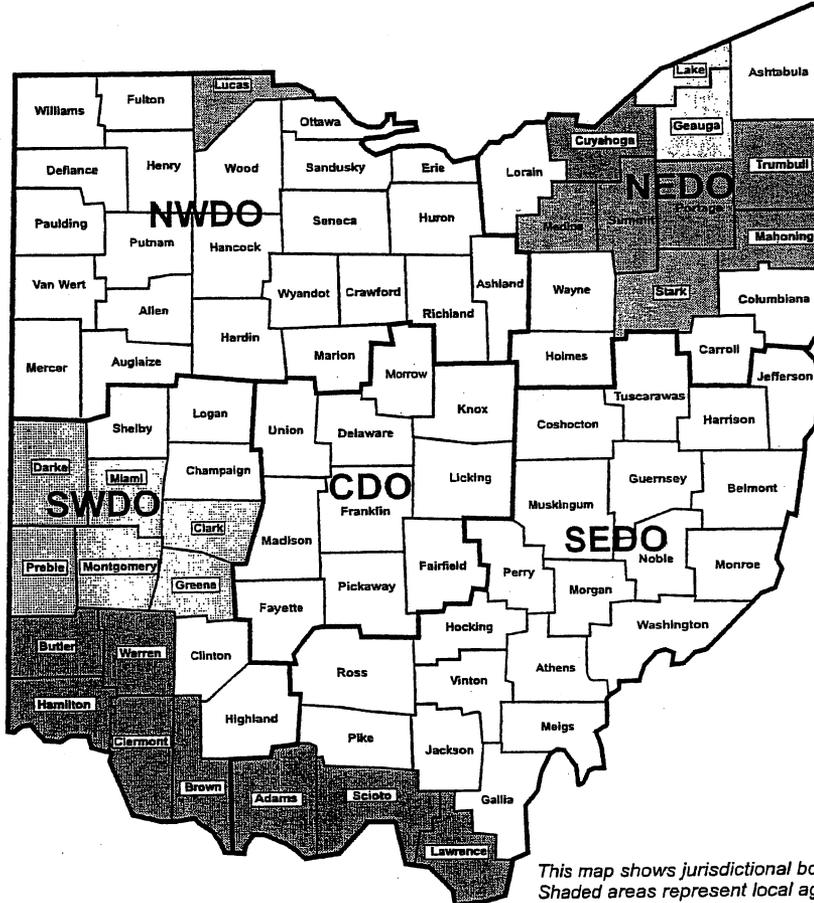
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about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



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) 728-3698
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: Malcolym@ci.akron.oh.us

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

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

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

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

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: mtapca@cboss.com

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Michael A. Kernan	:	<u>Director's Final Findings</u>
1273 Redtail Hawk Ct.	:	<u>and Orders</u>
Boardman, Ohio 44512	:	
	:	
and	:	
	:	
Salvatore Sorice, d.b.a.	:	
SMS Design and Construction, Inc.	:	
1160 Fox Den Trail	:	
Canfield, Ohio 44406	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Salvatore Sorice, d.b.a. SMS Design and Construction, Inc. and Michael A. Kernan ("Respondents") 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 Respondents and heirs and successors in interest liable under Ohio law. No change in ownership of the property (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 meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(39) defines, in part, the "owner or operator" as any person who owns, leases, operates, controls, or supervises a

Director's Final Findings and Orders

Michael A. Kernan and Salvatore Sorice, d.b.a. SMS Design and Construction, Inc.

Page 2 of 7

facility being demolished; or any person who owns leases, operates, controls or supervises the demolition of a facility; or both.

2. "Facility" as defined by OAC Rule 3745-20-01(B)(18) means any institution, commercial, public, industrial or residential structure, installation, or building including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units. Any structure, installation, or building that contains a loft used as dwelling is not considered a residential structure, installation or building. Any structure, installation or building that was previously subject to this rule due its prior use or function is not excluded, regardless of its current use or function.

3. OAC Rule 3745-20-02(A) requires that each owner or operator of a demolition or renovation operation must, prior to the commencement of such operations, have the affected facility or portion of a facility thoroughly inspected for the presence of asbestos-containing material, including Category I and Category II non-friable asbestos-containing materials as defined in OAC Rule 3745-20-01(B)(9) and (B)(10).

4. OAC Rule 3745-20-03(A) requires, in part, the owner or operator of a demolition operation, subject to the provisions of OAC Rule 3745-20-02, to provide Ohio EPA with a written notice of intention to demolish at least 10 days prior to starting any demolition work.

5. ORC § 3704.05(G) prohibits any person from violating any OAC rule adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704. OAC Chapter 3745-20 was adopted by the Director pursuant to ORC Chapter 3704.

6. Michael A. Kernan ("Respondent Kernan") is the owner of the property located at 1001 Bears Den Road, Youngstown, Mahoning County, Ohio. A commercial structure of 1,440 square feet in area was on the property.

7. Mahoning-Trumbull Air Pollution Control Agency ("M-TAPCA") is a contractual agent for Ohio EPA responsible for administering the provisions of the asbestos emission control standards in OAC Chapter 3745-20 in Mahoning County.

8. On February 5, 2009, an inspector from M-TAPCA spoke with Salvatore Sorice ("Respondent Sorice"). Respondent Sorice stated that the roof and siding of the structure were to be removed and no demolition of any load supporting walls was to take place. Respondent Sorice was informed that if the plan changes and any load supporting walls are to be removed, an asbestos survey would need to be conducted and an Ohio EPA Notification of Demolition and Renovation form would need to be submitted to M-TAPCA prior to any demolition taking place.

Director's Final Findings and Orders

Michael A. Kernan and Salvatore Sorice, d.b.a. SMS Design and Construction, Inc.

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9. On February 15, 2009, Respondent Sorice demolished the commercial structure located at 1001 Bears Den Road ("the facility").

10. On February 18, 2009, an inspector from M-TAPCA observed that the commercial building located at 1001 Bears Road had been demolished; only wood, concrete, roofing and steel siding could be observed in the debris. Respondent Sorice was on site at that time, and he stated that no asbestos survey was performed and no notification was submitted to M-TAPCA. The inspector inspected the site and did not find any suspect asbestos-containing material to sample.

