

AGENDA FOR THE DECEMBER 17, 2009 EC MEETING

CASES TO BE CLOSED:

Emery Oleochemicals LLC (HPV)	#2723	HAMCO	Final F&Os	Tom/Don
Evonik Degussa Engineered Carbons Corporation (HPV)	#2783	SEDO	Final F&Os	Tom/Marc
Convenient Food Mart, Inc., No. 391	#2799	NEDO	No Further Action	Tom/Steve
Barberton Steel Industries, Inc.	#2830	Akron	No Further Action	Tom/Marc
Uni-Mart, Inc. (GDFs #04767, #04768 and #74775)	#2836	NEDO	AGO Referral	Tom/Don
Duff Quarry, Inc.	#2842	SWDO	Final F&Os	John/Don

PENDING CASES:

Tuscarawas County YMCA	#2722	SEDO	Prop. F&Os	Tom/Bryan
Glick Real Estate Ltd.	#2726	Canton	Prop. F&Os	Tom/Bryan
Pure Gas Incorporated	#2857	NEDO	Prop. F&Os	Tom/Steve
Bridgestone APM Company, Foam Products Division	#2869	NWDO	Prop. F&Os	John/Don
Ali Mohammad, d.b.a. Marathon Oil 2992	#2871	NEDO	Prop. F&Os	Tom/Steve
Hanini Properties, LLC, d.b.a. Hanini Marathon	#2873	Cleveland	Prop. F&Os	John/Marc

OTHER BUSINESS:

- (1) Distribute updated schedule of progress for resolving all "old" cases for 2008.

- (2) Distribute updated schedule of progress on resolving all "old" cases for 2009.
- (3) Distribute updated schedule of progress on resolving all "old" cases for 2010.
- (4) **John is scheduled to provide food for today's meeting at 3:00 p.m. in DAPC Rm C.**
- (5) The next and the year's last EC meeting is scheduled for Thursday, December 31, 2009 at 3:00 p.m. in DAPC Rm C. Don is scheduled for food. (Future food schedule: Bryan for January 14; Marc for January 28.)

ENFORCEMENT COMMITTEE MEETING MINUTES

(December 17, 2009)

Case Number: 2723	Dates:
Entity: Emery Oleochemicals LLC (HPV)	EAR: 05/19/08
Field Office: HAMCO	DWL: N/A
Contact: Patty Porter/Tom Kalman	F&Os: 12/17/09
Attorney: Donald L. Vanterpool	Referral: N/A
	Dismissal: N/A

Background: On October 16, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Emery Oleochemicals LLC ("Emery") to attempt an administrative settlement of the violations of air pollution control rules, permits and laws at its chemical manufacturing facility located at 4900 Este Avenue in Cincinnati, Ohio. The F&Os proposed to require Emery to pay Ohio EPA a civil penalty of \$242,000 within 14 days after the effective date of the F&Os, of which \$48,400 of the penalty was to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

The proposed F&Os addressed the following violations:

- (1) Failing to comply with the May 27, 2006 deadline for compliance with OAC Rule 3745-21-13 for emissions units P010 and P017 due to Emery's need to determine the applicability of the rule and to evaluate and identify the most effective compliance option, in violation of OAC Rule 3745-21-13 and ORC § 3704.05(G). OAC Rule 3745-21-13 was violated because, even though the current control devices provide the required degree of control, the packed tower scrubbers are not combustion control devices and do not qualify as a control option, and the existing catalytic oxidizers would not provide the required 90 percent overall control efficiency. The violations occurred from May 27, 2006 to January 23 and 24, 2008, when stack tests demonstrated compliance for emissions units P010 and P017 after new regenerative thermal oxidizers ("RTOs") were installed and began operation on November 12, 2007.
- (2) Failing to comply with the organic compound ("OC") emissions limitations of 2.59 pounds of OC per hour ("lbs of OC/hr") and 2.54 lbs of OC/hr for emissions units P010 (building 60 ozonolysis process with packed tower scrubber and catalytic oxidizer) and P017 (building 68 ozonolysis process with packed tower scrubber

and catalytic oxidizer), respectively, specified in PTI #14-04576 and the Title V permit, in violation of ORC § 3704.05(C). The violations for emissions unit P017 occurred from June 6, 2007 (failing test measured 6.08 lbs of OC/hr) to September 7, 2007 (failing test measured 2.61 lbs of OC/hr) and to January 24, 2008 (complying test measured 0.062 lb of OC/hr). The violations for emissions unit P010 occurred from September 6, 2007 (failing test measured 2.93 lbs of OC/hr) to January 23, 2008 (complying test measured 0.102 lb of OC/hr). Emery initially made modifications to the control devices and did quarterly stack testing during this period to try to show compliance. After the September 2007 failing tests, Emery shut down emissions units P010 and P017 and replaced the catalytic oxidizers with new regenerative thermal oxidizers ("RTOs") and recommenced operation of emissions units P010 and P017 with the RTOs on November 12, 2007.

- (3) Failing to comply with the particulate emissions ("PE") limitation of 0.06 pound of PE per million Btu ("lb of PE/MM Btu") in the Title V permit and PTI #14-312 for emissions unit B028, a 38.2 million Btu per hour coal/fuel oil-fired boiler with baghouse, in violation of ORC § 3704.05(C) and (J)(2). The violation occurred from May 14, 2008 (date of first failed test measuring 0.716 lb of PE/MM Btu) to August 15, 2008 (the date of a complying test measuring 0.011 lb of PE/MM Btu). Emery switched from coal firing to number 4 fuel oil firing to lower PE from the boiler; however, Emery still failed a July 11, 2008 stack test measuring 0.09 lb of PE/MM Btu.

(See the EC Meeting Minutes of October 22, 2009 for additional background information.)

On November 19, 2009, a meeting was held between Ohio EPA and Emery to discuss settlement of the violations via the proposed F&Os. A significant reduction in the proposed civil penalty was made upon use of Emery's net worth value rather than the net worth of the former owner of the facility (Cognis). A tentative settlement was reached which included a proposed SEP for further odor nuisance control. Details of the proposed SEP were sent to Ohio EPA on December 4, 2009. Emery accepted the revised proposed F&Os sent to it by Ohio EPA and returned signed F&Os to Ohio EPA.

Action: On December 17, 2009, final F&Os were issued to Emery. The F&Os require Emery to do the following:

- (1) Pay a civil penalty of \$143,500 for the violations that occurred;

- (2) Pay \$28,700 of the total civil penalty to Ohio EPA within 14 days after the effective date of the F&Os;
- (3) Pay \$28,700 of the total civil penalty to Ohio EPA's Clean Diesel Program Fund as a SEP within 14 days after the effective date of the F&Os; and
- (4) In lieu of paying the remaining \$86,100 of the total civil penalty and as a penalty credit project to prevent an odor nuisance in the neighborhood due to the Southeast Tank Farm at the facility, expend at least \$340,000 to install and operate, by not later than December 31, 2010, an odor emission control system for the tank vent emissions from the six tanks that are used primarily for intermediate storage of pressure split tallow fatty acids and are identified as part of emissions unit P004 (High Pressure Splitters 2 – 6) and the one tank used as a stormwater retention tank, to a new vent collection system header that will route the emissions to either a biofilter or a venturi scrubber for control;
- (5) Operate and maintain the odor emission control system in a manner that achieves maximum effectiveness for odor emission reduction;
- (6) Obtain a PTI modification for emissions unit P004 that includes operating parameter monitoring, record-keeping, reporting, and testing requirements for the biofilter or venturi scrubber to ensure good operation and maintenance of the odor emission control system; and
- (7) Submit progress reports for the odor emission control system project and documentation of expenditure of at least \$340,000, on a specified basis.