11. Respondent Kernan is the owner and Respondent Sorice is the operator, as those terms are defined in OAC Rule 3745-20-01(B)(39), of the facility.

12. Respondents violated OAC Rule 3745-20-02(A) and ORC § 3704.05(G) by not inspecting the building for the presence of asbestos-containing material prior to the commencement of the demolition operation.

13. Respondents did not provide Ohio EPA with a written notice of intent to demolish at least 10 days prior to starting the demolition work, in violation of OAC Rule 3745-20-03(A) and ORC § 3704.05(G).

14. On March 13, 2009, M-TAPCA sent notice of violation ("NOV") letters to Respondents. The NOV letters cited Respondents for the above-mentioned violations and requested additional information, including the dates when demolition began and ended, identification of the demolition contractor, and any documentation of inspection if the building was inspected prior to demolition.

15. On March 19, 2009, M-TAPCA received a notification of demolition and renovation form from Respondent Sorice. Demolition was checked as the type of operation. Respondent Kernan was listed as the owner, and Respondent Sorice as the demolition operator. The scheduled dates of demolition were from February 15, 2009 to February 16, 2009. The notification form did not provide any information on the amount of asbestos-containing material in the structure. The quantity of asbestos cannot be determined for this commercial facility due to the lack of a complete and thorough survey prior to demolition.

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

V. ORDERS

The Director hereby issues the following Orders:

1. Respondents shall pay the amount of seventeen thousand dollars (\$17,000) 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 thirteen thousand and six hundred dollars (\$13,600) of the total amount. 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

2. In lieu of paying the remaining three thousand and four hundred dollars (\$3,400) of the civil penalty, Respondents 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 \$3,400 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondents shall tender an official check made payable to "Treasurer, State of Ohio" for \$3,400. 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.

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 Respondents fail to fund the SEP within the required time frame set forth in Order 2, Respondents shall immediately pay to Ohio EPA \$3,400 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

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

VII. OTHER CLAIMS

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

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 pursuant to these Orders shall be addressed to:

Mahoning-Trumbull Air Pollution Control Agency
Oakhill Renaissance Place
2nd Floor – Room 25
345 Oak Hill Avenue
Youngstown, Ohio 44502
Attn: William Slanina

and to:

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Ohio Environmental Protection Agency
Division of Air Pollution Control
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 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 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 hereby 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 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 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:

Michael A. Kernan

Signature

Date

**Salvatore Sorice, d.b.a. SMS Design and
Construction, Inc.**

Signature

Date

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

ENTITY NAME: Michael A. Kernan and Salvatore Sorice, d.b.a. SMS design and Construction, Inc.
LOCATION(S) OF VIOLATION(S): 1001 Bears Den Road
 Youngstown, Ohio 44511 (Mahoning County)

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
A. ECONOMIC BENEFIT COMPONENT:				
(1) For asbestos on pipes-				
Linear feet involved in project, ft:	0			
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	
(2) For asbestos on other components				
(a) Square feet involved in project, ft:				
Amount improperly removed:	0			
Dollar amount per Square foot:	0			
Percent improperly removed (auto-computed):		0.00%		
Penalty amount: (Do not enter, auto-computed)			\$0	
(b) Cubic feet involved in project, ft:				
Amount improperly removed:	0			
Dollar amount per cubic foot:	0			
Percent improperly removed (auto-computed):		0.00%		
Penalty amount: (Do not enter, auto-computed)			\$0	
TOTAL ECONOMIC BENEFIT:				
			\$0	
B. GRAVITY COMPONENT:				
Note: Complete appropriate sections only.				
1. No notice per section 3745-20-03				
Enter 1 for first, 2 for second, 3 for subsequent				
Must enter 1 or 2 or 3, 4, 5, ... or NA	1			
Penalty amount: (Do not enter, auto-computed)			\$15,000	No asbestos inspection was performed and no notice was submitted prior to the demolition work done on 2/15-2/16/2009.
2. No notice but substantive compliance				
First (1) Second (2) Subsequent (3)				
Must enter 1 or 2 or 3, 4, 5, ... or NA	NA			
Penalty amount: (Do not enter, auto-computed)			\$0	

<p>3. Late/incomplete/inaccurate notice See B.9 below: <i>Penalty amount: (auto-computed in B.9)</i></p>										
<p>4. Substantive violations</p> <p>First (1) Second (2) Subsequent (3) Must enter 1 or 2 or 3, 4, 5, ... or NA</p>	<p>1</p>		<p>0.00</p>							<p>Not applicable, since the amount of ACM could not be determined.</p>
<p>5. Number of Asbestos Units: <i>(Do not enter units) auto-computed</i></p>			<p>\$0</p>							
<p>6. work practice requirements: [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>Penalty per violation according to USEPA : Number of sections violated: <i>Penalty amount: (Do not enter, auto-computed)</i></p>			<p>\$0</p>							
<p>7. Additional day(s) violation(s) Occurred:</p> <p>(a) OAC Rule 3745-20-05(B)(1)(a) <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>(b) OAC Rule 3745-20-05(B)(1)(c) <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>(c) OAC Rule 3745-20-05(C)(1) <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>(d) OAC Chapter 3745-20-05(C)(2) <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>(e) OAC Chapter 3745-20-04 <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>\$0</p>							

8. Size of violator(SV): Must enter entity's assets or X if 0:	Initial unadjusted SV penalty (auto-computed)	ECOBEN + Gravity- unadjusted SV penalty: (auto-computed)	Actual SV penalty amount: (adjusted?; auto-computed)	Lowest level of penalty has been assigned since net current assets of both parties are unknown.
	\$1	\$2,000	\$15,000	
9. Late, Incomplete or Inaccurate Notice				
(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	NA			\$0
Penalty amount: (Do not enter, auto-computed)				
Below, enter "X" if applicable otherwise leave as "NA"				
(Also in sections (b) to (j) below, only one-time penalty is allowed. Therefore, choose the highest penalty and leave the rest as NA)				
(b) Notice lacks both job location and asbestos removal starting and completion dates.	NA			\$0
Penalty amount: (Do not enter, auto-computed)				
(c) Notice submitted while asbestos removal was in progress.	NA			\$0
Penalty amount: (Do not enter, auto-computed)				
(d) Notice lacks either job location or asbestos removal starting and completion dates	NA			\$0
Penalty amount: (Do not enter, auto-computed)				
(e) Failure to update notice when the amount of asbestos changes by at least 20%.	NA			\$0
Penalty amount: (Do not enter, auto-computed)				
(f) Failure to provide telephone and written notice when start date changes.	NA			\$0
Penalty amount: (Do not enter, auto-computed)				
(g) Notice lacks either asbestos removal starting or completion dates, but not both.	NA			\$0
Penalty amount: (Do not enter, auto-computed)				
(h) Amount of asbestos in notice missing, improperly dimensioned, or for multiple facilities.	NA			\$0
Penalty amount: (Do not enter, auto-computed)				
(i) Notice lacks any other required information.	NA			\$0
Penalty amount: (Do not enter, auto-computed)				

(i) Notice submitted late but prior to asbestos removal starting date.

Penalty amount: (Do not enter, auto-computed)

	NA		\$0
10. TOTAL GRAVITY COMPONENT (GC):		\$17,000	\$17,000
11. Preliminary deterrent amount (PDA): (sum of benefit and gravity components)		\$17,000.00	
C. FLEXIBILITY ADJUSTMENT FACTOR (GC only): All augmentation (+) and mitigation (-) in decimal:			
1. Degree of Willfulness or Negligence: Percentage augmentation of gravity component Penalty amount: (Do not enter, auto-computed)	0%		\$0
2. Degree of Cooperation: Percentage mitigation of gravity component Penalty amount: (Do not enter, auto-computed)	0%		\$0
3. History of noncompliance: Percentage augmentation of gravity component Penalty adjustment: (auto-computed)	0%		\$0
4. Ability to pay: Percentage mitigation of gravity component Penalty adjustment: (auto-computed)	0%		\$0
5. Other unique factors: Percentage mitigation or augmentation of gravity component Penalty adjustment: (auto-computed)	0%		\$0
6. Net Flexibility-Adjustment Factor (NAF):			\$0
Total minimum settlement amount: (PDA+NAF+AC)		\$17,000.00	\$17,000.00



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 15 2010

CERTIFIED MAIL

Mr. Salvatore Sorice, d.b.a.
SMS Design and Construction, Inc.
1160 Fox Den Trail
Canfield, Ohio 44406

Re: Proposed Director's Final Findings and Orders for violations of air pollution control regulations

Dear Mr. Sorice:

My staff has informed me of your violations of Ohio Administrative Code ("OAC") Rules 3745-20-02(A) and 3745-20-03(A), and Ohio Revised Code ("ORC") § 3704.05(G), associated with the demolition of a commercial building at the property located at 1001 Bears Den Road, Youngstown, Ohio (Mahoning County) in February 2009. The violations involved the failure to perform an asbestos inspection of the building and submit a notification of demolition, prior to beginning the project.

In order to resolve this matter, I am proposing to issue the enclosed Findings and Orders prepared by my staff which includes a provision for the settlement of the claims for civil penalties for the violations that occurred. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Also, enclosed is an administrative enforcement process guide to facilitate your review of the proposed Findings and Orders. Because this letter and the enclosed documents summarize a proposed settlement, I consider them to be inadmissible for any purpose in any subsequent 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 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., particulates 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. Salvatore Sorice, d.b.a.
SMS Design and Construction, Inc.
Proposed Director's Final Findings and Orders
Page 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 mutually acceptable settlement, please contact Stephen Feldmann, 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.

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

Sincerely,



Chris Korleski
Director

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Muhammad Mereb, DAPC
Stephen Feldmann, Legal Office
Misty Koletich/William Slanina, M-TAPCA

Enclosures

CK:MM:mm

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

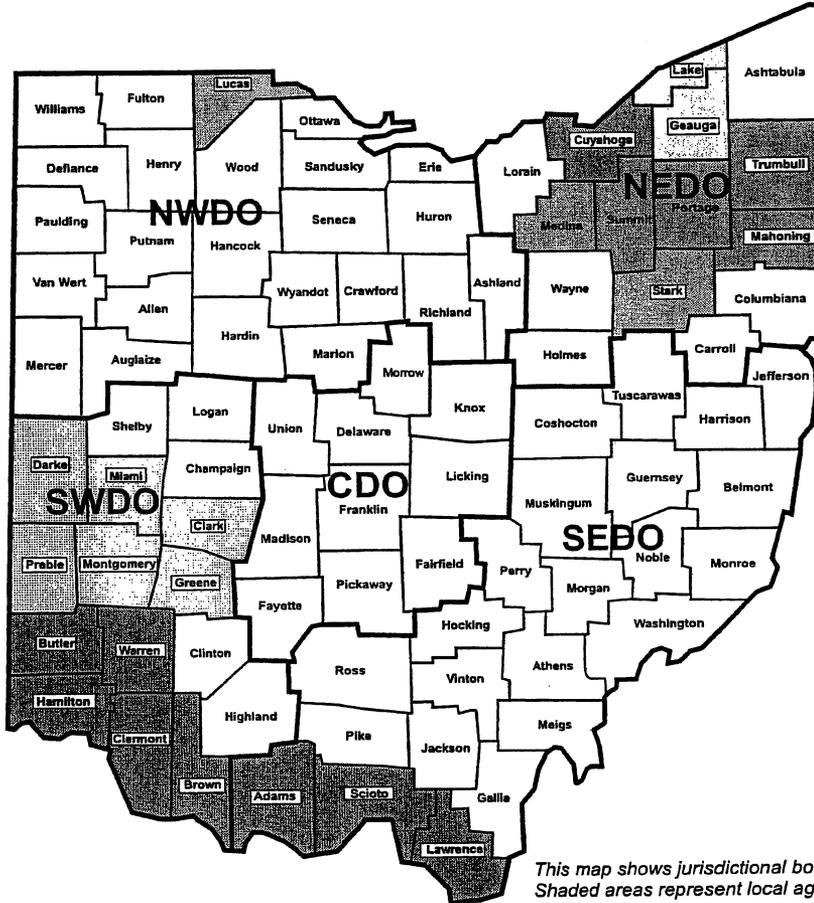
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about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