Case Closed



Case Number: 2783	Dates:
Entity: Evonik Degussa Engineered Carbons Corporation	EAR: 11/26/08
Field Office: SEDO	DWL: N/A
Contact: Tan Tran/Tom Kalman	F&Os: 12/17/09
Attorney: Marcus Glasgow	Referral: N/A
	Dismissal: N/A

Background: On October 22, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Evonik Degussa Engineered Carbons Corporation ("Degussa") to attempt an administrative settlement of the Title V permit and rule violations that occurred at its carbon black production facility located at 11135 State Route 7 in Belpre (Washington County), Ohio. The violations were associated with Degussa's four carbon black production units ("units 1 through 4"), which are identified by Ohio EPA as emissions units P001, P002, P011 and P012. Carbon black produced in emissions units P001 and P002 are further processed in dryers (emissions units P005 and P006). Emissions units P001 and P002 are vented to a common flare for oxidation, while emissions units P011 and P012 are vented to a common thermal incinerator for oxidation.

The proposed F&Os addressed the following violations by Degussa at the facility:

- (1) Degussa violated its Title V permit by failing to keep the average combustion temperature within the thermal incinerator serving emissions units P011 and P012, for any three-hour block of time when an emissions unit was in operation, at not more than 50 degrees Fahrenheit below the average temperature during the most recent emission test that demonstrated the emissions units were in compliance (average test temperature was 1,632 degrees Fahrenheit on January 10, 2008). There were 906 hours of operation in the 1st quarter of 2008, 1,715 hours of operation in the 2nd quarter of 2008, 1,608 hours of operation in the 3rd quarter of 2008, and 537 hours of operation in the 4th quarter of 2008 during which Degussa failed to maintain the average combustion temperature inside the thermal incinerator serving emissions units P011 and P012 within the required range, in violation of the Title V permit and ORC § 3704.05(C) and (J)(2). On March 17, 2009, another stack test was performed for emissions units P011 and P012 during which compliance with emission limitations was demonstrated at a new lower incinerator temperature of 1,461 degrees Fahrenheit.
- (2) Degussa failed stack tests performed on emissions units P001 and P002 on January 10, 2008, during which actual NOx and VOC emission rates were measured at 52.8 pounds per hour and 11.4 pounds per hour, respectively.

These results exceeded the allowable NOx and VOC emission rates of 43.7 pounds per hour and 9.4 pounds per hour, respectively, in violation of a PTI modification and ORC § 3704.05(C). A retest was conducted on May 7, 2008, and compliance was shown, with actual NOx and VOC emission rates of 5.3 pounds per hour and 9.2 pounds per hour, respectively.

- (3) Degussa failed to immediately notify Ohio EPA on October 16, 20 and 31 and November 5, 2008 of five malfunctions concerning other emissions units at the facility, i.e., emissions units F003 and/or F004, in violation of the Title V permit, OAC Rule 3745-15-06(B)(1), and ORC § 3704.05(G).

The F&Os proposed to require Degussa to pay a civil penalty of \$58,000 in the following manner:

- (1) \$36,400 payable to Ohio EPA within 30 days after the effective date of the F&Os;
- (2) \$11,600 payable to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP, within 30 days after the effective date of the F&Os; and
- (3) \$10,000 payable toward the performance of a pollution prevention study of the facility and the completion of such study within 330 days after the effective date of the F&Os.

The penalty (\$23,000) for the violations of the combustion temperature restriction for the incinerator for emissions units P011 and P012 was mitigated by 65 percent (\$14,950) due to the subsequent complying VOC emission test at a lower average combustion temperature.

(See the EC Meeting Minutes of October 22, 2009 for additional background information.)

In a letter dated November 9, 2009, Degussa's attorney submitted comments to Ohio EPA on the proposed F&Os, including a counteroffer of \$20,060, a redlined version of the F&Os, and supporting documentation. Degussa also elected not to perform a pollution prevention study. Ohio EPA sent Degussa's attorney revised proposed F&Os on December 1, 2009 that addressed Degussa's comments and proposed a counteroffer of \$42,850. In a letter dated December 3, 2009, Degussa's attorney submitted additional comments and a counteroffer of \$34,310.

A settlement was reached at a penalty of \$34,310 and with some revisions to the language in the F&Os.

Action: On December 17, 2009, final F&Os were issued to Degussa in resolution of

the violations. The F&Os require Degussa to pay a civil penalty of \$34,310 to Ohio EPA within 30 days after the effective date of the F&Os, of which \$6,862 will be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

Case Closed



Case Number: 2799	Dates:
Entity: Convenient Food Mart, Inc., No. 391	EAR: 02/24/09
Field Office: NEDO	DWL: N/A
Contact: Jim Kavalec/Tom Kalman	F&Os: 04/20/09 (prop.)
Attorney: Stephen Feldmann	Referral: N/A
	Dismissal: N/A

Background: On April 20, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Convenient Food Mart, Inc., No. 391 ("CFM"), to attempt an administrative settlement of the violations that occurred at its gasoline dispensing facility ("GDF") located at 5068 North Ridge Road, Perry, Lake County, Ohio. The proposed F&Os addressed the following violations of air pollution control rules and law:

- (1) Operation of the GDF without applying for and obtaining an operating permit since the last permit expired on November 25, 1997 (under previous ownership) to the present, in violation of former OAC Rule 3745-35-02(A) and OAC Rule 3745-31-02;
- (2) Failure to maintain records demonstrating proof of attendance and completion of the training required for the operator or local manager of the GDF from at least March 29, 2007 to the present, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(vi);
- (3) Failure to perform the annual testing required for the Stage II vapor control system at the GDF within one year from the last test, from March 29, 2007 to the present, and continuing to cause, allow, or permit the transfer of gasoline from the stationary storage tanks into motor vehicles without performing and successfully passing such testing requirements in OAC Rule 3745-21-09(DDD)(2), in violation of OAC Rules 3745-21-09(DDD)(2)(f) and 3745-21-09(DDD)(1)(c);

- (4) Failure to perform the dynamic pressure performance test within five years from the last test, from December 31, 2008 to the present, and continuing to cause, allow, or permit the transfer of gasoline from the stationary storage tanks into motor vehicles without performing and successfully passing such testing requirements in OAC Rule 3745-21-09(DDD)(2), in violation of OAC Rules 3745-21-09(DDD)(2)(d) and 3745-21-09(DDD)(1)(c);
- (5) Failure to submit the 2006 and 2007 fee emission report, which was due by April 15, 2008 (extended by Ohio EPA to June 6, 2008), in violation of OAC Rule 3745-78-02(D) and (G); and
- (6) Failure to comply with the above rules that were adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704, in violation of the prohibition against rule violations in ORC § 3704.05(G).

The F&Os proposed to require CFM to submit a permit-by-rule notification and the 2006 and 2007 fee emission report for this GDF to Ohio EPA within 30 days after the effective date of the F&Os. Also, the F&Os proposed to require CFM to demonstrate that the vapor control system is operating correctly by conducting and passing the dynamic pressure performance test, the static leak test and A/L ratio test within 30 days after the effective date of the F&Os. The proposed F&Os would also require CFM to 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. Copies of records of these inspections and any repairs made must be submitted to Ohio EPA by August 14 for the period from March 15 to July 31 and by November 14 for the period from August 1 to October 31. Also, during the next two ozone seasons, the F&Os proposed to require CFM to perform static leak and A/L ratio tests at this GDF prior to the beginning (during March) of each ozone season and during August of each ozone season. The results of these tests must be submitted to Ohio EPA within 14 days after the date of the test. In addition, the F&Os proposed to require CFM, within 60 days after the effective date of the F&Os, to submit documentation to Ohio EPA demonstrating proof of attendance and completion of the required training. Lastly, the proposed F&Os would require CFM to pay Ohio EPA a civil penalty in the amount of \$30,400, from which \$6,080 would go towards the Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

(See the EC Meeting Minutes of April 23, 2009 for additional background information.)

It was determined that the owner of this GDF is in Arizona with no contact information, and that the son, who was the operator of this GDF, has disappeared. The GDF is not currently in operation.

Also, this GDF employs a different type of vapor control system that is not subject to the annual testing requirements in OAC Rule 3745-21-09(DDD)(2). It requires testing on an every five-year period.