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

16 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

15 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

14 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

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

08 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

20 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@icghd.org

07 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

04 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

21 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: mtapca@cboss.com

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Michael A. Kernan	:	<u>Director's Final Findings</u>
1273 Redtail Hawk Ct.	:	<u>and Orders</u>
Boardman, Ohio 44512	:	
	:	
and	:	
	:	
Salvatore Sorice, d.b.a.	:	
SMS Design and Construction, Inc.	:	
1160 Fox Den Trail	:	
Canfield, Ohio 44406	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Salvatore Sorice, d.b.a. SMS Design and Construction, Inc. and Michael A. Kernan ("Respondents") 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 Respondents and heirs and successors in interest liable under Ohio law. No change in ownership of the property (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 meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(39) defines, in part, the "owner or operator" as any person who owns, leases, operates, controls, or supervises a

Director's Final Findings and Orders

Michael A. Kernan and Salvatore Sorice, d.b.a. SMS Design and Construction, Inc.

Page 2 of 7

facility being demolished; or any person who owns leases, operates, controls or supervises the demolition of a facility; or both.

2. "Facility" as defined by OAC Rule 3745-20-01(B)(18) means any institution, commercial, public, industrial or residential structure, installation, or building including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units. Any structure, installation, or building that contains a loft used as dwelling is not considered a residential structure, installation or building. Any structure, installation or building that was previously subject to this rule due its prior use or function is not excluded, regardless of its current use or function.

3. OAC Rule 3745-20-02(A) requires that each owner or operator of a demolition or renovation operation must, prior to the commencement of such operations, have the affected facility or portion of a facility thoroughly inspected for the presence of asbestos-containing material, including Category I and Category II non-friable asbestos-containing materials as defined in OAC Rule 3745-20-01(B)(9) and (B)(10).

4. OAC Rule 3745-20-03(A) requires, in part, the owner or operator of a demolition operation, subject to the provisions of OAC Rule 3745-20-02, to provide Ohio EPA with a written notice of intention to demolish at least 10 days prior to starting any demolition work.

5. ORC § 3704.05(G) prohibits any person from violating any OAC rule adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704. OAC Chapter 3745-20 was adopted by the Director pursuant to ORC Chapter 3704.

6. Michael A. Kernan ("Respondent Kernan") is the owner of the property located at 1001 Bears Den Road, Youngstown, Mahoning County, Ohio. A commercial structure of 1,440 square feet in area was on the property.

7. Mahoning-Trumbull Air Pollution Control Agency ("M-TAPCA") is a contractual agent for Ohio EPA responsible for administering the provisions of the asbestos emission control standards in OAC Chapter 3745-20 in Mahoning County.

8. On February 5, 2009, an inspector from M-TAPCA spoke with Salvatore Sorice ("Respondent Sorice"). Respondent Sorice stated that the roof and siding of the structure were to be removed and no demolition of any load supporting walls was to take place. Respondent Sorice was informed that if the plan changes and any load supporting walls are to be removed, an asbestos survey would need to be conducted and an Ohio EPA Notification of Demolition and Renovation form would need to be submitted to M-TAPCA prior to any demolition taking place.

Director's Final Findings and Orders

Michael A. Kernan and Salvatore Sorice, d.b.a. SMS Design and Construction, Inc.

Page 3 of 7

9. On February 15, 2009, Respondent Sorice demolished the commercial structure located at 1001 Bears Den Road ("the facility").

10. On February 18, 2009, an inspector from M-TAPCA observed that the commercial building located at 1001 Bears Road had been demolished; only wood, concrete, roofing and steel siding could be observed in the debris. Respondent Sorice was on site at that time, and he stated that no asbestos survey was performed and no notification was submitted to M-TAPCA. The inspector inspected the site and did not find any suspect asbestos-containing material to sample.

11. Respondent Kernan is the owner and Respondent Sorice is the operator, as those terms are defined in OAC Rule 3745-20-01(B)(39), of the facility.

12. Respondents violated OAC Rule 3745-20-02(A) and ORC § 3704.05(G) by not inspecting the building for the presence of asbestos-containing material prior to the commencement of the demolition operation.

13. Respondents did not provide Ohio EPA with a written notice of intent to demolish at least 10 days prior to starting the demolition work, in violation of OAC Rule 3745-20-03(A) and ORC § 3704.05(G).

14. On March 13, 2009, M-TAPCA sent notice of violation ("NOV") letters to Respondents. The NOV letters cited Respondents for the above-mentioned violations and requested additional information, including the dates when demolition began and ended, identification of the demolition contractor, and any documentation of inspection if the building was inspected prior to demolition.

15. On March 19, 2009, M-TAPCA received a notification of demolition and renovation form from Respondent Sorice. Demolition was checked as the type of operation. Respondent Kernan was listed as the owner, and Respondent Sorice as the demolition operator. The scheduled dates of demolition were from February 15, 2009 to February 16, 2009. The notification form did not provide any information on the amount of asbestos-containing material in the structure. The quantity of asbestos cannot be determined for this commercial facility due to the lack of a complete and thorough survey prior to demolition.

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

V. ORDERS

The Director hereby issues the following Orders:

1. Respondents shall pay the amount of seventeen thousand dollars (\$17,000) 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 thirteen thousand and six hundred dollars (\$13,600) of the total amount. 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

2. In lieu of paying the remaining three thousand and four hundred dollars (\$3,400) of the civil penalty, Respondents 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 \$3,400 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondents shall tender an official check made payable to "Treasurer, State of Ohio" for \$3,400. 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.

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 Respondents fail to fund the SEP within the required time frame set forth in Order 2, Respondents shall immediately pay to Ohio EPA \$3,400 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

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

VII. OTHER CLAIMS

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

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 pursuant to these Orders shall be addressed to:

Mahoning-Trumbull Air Pollution Control Agency
Oakhill Renaissance Place
2nd Floor – Room 25
345 Oak Hill Avenue
Youngstown, Ohio 44502
Attn: William Slanina

and to:

Director's Final Findings and Orders
Michael A. Kernan and Salvatore Sorice, d.b.a. SMS Design and Construction, Inc.
Page 6 of 7

Ohio Environmental Protection Agency
Division of Air Pollution Control
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 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 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 hereby 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 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 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:

Michael A. Kernan

Signature

Date

**Salvatore Sorice, d.b.a. SMS Design and
Construction, Inc.**

Signature

Date

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

ENTITY NAME: Michael A. Kernan and Salvatore Sorice, d.b.a. SMS design and Construction, Inc.
LOCATION(S) OF VIOLATION(S): 1001 Bears Den Road
 Youngstown, Ohio 44511 (Mahoning County)

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
A. ECONOMIC BENEFIT COMPONENT:				
(1) For asbestos on pipes-				
Linear feet involved in project, ft:	0			
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	
(2) For asbestos on other components				
(a) Square feet involved in project, ft:	0			
Amount improperly removed:	0			
Dollar amount per Square foot:	\$0			
Percent improperly removed (auto-computed):		0.00%		
Penalty amount: (Do not enter, auto-computed)			\$0	
(b) Cubic feet involved in project, ft:	0			
Amount improperly removed:	0			
Dollar amount per cubic foot:	\$0			
Percent improperly removed (auto-computed):		0.00%		
Penalty amount: (Do not enter, auto-computed)			\$0	
TOTAL ECONOMIC BENEFIT:				
			\$0	
B. GRAVITY COMPONENT:				
<i>Note:</i> Complete appropriate sections only.				
1. No notice per section 3745-20-03				
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)			\$15,000	
No asbestos inspection was performed and no notice was submitted prior to the demolition work done on 2/15-2/16/2009.				
2. No notice but substantive compliance				
First (1) Second (2) Subsequent (3)				
Must enter 1 or 2 or 3, 4, 5, ... or NA				
Penalty amount: (Do not enter, auto-computed)			\$0	

<p>3. Late/incomplete/inaccurate notice See B.9 below: <i>Penalty amount: (auto-computed in B.9)</i></p>															
<p>4. Substantive violations</p>	<p>First (1) Second (2) Subsequent (3) Must enter 1 or 2 or 3, 4, 5, ... or NA</p>	<p>1</p>	<p>0.00</p>												
<p>5. Number of Asbestos Units: <i>(Do not enter units) auto-computed</i></p>															
<p>6. work practice requirements: [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>Penalty per violation according to USEPA: Number of sections violated: <i>Penalty amount: (Do not enter, auto-computed)</i></p>															
<p>7. Additional day(s) violation(s) Occurred:</p>															
<p>(a) OAC Rule 3745-20-05(B)(1)(a) <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>(b) OAC Rule 3745-20-05(B)(1)(c) <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>(c) OAC Rule 3745-20-05(C)(1) <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>(d) OAC Chapter 3745-20-05(C)(2) <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>(e) OAC Chapter 3745-20-04 <i>Penalty/additional day(auto-computed)</i> Enter additional days this rule was violated <i>Penalty amount: (Do not enter, auto-computed)</i></p>															

(j) Notice submitted late but prior to asbestos removal starting date. <i>Penalty amount: (Do not enter, auto-computed)</i>	NA	\$0
10. TOTAL GRAVITY COMPONENT (GC):		\$17,000
11. Preliminary deterrent amount (PDA): <i>(sum of benefit and gravity components)</i>	\$17,000.00	
C. FLEXIBILITY ADJUSTMENT FACTOR (GC only): All augmentation (+) and mitigation (-) in decimal:		
1. Degree of Willfulness or Negligence: Percentage augmentation of gravity component <i>Penalty amount: (Do not enter, auto-computed)</i>	0%	\$0
2. Degree of Cooperation: Percentage mitigation of gravity component <i>Penalty amount: (Do not enter, auto-computed)</i>	0%	\$0
3. History of noncompliance: Percentage augmentation of gravity component <i>Penalty adjustment: (auto-computed)</i>	0%	\$0
4. Ability to pay: Percentage mitigation of gravity component <i>Penalty adjustment: (auto-computed)</i>	0%	\$0
5. Other unique factors: Percentage mitigation or augmentation of gravity component <i>Penalty adjustment: (auto-computed)</i>	0%	\$0
6. Net Flexibility-Adjustment Factor (NAF):		\$0
Total minimum settlement amount: <i>(PDA+NAF+AC)</i>		\$17,000.00



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 22 2010

CERTIFIED MAIL

Mr. Peter Huggins
President
Iten Industries, Inc., Plant 1
P.O. Box 2150
Ashtabula, Ohio 44005

Re: Proposed Director's Final Findings and Orders for violations of air pollution control regulations

Dear Mr. Huggins:

My staff has informed me of the violations of OAC Rules 3745-21-09(B)(6), former 3745-21-07(G)(2) and (G)(6)(a), and 3745-21-07(M), the Title V permit and ORC § 3704.05(G) and (J)(2) associated with the failure to maintain compliance with the overall VOC control efficiency limitation and the destruction efficiency limitation for the thermal oxidizer serving emissions units K001, K002, K003, K004, and P003 from December 28, 2007 to July 17, 2008 at Plant 1 of Iten Industries, Inc. in Ashtabula County, Ohio. I understand that the likely cause of the reduced efficiencies has been identified, corrective action has been taken, and efficiencies have returned to compliance.

In order to resolve this matter, I am proposing to issue the enclosed Findings and Orders prepared by my staff which includes a provision for the settlement of the claims for civil penalties for the violations that occurred. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Also, enclosed is an administrative enforcement process guide to facilitate your review of the proposed Findings and Orders. Because this letter and the enclosed documents summarize a proposed settlement, I consider them to be inadmissible for any purpose in any subsequent 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 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

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

Ohio EPA is an Equal Opportunity Employer

Mr. Peter Huggins, President
Iten industries, Inc., Plant 1
Proposed Director's Final Findings and Orders
Page 2

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

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

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

Sincerely,



Chris Korleski
Director

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Muhammad Mereb, DAPC
Stephen Feldmann, Legal Office
Tim Fischer/Tony Becker, NEDO

Enclosures

CK:MM:mm

A guide to the . . .

Administrative Enforcement Process

Within the Division of Air Pollution Control

Introduction

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

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

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

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

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

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

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

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

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

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

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

What will happen at the meeting?

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

Why do I have to pay a civil penalty?