The Northeast District Office of Ohio EPA ("NEDO") informed Central Office staff that its OCAPP representative sent CFM a letter explaining the requirements applying to its control system and offering to provide assistance if needed. NEDO indicated its office would be agreeable to closing this case if CFM would just pay its fees, submit a Permit-by-Rule notification, and start keeping the required records. NEDO stated that its office has not heard back from CFM.

On December 16, 2009, Central Office received a phone call from an individual who wanted to buy the GDF. He was informed of the need for a Permit-by-Rule notification and other necessary requirements.

Action: Since the operator of the GDF is no longer available, the GDF is not in operation, the annual testing violation is not applicable, and a new owner is likely probable in the near future, the DAPC EC decided to close this case at this time with no further enforcement action. NEDO agrees with this action.

Case Closed



Case Number: 2830	Dates:
Entity: Barberton Steel Industries, Inc.	EAR: 06/16/09
Field Office: Akron	DWL: 08/27/09
Contact: Muhammad Mereb/Tom Kalman	F&Os: N/A
Attorney: Marcus Glasgow	Referral: N/A
	Dismissal: N/A

Background: In a letter dated August 27, 2009, the Director of Ohio EPA requested Barberton Steel Industries, Inc. ("BSI"), which is a foundry located at 240 Huston Street in Barberton, Ohio, to submit complete Permit-to-Install-and-Operate ("PTIO") applications to the Akron Regional Air Quality Management District ("ARAQMD") within 14 days of receipt of the letter for the emissions units at its foundry. The letter indicated that failure to do so would result in Ohio EPA considering its enforcement options

including referral of the matter to the Attorney General's Office for legal action and assessment of civil penalties.

The warning letter was sent because BSI had been operating the following emissions units without permits to operate ("PTOs") and PTIOs since its PTOs had expired on May 13, 2004, in violation of former OAC Rule 3745-35-02 from May 13, 2004 to June 1, 2008; OAC Rule 3745-31-02(A)(1)(c) from June 1, 2008 to the present; and ORC § 3704.05(G):

<u>Emissions Unit</u>	<u>Company Identification</u>
F003	Large Casting Shakeout
F005	Small Casting Shakeout
P001	Large Table Blast
P002	Tumble Blast Casting
P003	Shot Blast Casting
P901	Large Lectromelt Electric Arc Furnace
P902	Small Lectromelt Electric Arc Furnace
P905	Dry Sand Reclaimer

As mentioned in the Director's warning letter, BSI did submit renewal applications to ARAQMD on May 18, 2009; however, those applications were incomplete and were returned to BSI on June 1, 2009. Complete application were not submitted and led ARAQMD to submit an Enforcement Action Request to Central Office on June 16, 2009.

On November 16, 2009, PTIO applications were submitted by BSI for all the emissions units at the facility except for emissions units F003, F005, P002 and P003, which are no longer in operation. On November 17, 2009, ARAQMD found the applications to be preliminarily complete. ARAQMD indicated that further enforcement action by Central Office was not necessary and the matter could be closed.

Action: DAPC has decided to close this case with no further action based on BSI's submission of the required applications, no prior history of non-compliance with permitting requirements, and the recommendation by ARAQMD.

Case Closed



Case Number: 2836	Dates:
Entity: Uni-Mart, Inc. (#04767, #04768 and #74775)	EAR: 07/13/09
Field Office: NEDO	DWL: N/A
Contact: Jim Kavalec/Tom Kalman	F&Os: 09/21/09 (prop.)
Attorney: Donald L. Vanterpool	Referral: 12/11/09
	Dismissal: N/A

Background: On September 21, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Uni-Mart, Inc. ("Uni-Mart"), of 477 E. Beaver Avenue in State College, Pennsylvania, to attempt an administrative settlement of the violations of the Stage II vapor control system requirements that occurred at its gasoline dispensing facilities ("GDFs") located at 4000 Park Avenue in Ashtabula, Ohio (Uni-Mart #04768); 6000 Vrooman Road in Painesville, Ohio (Uni-Mart #74775); and 1769 State Route 534 South in Geneva, Ohio (Uni-Mart #04767). The proposed F&Os addressed the following violations:

Uni-Mart #04768

- (1) From February 13 to March 12, 2007, Uni-Mart operated dispensers 4, 8, 9 and 10 after a failed air-to-liquid ("A/L") ratio test. 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).
- (2) On February 13 and November 12, 2008, Uni-Mart failed to show maintenance of records demonstrating proof of attendance and completion of the training required by Ohio EPA, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(vi) and ORC § 3704.05(G). These violations continue to the present.
- (3) From December 3, 2007 to May 20, 2008, Uni-Mart operated dispensers 1, 2, 5, 9 and 10 after failed static leak and A/L ratio tests that were due to a leaking breakaway for dispenser 9 and low flow for the other dispensers. The failure to properly install, operate and maintain the vapor control system and to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of OAC Rule 3745-21-09(DDD)(1)(b) and (c) and ORC § 3704.05(G).

- (4) From November 12, 2008 to the present, Uni-Mart operated dispensers after a failed static leak test and after not being able to perform an A/L ratio test due to several incorrectly installed nozzles. The failure to properly install, operate and maintain the vapor control system and to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of OAC Rule 3745-21-09(DDD)(1)(b) and (c) and ORC § 3704.05(G).

On March 12, 2007 and May 20, 2008, Uni-Mart conducted passing tests for this GDF.

Uni-Mart #74775

- (1) From October 30, 2007 to March 28, 2008, Uni-Mart operated dispensers 1, 3, 4, 7 and 8 after a failed A/L ratio test. On January 23 and March 25, 2008, A/L ratio tests were conducted and dispensers 3 and 8 failed the test on both dates. Uni-Mart performed these tests after numerous defective hoses, nozzles, and breakaways were replaced. The failure to properly install, operate and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of OAC Rule 3745-21-09(DDD)(1)(b) and (c) and ORC § 3704.05(G).
- (2) On September 28, 2007, November 12, 2008, and May 15, 2009, Uni-Mart failed to show maintenance of records demonstrating proof of attendance and completion of the training required by Ohio EPA, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(vi) and ORC § 3704.05(G). These violations continue to the present.
- (3) From November 12, 2008 to May 15, 2009, Uni-Mart operated dispensers 1 and 3 after a failed A/L ratio test. Uni-Mart replaced the nozzles on dispensers 1 and 3 and the whip and hose on dispenser 3. The failure to properly install, operate and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of OAC Rule 3745-21-09(DDD)(1)(b) and (c) and ORC § 3704.05(G).

- (4) From May 15, 2009 to the present, Uni-Mart operated dispensers 2, 5 and 8 after a failed A/L ratio test and with malfunctioning equipment. The failure to properly install, operate and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of OAC Rule 3745-21-09(DDD)(1)(b) and (c) and ORC § 3704.05(G).

On March 28, 2008, Uni-Mart conducted passing tests for this GDF.

Uni-Mart #04767

- (1) From December 3, 2007 to November 10, 2008, Uni-Mart operated dispensers 1, 2, 5, 9 and 10 after a failed static leak test, and operated dispensers 1, 2, 3, 4, 7 and 8 after a failed A/L ratio test due to low flow. The failure to properly install, operate and maintain the vapor control system and to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of OAC Rule 3745-21-09(DDD)(1)(b) and (c) and ORC § 3704.05(G).
- (2) From November 10, 2008 to early 2009, Uni-Mart operated dispenser 3 after a failed A/L ratio test due to low flow. The failure to properly install, operate and maintain the vapor control system and to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of OAC Rule 3745-21-09(DDD)(1)(b) and (c) and ORC § 3704.05(G).
- (3) On November 10, 2008, Uni-Mart failed to show maintenance of records demonstrating proof of attendance and completion of the training required by Ohio EPA, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(vi) and ORC § 3704.05(G).

This GDF was shut down in early 2009.