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

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

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

Who from Ohio EPA will be at the meeting?

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

Who should I bring to the meeting?

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

News releases

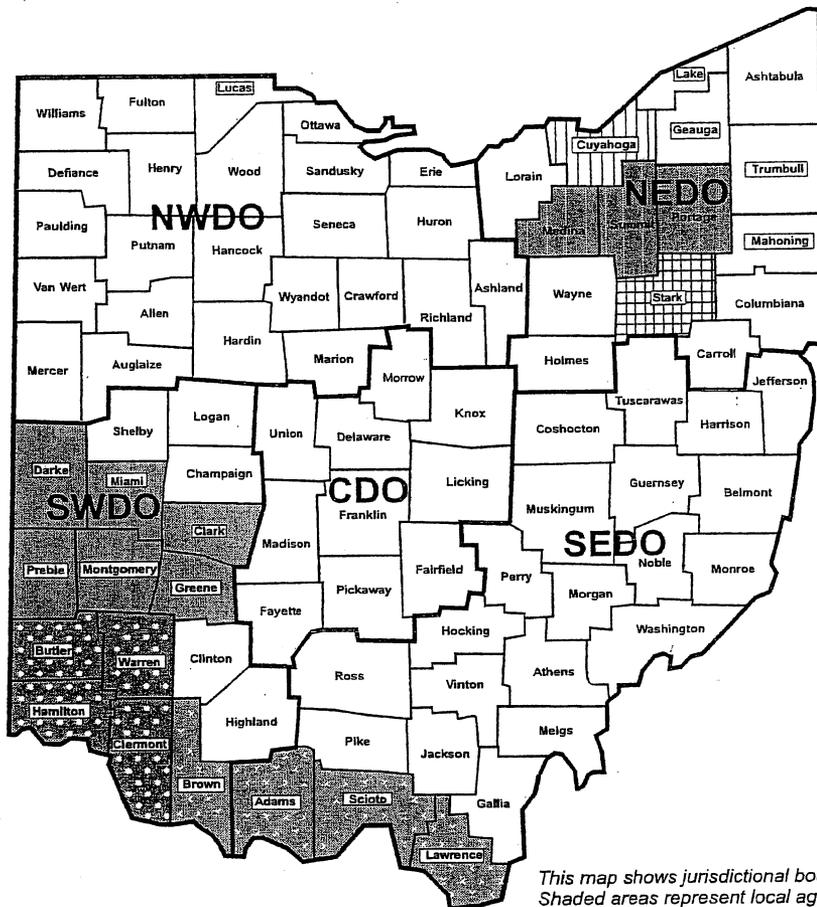
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about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

District Office and Local Air Agency Addresses and Phone Numbers

See the following pages.

Air Permit Review Agencies

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Iten Industries, Inc. (Plant 1)	:	<u>Director's Final Findings</u>
4001 Benefit Avenue	:	<u>and Orders</u>
Ashtabula, Ohio 44005	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

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

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the 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 facility called Plant 1 and located at 4001 Benefit Avenue, Ashtabula in Ashtabula County, Ohio. At the facility, Respondent manufactures thermoplastic and thermoset plastic parts. Five emissions units ("EUs"), which are identified in the following table, are among the EUs at the facility, and they are all controlled by a common thermal oxidizer:

EU ID	Company ID	Company Description	Installation Date
K001	Treater #2	Egan treater for paper and fabric coating with phenolic and epoxy resins	03/01/1973
K002	Treater #1	Egan treater for paper and fabric coating with phenolic and epoxy resins	03/01/1961
K003	Treater #3	Epoxy and phenolic resin coating of paper and fabric	08/01/1982
K004	Treater #4	Epoxy and melamine coating of fiberglass fabric	02/01/1991
P003	Phenolic Resin Mixing	Phenolic resin and epoxy resin mixing for use at treaters	03/01/1968

EUs K001, K002, K003, K004 and P003 are each an "air contaminant source" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X).

2. OAC Rule 3745-21-09(B)(6) states, in part, that in lieu of complying with the pounds of volatile organic compounds ("VOCs") per gallon of solids limitations in OAC Rule 3745-21-09(F) and (G), any owner or operator of such a coating line that employs a control system may choose to demonstrate that the capture and control equipment provide not less than 81 percent reduction, by weight, in the overall VOC emissions from the coating line and that the control equipment has an efficiency of not less than 90 percent, by weight, for the VOC emissions vented to the control equipment. Respondent selected to comply with OAC Rule 3745-21-09(B)(6).

3. Prior to February 18, 2008, OAC Rule 3745-21-07(G)(2) stated, in part, that a person shall not discharge more than 40 pounds of organic material into the atmosphere in any one day, nor more than 8 pounds in any one hour, from any article, machine, equipment, or other contrivance, unless said discharge has been reduced by at least 85 percent, by weight.

4. Prior to February 18, 2008, OAC Rule 3745-21-07(G)(6)(a) stated, in part, that if emissions of organic materials into the atmosphere are to be reduced pursuant to OAC Rule 3745-21-07(G)(2) by incineration, then 90 percent or more of the carbon in the organic material being incinerated must be oxidized to carbon dioxide.

5. On and after February 18, 2008, OAC Rule 3745-21-07(M)(1) and (M)(2) replaced the requirements of OAC Rule 3745-21-07(G)(2) and (G)(6) for EU P003. For EU P003, OAC Rule 3745-21-07(M)(1) indicates that such unit is subject to the control requirements of OAC Rule 3745-21-07(M)(2). OAC Rule 3745-21-07(M)(2) specifies that EU P003 shall be equipped with capture and control equipment that reduces the organic compound emissions from such unit by an overall control efficiency of at least 85 percent, by weight. Furthermore, that rule specifies that, if the reductions are obtained by incineration, then 90 percent or more of the carbon in the organic material being incinerated must be oxidized to carbon dioxide. Respondent employs an incineration

system to control organic material emissions and, therefore, is subject to the 90 percent oxidation requirements.

6. A Title V permit was issued by Ohio EPA for the facility on December 31, 2002, became effective on January 16, 2003, and expired on January 16, 2008. The terms and conditions of the expired Title V permit remain in effect until final action is taken by the Director on Respondent's timely filed renewal Title V application, pursuant to OAC Rule 3745-77-06(A).