The F&Os proposed to require Uni-Mart to:

- (1) Within 30 days after the effective date of the F&Os, demonstrate that the Stage II vapor control systems for Uni-Mart #04768 and Uni-Mart #74775 are operating

correctly by conducting and passing static leak, A/L ratio, and dynamic pressure performance tests;

- (2) Within 60 days after the effective date of the F&Os, submit documentation to Ohio EPA demonstrating the operators or local managers of Uni-Mart #04768 and Uni-Mart #74775 have completed the training required by OAC Rule 3745-21-09(DDD)(3)(a)(vi);
- (3) Conduct weekly inspections of the Stage II vapor control systems at Uni-Mart #04768 and Uni-Mart #74775 for the next two ozone seasons (2010 and 2011), checking for leaks, malfunctions or damage to the systems. Copies of records of these inspections and any repairs made must be submitted to Ohio EPA;
- (4) During the next two ozone seasons (2010 and 2011), perform static leak and A/L ratio tests at Uni-Mart #04768 and Uni-Mart #74775 prior to the beginning (during March) of each ozone season and during August of each ozone season. The results of these tests must be submitted to Ohio EPA; and
- (5) Pay Ohio EPA a civil penalty in the amount of \$85,900, of which \$68,720 of the civil penalty is due to Ohio EPA within 14 days after the effective date of the F&Os and \$17,180 is to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os.

(See the EC Meeting Minutes of September 24, 2009 for additional background information.)

Ohio EPA Legal spoke with Uni-Mart's attorneys on November 24, 2009. They confirmed that Uni-Mart has been in bankruptcy since May 2008. They said they had been trying to contact Uni-Mart's bankruptcy attorney to determine the amount Uni-Mart may be able to pay (post or pre-decree). To date, the attorneys have not received a reply from the bankruptcy attorney. The attorneys were advised that Ohio EPA Legal will be recommending referral of this matter to the Attorney General's Office ("AGO") to protect the Agency's interests.

Action: In a letter dated December 11, 2009, the Director referred Uni-Mart to the AGO for enforcement action. The referral documents sent to the AGO recommend that a consent order (or a court order if necessary) be obtained requiring Uni-Mart to comply with the actions required in the proposed F&Os and pay an appropriate civil penalty

(currently calculated at \$85,900). The Agency requested the AGO to then file a claim with the bankruptcy court for payment of the agreed or ordered civil penalty.

Case Closed



Case Number: 2842	Dates:
Entity: Duff Quarry, Inc.	EAR: 07/22/09
Field Office: SWDO	DWL: N/A
Contact: Eric Yates/John Paulian	F&Os: 12/11/09
Attorney: Donald L. Vanterpool	Referral: N/A
	Dismissal: N/A

Background: On September 29, 2009, proposed Director's Final Findings and Orders were sent to Duff Quarry, Inc. ("Duff Quarry"). The Orders required Duff Quarry to pay a civil penalty of \$8,000 to settle the open burning violations.

Duff Quarry owns property located at the intersection of St. Rt. 33 and 274 in Huntsville in Logan County. The property was purchased by Duff Quarry within the last 12 months. The property was previously a residential property that was also used to store and scrap mobile home trailers. It is expected that Duff Quarry will use the property for either a portable asphalt plant or concrete plant.

On July 13, 2009, SWDO received a complaint that Duff Quarry was conducting open burning of demolition debris at the above-mentioned property. Upon inspection of the property on July 15, 2009, SWDO discovered two large piles of smoldering waste that were approximately 10 to 15 feet wide and 50 to 70 feet long. A visible flame was still present at one location in the pile.

Open burning of such waste material is prohibited by rule, and the open burning was not otherwise exempted from the prohibition of OAC Rule 3745-19-04(A).

During the open burning inspection, SWDO discovered that the demolition debris being burned resulted from the demolition of several mobile home trailers and a building formerly used as an office building by the previous property owner. SWDO did not receive a notification of demolition or an asbestos survey for the former office building located on the property.

Duff Quarry's open burning and demolition actions violated OAC Rule 3745-19-04(A) which prohibits the open burning of demolition debris, OAC Rule 3745-20-02(A) by failing to conduct a thorough inspection for asbestos prior to beginning the demolition, and OAC Rule 3745-20-03(A) by failing to provide notification of demolition at least ten working days before the beginning of any demolition operation.

Action: On December 11, 2009, Director's Final Findings and Orders were sent to Duff Quarry. The Orders require Duff Quarry to pay a civil penalty of \$5,000, within 30 days after the effective date of the Orders, to settle the open burning violations.

Case Closed



Case Number: 2722	Dates:
Entity: Tuscarawas County YMCA	EAR: 05/05/08
Field Office: SEDO	DWL: N/A
Contact: Urvi Doshi/Tom Kalman	F&Os: 12/04/09 (prop.)
Attorney: Marcus Glasgow	Referral: N/A
	Dismissal: N/A

Background: In or about December 2007, Tuscarawas County YMCA ("YMCA") had a renovation conducted at its facility located at 600 Monroe Street in Dover, Ohio. The renovation included the removal of two boilers and associated piping from the boiler room of the facility. The YMCA hired a number of contractors and an architect to perform the work. The boiler room contained a significant amount of regulated asbestos-containing material; however, the contractors and architect were either told by the YMCA that there was no asbestos in the boiler room or were not under contract to deal with the boiler room. As a result, the removal of the two boilers and the associated piping were performed without any abatement of the asbestos therein and most of the debris was taken to a facility not permitted as an asbestos-containing waste material disposal facility.

On December 14, 2007, Ohio EPA's Southeast District Office ("SEDO") received a complaint that the YMCA had dismantled the boilers and piping covered with asbestos-containing insulation and put the insulation and boiler components into dumpsters.

Based on the complaint, SEDO personnel contacted the YMCA and requested that a licensed asbestos abatement contractor be hired to seal off the boiler room, the YMCA

consider shutting down the facility if the boiler room was in contact with the forced air heating system, and secure and cover the dumpster area connecting the boiler room to the dumpster. M-COR Corporation acknowledged removing the boilers and associated piping and putting them in the dumpster.

Based on a subsequent asbestos survey, an estimated 61 cubic feet of regulated asbestos-containing material was removed from the facility. About 59 cubic feet of that amount was taken to the Warmington Road Recycling Center, a scrap yard located at 780 Warmington Street SW in Navarre, Ohio. Roughly two cubic feet of that amount remained at the facility. Since the amount of regulated asbestos-containing material exceeded 35 cubic feet off of facility components, this renovation project was subject to the notification and work practice requirements of OAC Rules 3745-20-03, 3745-20-04 and 3745-20-05, pursuant to the provisions of OAC Rule 3745-20-02(B)(4).

The following violations of the asbestos emission control standards and State law were identified in the proposed F&Os:

- (1) Failing to have an asbestos inspection performed of the boiler room prior to commencing work in order to determine rule applicability, in violation of OAC Rule 3745-20-02(A) (On January 25, 2008, an asbestos survey was subsequently submitted for the remaining renovation and cleanup.);
- (2) Failing to submit a notification of intent to renovate at least 10 working days prior to beginning the renovation operation, in violation of OAC Rule 3745-20-03(A);
- (3) Failing to have an authorized representative present at the location of the renovation operation, who was trained in the provisions of OAC Chapter 3745-20, from at least December 14 to 18, 2007;
- (4) Failing to wet the regulated asbestos-containing material that had been removed or stripped until collected and contained or treated in preparation for disposal, from at least December 13, 2007 until January 31, 2008, in violation of OAC Rule 3745-20-04(A)(6)(a);
- (5) Failing to deposit all asbestos-containing waste material as soon as was practical at an approved disposal facility from at least December 13, 2007 to January 23, 2008, when the waste was taken from the disposal site to a permitted asbestos disposal facility, in violation of OAC Rule 3745-20-05(A);

- (6) Failing to use one of the asbestos emission control methods specified in paragraphs (B)(1) to (B)(4) to control visible emissions during the handling of asbestos-containing waste material from collection to disposal from at least December 13, 2007 to January 31, 2008, in violation of OAC Rule 3745-20-05(B);
- (7) Failing to keep waste shipment records for the disposal of asbestos-containing waste material from the facility beginning on at least December 13, 2007 to January 23, 2008, in violation of OAC Rule 3745-20-05(E); and
- (8) Failing to comply with the above rules that were adopted by the Director pursuant to ORC Chapter 3704, in violation of ORC § 3704.05(G).