7. The terms and conditions of the Title V permit for the facility specify that Respondent maintain EUs K001, K002, K003, and K004 in compliance with at least the minimum allowable overall VOC emission control efficiency and at least the minimum allowable VOC control efficiency of OAC Rule 3745-21-09(B)(6) in lieu of the requirements of OAC Rule 3745-21-09(F) and (G).

8. The terms and conditions of the Title V permit for the facility specify that Respondent maintain EU P003 in compliance with at least the minimum allowable overall organic material reduction efficiency and at least the minimum allowable organic material destruction efficiency of OAC Rules 3745-21-07(G)(2) and 3745-21-07(G)(6)(a), respectively.

9. The testing requirements for EUs K001, K002, K003, and K004 under Part III of the Title V permit state, in part, that the emission testing shall be conducted within 3 months after permit issuance and within 6 months prior to permit expiration. The emission testing shall be conducted to demonstrate compliance with OAC Rule 3745-21-09(B)(6). Specifically, testing shall demonstrate at least an 81 percent overall reduction of VOCs emitted by the emissions units and at least a 90 percent destruction of the VOCs that enter the thermal oxidizer. The tests shall be conducted while the EUs K001, K002, K003, K004, and P003 are operating at or near their maximum capacities, unless otherwise specified or approved by Northeast District office of Ohio EPA ("NEDO").

10. The testing requirements for EU P003 under Part III of the Title V permit state, in part, that Respondent was to conduct emission testing within 3 months after permit issuance and within 6 months prior to permit expiration. The emission testing shall be conducted to demonstrate compliance with OAC Rules 3745-21-07(G)(2) and 3745-21-07(G)(6)(a). Specifically, testing shall demonstrate at least an 85 percent reduction, by weight, in the organic material emitted by emissions units K001, K002, K003, K004 and P003 and at least a 90 percent destruction of the organic material that enters the thermal oxidizer. The tests shall be performed while EUs K001, K002, K003, K004, and P003 are operating at or near their maximum capacities, unless otherwise specified or approved by NEDO.

11. On November 23, 2007, NEDO received an intent-to-test notification form from Respondent. Respondent indicated that it would conduct performance tests on EUs

K001, K002, K004, and P003 on December 28, 2007. Respondent's Title V permit that expired on January 16, 2008, required Respondent to conduct emissions testing on EUs K001, K002, K003, and K004 within 6 months of the expiration date of the permit.

12. EU K003 was not included in the intent-to-test notification form because, on December 13, 2007, Respondent sent a request to NEDO to restrict operations at its facility by allowing only three of the four EUs (K001, K002, K003, and K004) to operate at any given time, and to exempt EU K003 from Title V performance testing because it is rarely used and has only 69 percent of the capacity of the other three EUs due to its width limitation. It was also indicated that Respondent has historically operated only three treaters at any one time. On February 25, 2008, the Director of Ohio EPA sent a letter to Respondent granting the exemption of EU K003 from Title V performance testing and to restrict the operations to three of the four treaters at any one time.

13. On December 28, 2007, Respondent conducted a performance test on EUs K001, K002, K004 and P003. Since the four EUs are controlled by a common thermal oxidizer the test consisted of three 1-hour sampling runs of the oxidizer inlet and outlet. Since the emissions units are completely enclosed, the overall efficiency equals the destruction efficiency for each run. NEDO received the stack test report on March 18, 2008. The VOC destruction efficiencies for the three 1-hour sampling runs were 77.7 percent, 73.7 percent, and 75.2 percent (an average of 75.5 percent). The following table shows the average efficiencies in comparison to the limits:

	VOC emissions from EUs K001, K002, and K004		OC emissions from EU P003	
	Allowable	Average	Allowable	Average
Overall control efficiency	≥ 81%	75.5%	≥ 85%	75.5%
Destruction efficiency	≥ 90%	75.5%	≥ 90%	75.5%

14. Respondent failed to comply with the overall control efficiency and destruction efficiency associated with EUs K001, K002, K004, and P003, in violation of OAC Rule 3745-21-09(B)(6), former Rule 3745-21-07(G)(2), former Rule 3745-21-07(G)(6) and Rule 3745-21-07(M)(2), Title V permit terms and conditions, and ORC § 3704.05(G) and (J)(2).

15. On April 18, 2008, NEDO sent a notice of violation ("NOV") letter to Respondent for failing to meet the overall control and destruction efficiency limits and requested a compliance plan and schedule.

16. On April 29, 2008, NEDO received Respondent's compliance plan. Respondent indicated that the problem was cracks in several of the VOC pre-heater tube bundles within the unit prior to VOC combustion and these cracks allowed uncombusted emissions to escape to the egress point. Respondent anticipated repairs to be completed within 30 days. In a letter dated August 10, 2009, Respondent indicated that the thermal

oxidizer was shut down from May 18, 2008 through May 28, 2008 for major repairs.

17. On June 4, 2008, NEDO received an intent-to-test notification form from Respondent for the re-test after the repairs.

18. On July 17, 2008, Respondent conducted a performance test on EUs K001, K002, K004 and P003. Since the four EUs are controlled by a common thermal oxidizer, the test consisted of three 1-hour sampling runs of the oxidizer inlet and outlet. Since the emissions units are completely enclosed, the overall efficiency equals the destruction efficiency for each run. NEDO received the stack test report on August 18, 2008. The VOC destruction efficiency of the three 1-hour sampling runs were 98.62 percent, 98.70 percent, and 97.73 percent (an average of 98.68 percent). The following table shows the average efficiencies in comparison to the limits:

	VOC emissions from EUs K001, K002, and K004		OC emissions from EU P003	
	Allowable	Average	Allowable	Average
Overall control efficiency	≥ 81%	98.68%	≥ 85%	98.68%
Destruction efficiency	≥ 90%	98.68%	≥ 90%	98.68%

19. Based on the results of the compliance re-test results, NEDO sent a return-to-compliance letter to Respondent on September 23, 2008.

20. 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 pay the amount of fifty-seven thousand dollars (\$57,000) 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 forty-five thousand and six hundred dollars (\$45,600) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

2. In lieu of paying the remaining eleven thousand and four hundred dollars (\$11,400) 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 \$11,400 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$11,400. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

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 \$11,400 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, operations by Respondent.