On January 17, 2008, SEDO sent notice of violation (“NOV”) letters to the YMCA and the contractors and architect. On January 25, 2008, SEDO received a copy of a report on the asbestos inspection for the remaining renovation of the facility.

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

On May 5, 2008, SEDO submitted an Enforcement Action Request to Central Office for the violations.

Action: On December 24, 2009, proposed Director’s Final Findings and Orders (“F&Os”) were sent to the YMCA to attempt an administrative settlement of the violations. The F&Os propose to require the YMCA to pay a civil penalty of \$60,000, of which \$48,000 is due to Ohio EPA within 14 days after the effective date of the F&Os and \$12,000 is due to Ohio EPA’s Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os. A mitigation of 10 percent of the gravity component was provided for cooperation because of the YMCA’s responsiveness to the NOV.

Case Continued



Case Number: 2726
Entity: Glick Real Estate Ltd.
Field Office: Canton
Contact: Felix Udeani/Tom Kalman
Attorney: Bryan Zima

Dates:
EAR: 05/19/08
DWL: N/A
F&Os: 12/04/09 (prop.)
Referral: N/A
Dismissal: N/A

Background: Glick Real Estate Ltd. ("Glick") of 4181 Manchester Avenue NW in North Lawrence, Ohio, owns the abandoned greenhouses and property located at 12777 Mogadore Avenue NW in Lake Township of Stark County, Ohio. During the spring of 2006, Glick began demolishing at least one of the greenhouses on the property. The greenhouses on the property have asbestos-containing transite tiles along the outside lower walls and in other areas.

As part of the partial demolition process, Glick stripped or removed three types of materials from the greenhouse: transite tile, pipe insulation, and surfacing material (e.g., drywall and/or plaster). The pipe insulation was in a friable state and the transite tile and surface material became friable during the course of demolition. Samples of the materials show that all three types of material contained more than one percent of a regulated form of asbestos, which is the regulatory threshold, and was therefore "regulated asbestos-containing material." The building contained at least 160 square feet of regulated asbestos-containing material and, therefore, the demolition, pursuant to OAC Rule 3745-20-02(B)(1), was subject to the notification and work practice requirements of OAC Rules 3745-20-03, 3745-20-04, and 3745-20-05.

Between May 19, 2006 and January 8, 2009, the Canton local air agency ("Canton LAA") and/or Ohio EPA inspectors visited the greenhouse facility on 12 occasions for routine inspections, to respond to complaints about the site or to meet with potential abatement contractors. At all inspections either one or both inspectors noted that demolition had taken place on the site and that several violations of Ohio EPA's asbestos emission control standards of OAC Chapter 3745-20 had occurred. The violations that were identified and confirmed by Ohio EPA were as follows:

- (1) Failure to have the facility thoroughly inspected for the presence of asbestos by a certified asbestos hazard evaluation specialist prior to commencing demolition, in violation of OAC Rule 3745-20-02(A);
- (2) Failure to submit a written notification of demolition to Canton LAA at least ten working days before beginning demolition operations, including asbestos-containing material stripping or removal work, or any other activities that break

up, dislodge, or similarly disturb asbestos-containing material, in violation of OAC Rule 3745-20-03(A);

- (3) Failure to remove all regulated asbestos-containing material from the greenhouse building being demolished before beginning activities that caused some regulated asbestos-containing material to be broken up into many small pieces, in violation of OAC Rule 3745-20-04(A)(1);
- (4) Failure to keep asbestos-containing waste material adequately wet at all times during and after the partial demolition operation, in violation of OAC Rule 3745-20-05(B)(2);
- (5) Failure to seal asbestos-containing waste material in leak-tight containers that comply with OAC Rule 3745-20-05(C) or to transport asbestos-containing waste material in bulk by leak-tight transport vehicles or containers that are securely covered or enclosed and cause no visible emissions, in violation of OAC Rule 3745-20-05(B)(2);
- (6) Failure to deposit asbestos-containing waste material as soon as practical into one of three types of places listed in OAC Rule 3745-20-05(A), in violation of OAC Rule 3745-20-05(A) [asbestos-containing waste material remains strewn across the area around the greenhouse];
- (7) Failure to place asbestos-containing waste material in marked containers, as provided in OAC Rule 3745-20-05(C)(1), in violation of OAC Rule 3745-20-05(C)(1);
- (8) Failure to seal asbestos-containing waste material in plastic bags or in other lawful containers or to process the asbestos-containing waste material by another approved method, in violation of OAC Rule 3745-20-05(C); and
- (9) Violating the prohibition against the violation of any rule adopted by the Director pursuant to ORC Chapter 3704, in violation of ORC § 3704.05(G).

On December 3, 2007, Canton LAA issued a written notice of violation (“NOV”) letter to Glick concerning the above-mentioned violations. As of the present date, the site has not been cleaned and asbestos-containing waste material remains scattered about the site.

It was estimated that of the 9,500 square feet of asbestos-containing panels measured, about 8,000 square feet was improperly removed.

On May 19, 2008, Canton LAA submitted an Enforcement Action Request to Central Office for the violations that occurred.

Action: On December 4, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Glick to attempt an administrative settlement of the violations. The F&Os propose to require Glick to pay Ohio EPA, within 14 days after the effective date of the F&Os, the civil penalty amount of \$124,000, of which \$24,800 is to be directed to the Ohio EPA's Clean Diesel School Bus Program Fund as a SEP. \$24,000 of the total civil penalty is the economic benefit derived for the improper removal of 8,000 square feet of regulated asbestos-containing material at \$3.00 per square foot. Also, the proposed F&Os require Glick, within 14 days after the effective date of the F&Os, to submit to Canton LAA for review, a plan and schedule for the collection and disposal of all disturbed asbestos-containing material on site, including those fragments of asbestos-containing material in the graded portions of the facility. Furthermore, the proposed F&Os require Glick to execute the plan and collect and lawfully dispose of the disturbed asbestos-containing material within 30 days after approval of the plan by Ohio EPA.

Penalties for additional days of violation at \$1,000 per day were assessed for eleven days for three of the work practice violations. The eleven days of additional violations were based on inspection days and not the total number of days during the period from the first additional day of violation to the last observed additional day of violation. DAPC could only prove that the violations occurred on inspection days that had dry weather.

Case Continued



Case Number: 2857	Dates:
Entity: Pure Gas Incorporated	EAR: 09/22/09
Field Office: NEDO	DWL: N/A
Contact: Jim Kavalec/Tom Kalman	F&Os: 12/03/09 (prop.)
Attorney: Stephen Feldmann	Referral: N/A
	Dismissal: N/A

Background: Pure Gas Incorporated ("Pure Gas") owns and operates a gasoline dispensing facility ("GDF") located at 228 E. Erie Avenue in Lorain, Ohio. This GDF is subject to the requirements of OAC Rule 3745-21-09(DDD) concerning Stage II vapor control systems and is required to conduct Stage II compliance tests, which consist of annual static leak and air-to-liquid ("A/L") ratio tests and an every five-year dynamic pressure performance test.

On January 2, 2008, Pure Gas attempted to conduct the annual Stage II compliance tests at the GDF for 2008. However, the static leak and A/L ratio tests were not performed due to leaking ATG caps. In addition, two hoses were crimped and flattened and needed to be replaced.

On January 16, 2008, Pure Gas conducted a retest at the GDF. The GDF passed the static leak test but failed the A/L ratio test for dispensers 3 and 4 due to an inoperable vacuum pump. A complying A/L ratio test for dispensers 3 and 4 was not achieved until June 2, 2008.