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

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

X. NOTICE

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

Northeast District Office
Ohio Environmental Protection Agency
2110 East Aurora Rd.
Twinsburg, Ohio 44087
Attn: Tony Becker

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
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

Date

AGREED:

Iten Industries, Inc.

Signature

Date

Printed or Typed Name

Title

AIR CIVIL PENALTY WORK SHEET
Iten Industries, Inc.
(for settlement purposes only)

COMPONENT	SUBTOTAL	TOTAL	COMMENT
A. Benefit Component:	<u>\$0</u>	<u>\$0</u>	not applicable.
B. Gravity Component:			
1. Actual or possible harm:			
a. Amount above standard	<u>\$25,000</u>		Average VOC destruction efficiency was 75.5%. Allowable destruction efficiency is 90%. Amount above standard is $[(24.5 - 10) / 10] \times 100 = 145\%$.
b. Toxicity of pollutant	<u>\$0</u>		not applicable.
c. Sensitivity of environment	<u>\$10,000</u>		Ashtabula County was a nonattainment area for ozone in 2007 and 2008.
d. Length of time of violation	<u>\$12,000</u>		From 12/28/07 (stack test date) to 7/17/08 (date of return to compliance test). The unit was shutdown from 5/18/08 to 5/28/08. Operating schedule is 250 days/year. $192(250/365) = 132$ days of violation.
2. Importance to regulatory scheme:	<u>\$0</u>		not applicable
3. Size of violator	<u>\$10,000</u>		Net worth (about 4.8 million dollars) is estimated to be 20% of annual sales (annual sales are 24 million dollars from Reference USA database).
Total gravity component:		<u>\$57,000</u>	
Preliminary deterrence amount: (sum of benefit and gravity components)		<u>\$57,000</u>	
C. Flexibility-Adjustment Factors:			
1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)	<u>\$0</u>		not applicable.
2. Degree of cooperation: (total gravity component times any mitigation percentage)	<u>\$0</u>		not applicable.

Penalty Work Sheet, Iten Industries, Inc.
Page 2

COMPONENT	SUBTOTAL	TOTAL	COMMENT
3. History of noncompliance: (total gravity component times any augmentation percentage)	<u>\$0</u>		not applicable.
4. Ability to pay: (any mitigation amount)	<u>\$0</u>		not applicable.
5. Other unique factors:	<u>\$0</u>		not applicable.
All augmentation (+) and mitigation (-) amounts added: (if negative, cannot exceed total gravity component)		<u>\$0</u>	
D. Administrative Component		<u>\$0</u>	not applicable.
E. Initial Minimum Settlement Amount: [preliminary deterrence amount + or - sum of flexibility adjustment factors plus administrative component (A + B + C + D)]		<u>\$57,000</u>	



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 15 2010

CERTIFIED MAIL

Mr. David Klein
Owner, d.b.a.
Belle-Aire Cleaners
649 Storer Avenue
Akron, Ohio 44320

Re: Violation of Section 63.322(o)(3) of 40 CFR Part 63, Subpart M

Dear Mr. Klein:

Ohio EPA, Division of Air Pollution Control ("DAPC") staff have informed me of the violations of Section 63.322(o)(3) of 40 CFR Part 63, Subpart M (National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities) at the Belle-Aire Cleaners facility located at 649 Storer Avenue, Akron, Summit County, Ohio.

The July 27, 2006 revisions of Section 63.322(o)(3) of 40 CFR Part 63, Subpart M required all existing transfer machines to eliminate any emission of perchloroethylene ("PCE") during the transfer of articles between the washer and the dryer, by July 28, 2008. Transfer machine system means a multiple-machine dry cleaning operation in which washing and drying are performed in different machines. Emissions unit D001, that was installed in 1971 at the facility, is a transfer machine which consists of a Midwest Model #4101 washer and a Hoyt Model #SF 130 Dryer.

Akron Regional Air Quality Management District ("ARAQMD") is a contractual agent for Ohio EPA responsible for administering air pollution regulations in Summit County. An inspector from ARAQMD visited the facility on October 7, 2009, and observed that emissions unit D001 was still operational in a manner allowing the emission of PCE during transfer of articles between the washer and dryer, in violation of 40 CFR Part 63, Subpart M. ARAQMD sent a notice of violation ("NOV") letter to Belle-Aire Cleaners on December 19, 2009. The NOV requested Belle-Aire Cleaners to submit a compliance plan and time schedule to bring emissions unit D001 into compliance. Because ARAQMD did not receive Belle-Aire Cleaners' compliance plan and time schedule, the case was referred to Ohio EPA for enforcement.

I am requesting that Belle-Aire submit a compliance plan and schedule within fourteen (14) days of your receipt of this letter. The requested information should be sent to the following individuals and addresses:

Akron Regional Air Quality Management District
146 South High Street, Suite 904
Akron, Ohio 44308
Att: Laura Miracle

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

Mr. David Klein, d.b.a.
Belle-Aire Cleaners
Page 2 of 2

and to:

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

If the above-mentioned information is not submitted and Belle-Aire Cleaners continues to operate emissions unit D001 in violation of the above-mentioned regulation, Ohio EPA will consider its enforcement options, including referral of the matter to the Ohio Attorney General's Office, that may result in legal action to obtain compliance and the assessment of civil penalties.

The submission of the requested information does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in ORC § 3704.06. Ohio EPA will decide whether to pursue penalties or decline to pursue penalties regarding this matter at a later date.

If you have any question concerning this letter, please contact Muhammad Mereb of the Ohio EPA, Division of Air Pollution Control, Enforcement Section at (614) 728-1341 or Laura Miracle of ARAQMD at (330) 375-2480 ext. 4239. If you have any legal questions concerning this matter, please contact Donald L. Vanterpool of the Ohio EPA, Legal Office at 614-644-3037.

Your prompt attention to this matter will be appreciated.

Sincerely,



Chris Korleski
Director

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Muhammad Mereb, DAPC
Donald L. Vanterpool, Legal Office
Frank Markunas/Laura Miracle, ARAQMD

CK:MM:mm