On March 12, 2009, Pure Gas had the annual Stage II compliance tests performed at the GDF for 2009. The static leak and A/L ratio tests were not performed due to the poor condition of several nozzles and because the wrong nozzles were being used on all of the dispensers at the GDF.

On April 7, 2009, Pure Gas conducted a retest at the GDF. The GDF passed the static leak test but failed the A/L ratio test for dispenser 4 due to an inoperable vacuum pump. A complying A/L ratio test for dispenser 4 was not achieved until June 8, 2009.

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

In a letter dated September 9, 2009, Ohio EPA notified Pure Gas of the above-mentioned violations.

On September 22, 2009, the Ohio EPA, Northeast District Office submitted an Enforcement Action Request to Central Office in order to obtain administrative orders and a civil penalty for the violations per the Enhanced Enforcement Protocol Policy for Stage II compliance test failures.

Action: On December 3, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Pure Gas to attempt an administrative settlement of the violations. The F&Os propose to require Pure Gas to do the following:

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

DAPC's Enhanced Enforcement Protocol Policy was used in calculating the civil penalty.

Case Continued



Case Number: 2869	Dates:
Entity: Bridgestone APM Company, Foam Products Division	EAR: 10/06/09
Field Office: NWDO	DWL: N/A
Contact: Eric Yates/John Paulian	F&Os: 12/04/09 (prop.)
Attorney: Donald L. Vanterpool	Referral: N/A
	Dismissal: N/A

Background: Bridgestone APM Company, Foam Products Division ("Bridgestone") operates a manufacturing facility located at 245 Commerce Drive in Upper Sandusky (OEPA facility ID# 0388010051). At the facility, Bridgestone manufactures polyurethane foam seats and energy absorbing pads for the automotive industry.

On April 6, 2004, PTI 03-13782 was issued for emissions units P005 and P006 (polyurethane foam seat lines).

On August 6, 2006, a Title V permit to operate was issued to Bridgestone.

From at least February 2, 2008 until February 20, 2009, Bridgestone exceeded the short term volatile organic compound ("VOC") emissions limit of 13.15 pounds per hour ("lbs/hr") for emissions units P005 and P006. During the period of violation, emissions unit P005 was operating at 20.00 lbs of VOC/hr and emissions unit P006 was operating at 14.91 lbs of VOC/hr, in violation of the terms and condition of PTI 03-13782 and ORC § 3704.05(C).

OAC Rule 3745-31-02 states, in part, that no air contaminant source is permitted to be installed or modified without first applying for and obtaining a PTI.

Beginning in at least October 2004 and continuing until February 20, 2009, Bridgestone modified and operated emissions units P005 and P006 without applying for and obtaining a PTI modification, in violation of OAC Rule 3745-31-02. Bridgestone modified the above emissions units by increasing line speeds and using larger mold sizes, which caused an increase in use of mold release agent.

Action: On December 4, 2009, proposed Director's Final Findings and Orders were sent to Bridgestone. The Orders require Bridgestone to pay a civil penalty of \$160,688 of which 20% will be directed to the Clean Diesel School Bus Program Fund as a SEP.

Case Continued



Case Number: 2871	Dates:
Entity: Ali Mohammad, d.b.a. Marathon Oil 2992	EAR: 10/15/09
Field Office: NEDO	DWL: N/A
Contact: Jim Kavalec/Tom Kalman	F&Os: 12/03/09 (prop.)
Attorney: Stephen Feldmann	Referral: N/A
	Dismissal: N/A

Background: Ali Mohammad, d.b.a. Marathon Oil, owns and operates a gasoline dispensing facility ("GDF") located at 960 North Levitt Road in Amherst (Lorain County), Ohio. This GDF is subject to the requirements of Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD) concerning Stage II vapor control systems and is required to conduct Stage II compliance tests, which consist of annual static leak and air-to-liquid ("A/L") ratio tests and an every five-year dynamic pressure performance test.

On May 12, 2008, Mr. Mohammad had the annual Stage II compliance tests performed for 2008. The GDF passed the static leak test but failed the A/L ratio test for dispensers 1 and 2 due to a malfunctioning vacuum pump. A complying A/L ratio test for dispensers 1 and 2 was not achieved until September 5, 2008.

On May 12, 2009, Mr. Mohammad had the annual Stage II compliance tests performed for 2009. The GDF passed the static leak test but failed the A/L ratio test for dispensers 2, 3, 5, 6, 7, 8, 9 and 10. A complying A/L ratio test for dispensers 2, 3, 5, 6, 7, 8, 9 and 10 was not achieved until June 24, 2009.

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

In a letter dated August 27, 2009, Ohio EPA notified Mr. Mohammad of the above-mentioned violations.

On October 15, 2009, the Ohio EPA, Northeast District Office submitted an Enforcement Action Request to Central Office in order to obtain administrative orders and a civil penalty for the violations per the Enhanced Enforcement Protocol Policy for Stage II compliance test failures.

Action: On December 3, 2009, proposed Director's Final Findings and Orders

("F&Os") were sent to Mr. Mohammad to attempt an administrative settlement of the violations. The F&Os propose to require Mr. Mohammad to do the following:

- (1) Conduct weekly inspections of the Stage II vapor control system for the next two ozone seasons (2010 and 2011), starting by March 15, 2010 and March 15, 2011 and continuing until October 31, 2010 and October 31, 2011, respectively, checking for leaks, malfunctions or damage to the system. Copies of records of these inspections and any repairs made must be submitted to Ohio EPA by August 14 of each year for the period from March 15 through July 31, and by November 14 of each year for the period from August 1 through October 31;
- (2) During the next two ozone seasons (2010 and 2011), perform static leak and A/L ratio tests prior to the beginning (during March) of each ozone season and during August of each ozone season. The results of these tests must be submitted to Ohio EPA within 14 days of completion of each test; and
- (3) Pay Ohio EPA a civil penalty in the amount of \$12,425, of which \$9,940 of the civil penalty is due to Ohio EPA within 30 days after the effective date of the F&Os and \$2,485 is to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os.

Case Continued



Case Number: 2873	Dates:
Entity: Hanini Properties, LLC, d.b.a. Hanini Marathon	EAR: 11/04/09
Field Office: CDAQ	DWL: N/A
Contact: Eric Yates/John Paulian	F&Os: 12/03/09 (prop.)
Attorney: Marc Glasgow	Referral: N/A
	Dismissal: N/A

Background: Hanini Properties, LLC, d.b.a. Hanini Marathon, owns and operates a gasoline dispensing facility located at 5300 Superior Avenue in Cleveland. Hanini Marathon submitted a Permit-by-Rule for this GDF to Ohio EPA in January of 2009. This GDF is subject to the requirements of OAC Rule 3745-21-09(DDD) concerning Stage II vapor control systems and is required to conduct Stage II compliance tests, which consist of annual static leak and air-to-liquid ("A/L") ratio tests and a five-year

dynamic pressure performance test. The purpose of these tests is to ensure that the Stage II vapor control system is working properly to capture gasoline vapors so they do not contribute to ozone formation.

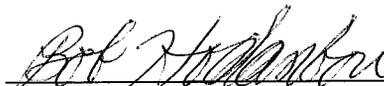
Hanini Marathon failed the 2008 and 2009 annual Stage II A/L ratio tests. Hanini Marathon was dispensing gasoline the entire time the Stage II vapor control system was not properly operating. The failure to properly install, operate, and maintain the vapor control system and to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c).

Action: On December 3, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Hanini Properties, LLC, d.b.a. Hanini Marathon. The proposed F&Os would require Hanini Marathon to pay Ohio EPA a civil penalty in the amount of \$10,000 from which \$2,000 will go towards the Ohio EPA's Clean Diesel School Bus Program Fund. Additionally, the proposed Findings and Orders would require Hanini Marathon to conduct weekly inspections of the Stage II vapor control system for the next two ozone seasons, checking for leaks, malfunctions or damage to the systems. Records of these inspections and any repairs made are required to be submitted to Ohio EPA. Also, during the next two ozone seasons, the F&Os propose to require Hanini Marathon to perform static leak and A/L ratio tests at this GDF prior to the beginning (during March) of each ozone season and during August of each ozone season. The results of these tests will be submitted to the Ohio EPA.

Case Continued



ACTIONS & MINUTES APPROVED BY:



Bob Hodanbosi, Chief, DAPC

NEXT MEETING:
December 31, 2009
9:00 a.m.
DAPC Room C

PENDING AIR ENFORCEMENT COMMITTEE CASES

Total Unresolved Cases (92)

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2527	Carmeuse Lime, Inc., Maple Grove Facility (HPV)	NWDO	DV/UD	11/05/02	06/19/06
2638	Fairport Yachts, LTD (multi-media)	NEDO	MG/PP	01/27/98	07/02/07
2671	Mar-Zane, Inc. (Plant #1)	CDO	MG/JP	12/11/06	10/25/07
2676	OmniSource Corporation - Lima Division	NWDO	MG/MM	02/23/06	11/08/07
2685	Quickrete - Cleveland Plant	Akron	DV/UD	10/17/07	12/14/07
2687	Cast Fab Technologies	HAMCO	BZ/TT	04/25/05	12/17/07
2691	Unique Finishers, Inc., D & S Coating, and Binks Coating (all 3 formerly L & C, Inc.)	RAPCA	BZ/PP	06/29/06	12/28/07
2693	Ameriseal Restoration LLC	Akron	DV/FU	04/26/07	10/26/07
2698 (112r)	Sugar Creek Packing Co.	N/A	DV/SS	01/03/08	01/31/08
2701 (VC)	City of Dayton, Advanced Wastewater Treatment Facility	RAPCA	BZ/JK	02/19/08	02/19/08
2708	Dave Sugar Excavating, Inc.	SEDO	DV/MM	03/13/05	02/04/08
2713	Quality Ready Mix	NWDO	BZ/PP	12/21/06	04/10/08
2719 (112r)	Sugar Creek Packing Co. (Dayton)	N/A	DV/SS	03/26/08	04/28/08
2722	Tuscarwas County YMCA, M-Cor Inc., Raeder Construction, et al.	SEDO	BZ/UD	12/20/07	05/05/08
2725	Hosea Project Movers, LLC (asbestos)	HAMCO	SF/TT	05/06/07	05/16/08
2726	Glick Real Estate LTD/All-Type Demolition and Excavating (asbestos)	Canton	BZ/FU	05/19/06	05/19/08
2731 (112r)	H. B. Fuller Company	N/A	DV/KJ	03/26/08	06/04/08
2739	BP - Husky Refining LLC	TDES	BZ/JP	08/01/07	07/18/08
2744	The Afcose Group (asbestos)	NEDO	BZ/JK	02/14/08	08/06/08
2745	OmniSource Corporation	NWDO	MG/MM	12/14/05	08/11/08
2750 (VC)	New Day Farms, LLC / Henning Construction Company	CDO	SF/JP	08/21/08	08/21/08
2752	Allied Corporation (Plant #75)	Akron	MG/JP	01/29/05	09/02/08
2760	Precision Environmental Company	Akron	SF/PP	08/06/08	10/22/08
2775	Selvey's Dirt Works / Famous Supply (asbestos)	NWDO	DV/UD	06/12/08	11/05/08
2777	Sawbrook Steel LLC	HAMCO	BZ/MM	11/13/06	11/07/08

Updated: 12/17/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
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
2784	Reichert Excavating, Inc. (asbestos)	CDO	SF/EY	06/12/08	12/04/08
2789	Complete Clearing, Inc. (asbestos)	NWDO	MG/PP	07/09/08	02/05/09
2790	Erie Materials, Inc.	NWDO	SF/TT	04/16/08	02/05/09
2791	Carmeuse Lime, Inc. (Millersville) (HPV)	NWDO	DV/FU	02/14/06	02/09/09
2793	Combs' Trucking Incorporated	HAMCO	SF/MM	07/16/08	02/09/09
2794	Kenmore Construction Co., Inc.	Akron	DV/UD	05/14/08	02/13/09
2795	Evans Landscaping, Inc.	HAMCO	MG/TT	05/01/08	02/23/09
2803	Wheeling Brake Band & Friction Mfg., Inc./Investment Capital of America, Inc./Rob Burgess Enterprises, LLC (asbestos) (multi-media case, DSIWM lead)	SEDO	DV/PP	01/13/09	02/26/09
2806	Ramon Patel, d.b.a. Marathon Quick Mart	NEDO	DV/JK	10/21/08	03/02/09
2808	Randy Wise	NWDO	SF/ FU	11/05/08	03/20/09
2810	Ellwood Engineered Castings Co. (HPV)	NEDO	DV/TT	02/25/09	03/13/09
2811	NewKor, Inc.	Cleve.	SF/EY	01/27/09	03/30/09
2813	ConSun Food Industries, Inc. (Convenient Food Mart #746)	NEDO	DV/JK	08/08/08	03/27/09
2814	Barrett Paving Materials, Inc. (HPV)	HAMCO	SF/PP	01/16/08	04/01/09
2815	Royal Sebring Properties, Inc., a.k.a. Zee Tech Warehousing	M-TAPCA	MG/JK	09/17/07	04/02/09
2816	Republic Engineered Products, Inc. (HPV)	NEDO	DV/	11/13/07	04/16/09
2817	S.H. Bell Company	NEDO	MG/TK	01/16/08	04/21/09
2819	Masonic Temple/The New Victorians, Inc./AHC, Inc. (asbestos)	CDO	DV/	01/24/08	04/27/09
2820	Bailey PVS Oxides Delta, L.L.C.	NWDO	MG/JK	03/29/07	04/27/09
2821	OmniSource Corporation, Mansfield Division	NWDO	MG/MM	05/08/08	05/04/09
2822	J. S. Paris Excavating, Inc./Signature Development Group, LLC (asbestos)	MTAPCA	SF/TT	03/11/08	04/28/09
2823	Rudzik Excavating, Inc./Charles J. Arendas (asbestos)	MTAPCA	DV/FU	02/27/09	05/11/09
2824	Ariel Corporation (HPV)	CDO	MG/EY	04/02/08	05/18/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2825	EI Ceramics LLC	HAMCO	SF/JK	03/11/08	05/08/09
2826	Staker Alloys, Inc.	RAPCA	DV/FU	11/14/07	05/29/09
2827	Evelyn M. (Burger) Koch (asbestos)	MTAPCA	MG/UD	07/21/08	06/01/09
2829(VC)	ODNR, Division of Forestry (regarding the Shawnee State Forest open burning)	Ports.	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
2834	Foti Contracting, LLC	Akron	MG/FU	10/23/08	06/29/09
2835	Elyria Foundry Company (HPV)	NEDO	SF/PP	10/18/07	07/13/09
2839	Liberty Gas USA, LLC (Middle Avenue GDF in Elyria and Clark Oil 1163 in Lorain)	NEDO	DV/JK	07/07/09	07/21/09
2840	Von Vittersan Le Copla USA LLC Delaware Corporation (asbestos)	MTAPCA	MG/UD	07/03/08	07/23/09
2841	Salvatore Sorice/Michael A. Kernan (asbestos)	MTAPCA	SF/MM	03/13/09	07/27/09
2844	Iten Industries, Inc. (Plant 1) (HPV)	NEDO	SF/MM	04/18/08	07/28/09
2845	Blackhawk Automotive Plastics, Inc. (FER case)	HAMCO	DV/TT	06/06/08	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
2854	Ohio Turnpike Commission (Vermillion Valley and Middle Ridge Service Plazas)	NEDO	SF/JK	05/19/09	09/03/09
2855	Lakeside Fuel Mini-Mart	NEDO	DV/JK	02/09/09	09/09/09
2856	Dorothy Jeannine Slessman	NWDO	MG/MM	08/02/09	09/14/09
2857	Pure Gas Incorporated (East Erie St. GDF in Lorain)	NEDO	SF/JK	09/09/09	09/22/09
2858	Burnham Foundry, LLC	SEDO	DV/TK	04/01/08	09/22/09
2859	408 Water Street Corporation, d.b.a. Concord Sunoco, Cooke's Car Care, Incorporated, and Munson Corners Sunoco	NEDO	MG/JK	07/20/09	09/17/09
2860	Richard C. Zahn	Akron	SF/PP	06/15/09	09/14/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2861	Scott Klem	Akron	DV/TT	08/14/09	09/14/09
2864	Forest Creek Mobile Home Park	HAMCO	SF/ FU	03/19/09	09/25/09
2865	Great Lakes Construction Co.	HAMCO	DV/UD	05/07/09	09/25/09
2866	3M Medina (HPV)	Akron	MG/ PP	08/27/09	09/29/09
2867 (VC)	ODNR, Division of Forestry (regarding another Shawnee Forest open burning)	Ports.	SF/JP	04/02/09	09/02/09
2869	Bridgestone APM Company, Foam Products Division (HPV)	NWDO	DV/EY	02/11/08	10/06/09
2870	Simon Excavating	NWDO	MG/TT		10/15/09
2871	Ali Mohammad, d.b.a. Marathon Oil 2992	NWDO	SF/JK	05/12/09	10/15/09
2872	Piper Excavation (asbestos and open burning)	NWDO	DV/JK	11/24/08	11/03/09
2873	Hanini Marathon - Superior	Cleve.	MG/EY		11/04/09
2874	Ron Smith	NWDO	SF/		11/09/09
2875	Belle-Aire Cleaners	Akron	DV/		11/13/09
2876	Robert Schiekh	TDES	MG/EY	08/04/09	11/24/09
2877	Murphy Oil USA, Inc. (GDFs #6630, #7294, and #7371)	NEDO	SF/JK	07/27/09	11/30/09
2878	Pexco Packaging Corp.	TDES	DV/EY	03/13/09	12/01/09
2879 (112r)	City of Youngstown Wastewater Treatment Plant	N/A	MG/SS		12/04/09
2880	Prime Properties Limited Partnership, d.b.a. Prime #5	Cleve.	SF/EY		12/07/09
2881	Tube City IMS, LLC	NWDO	DV		12/10/09

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

January

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
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Total for the month of January = 0

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

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
2736	Emanuel Hadgigeorgiou d.b.a. Society Dry Cleaners	3	Cleve.	JP	EY	DV	07/03/08						02/12/09
2747	Tri-county Concrere Co., Inc.	1	Akron	TK	MM	DV	08/19/08			Closed - NFA	02/12/09		
2762	Copley Fairlawn City Schools (E-check)	3	N/A	JP	JP	DV	10/01/08					02/11/09	
2768	Orange Board of Education (E-check)	3	N/A	JP	JP	DV	10/01/08					02/06/09	
2659	Steve Jones and George Webber (asbestos)	1	NEDO	TK	FU	DV	08/31/07			Closed - NFA	02/26/09		
2728	Protec Pac	1	SWDO	JP	EY	MG	05/21/08			Closed - NFA	02/26/09		
2759	Kay Enterprises, Inc., d.b.a. Waste Removal Equipment	3	Akron	TK	UD	MG	10/21/08			Unilateral		02/26/09	

Total for the month of February = 7

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

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
2650	Duer Construction Company	3	Akron	TK	MM	SF	07/23/07						03/13/09
2757	N-Viro International Corporation	3	TDES	JP	EY	SF	10/10/08					03/24/09	
2758	Brush Wellman, Inc.	3	NWDO	TK	MM	DV	10/15/08					03/24/09	
2769	Tallmadge Board of Education (E-check)	3	N/A	JP	JP	DV	10/01/08					03/23/09	
2785	Miller Garage Door Company	3	Akron	TK	MM	DV	12/09/08			Unilateral F&Os		03/13/09	

Total for the month of March = 5

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

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
2639	Keim Lumber Company, Inc.	3	NEDO	TK	UD	SF	07/02/07					04/09/09	
2755	Liberta Construction Company	3	Akron	TK	FU	MG	09/15/08					04/09/09	
2724	Moser Construction Company, Inc.	3	Akron	TK	MM	MG	05/19/08						04/10/09
2746	Steel Structures of Ohio, LLC	1	Akron	TK	MM	SF	08/19/08		10/15/08 (DWL)	Closed - NFA	04/23/09		
2765	Lagrange Township Trustees (E-check)	3	N/A	JP	JP	DV	10/01/08					04/15/09	
2773	George Rank	3	NWDO	TK	FU	MG	10/27/08			Unilateral F&Os		04/16/09	
2792	Grand Avenue Realty Corporation, d.b.a. DLH Plating, and Clean CEMP (asbestos)	3	CDO	JP	EY	MG	02/10/09						04/13/09

Total for the month of April = 7

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

May

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
2753	Richard Morrow	3	NEDO	TK	PP	SF	09/08/08			Unilateral F&Os		05/01/09	
2802	James Brown	3	RAPCA	TK	UD	SF	03/13/09						05/01/09
2763	Deerfield Township Trustees (E-check)	3	N/A	JP	JP	DV	10/01/08					05/15/09	
2766	Lorain County Regional Transit Authority (E-check)	3	N/A	JP	JP	DV	10/01/08					05/15/09	
2780	Magnesium Elektron North America, Inc.	3	NWDO	TK	JK	MG	11/17/08					05/14/09	
2804	Tim Davidson	3	SWDO	JP	EY	MG	03/18/09					05/21/09	

Total for the month of May = 6

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

June

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
2654 VC	Shaw High School (City of East Cleveland)	3	Cleve.	JP	JP	SF	08/16/07			Dismissed	06/18/09		
2692	Production Paint Finishers, Inc. (HPV)	3	RAPCA	JP	EY	MG	12/28/07						06/18/09
2741	Plasti-Kote Company, Inc. (HPV)	3	Akron	TK	JK	MG	07/14/08					06/17/09	
2770	Village of Gloria Glens (E-check)	3	N/A	JP	JP	DV	10/01/08					06/18/09	
2797	T. S. Trim, Inc. (HPV)	3	CDO	JP	EY	SF	03/02/09					06/17/09	

Total for the month of June = 5

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

July

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
2742	Gas and Oil Inc. (GDFs 2, 3, 7, 15, & 19)	3	Akron	TK	TT	SF	07/13/08						06/26/09
2771	Village of North Randall (E-check)	3	N/A	JP	JP	DV	10/01/08					06/30/09	
2798	Canary Cleaners	1	TDES	JP	EY	MG	03/03/09			Closed-NFA	07/02/09		
2828	Leroy and Judith Schaffer	3	SWDO	JP	EY	SF	06/08/09			Unilateral F&O's		06/30/09	
2695	Precision Aggregates III, LLC	3	NWDO	TK	UD	BZ	01/14/08					07/08/09	
2772	Village of Oakwood (E-check)	3	N/A	JP	JP	DV	10/01/08					07/07/09	
2805	Thomas McMinn, d.b.a. Wellington Citgo	1	NEDO	TK	JK	SF	02/26/09			Closed-NFA	07/16/09		
2809	Procex, Ltd.	3	Akron	TK	MM	MG	03/16/09						07/07/09

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

July

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
2831	Aleris International, Inc./IMCO Recycling of Ohio, Inc./ Commonwealth Aluminum Concast of Ohio, Inc.	3	SEDO	TK	TK	MG	06/19/09						07/07/09
2712	Cleveland Trencher Company	3	Cleve.	JP	EY	DV	03/24/08						07/14/09

Total for the month of July = 10

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

August

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
2761	Cleveland Board of Education (C-check)	3	N/A	JP	JP	DV	10/01/08					08/11/09	
2764	Homer Township Trustees (E-Check)	1	N/A	JP	JP	DV	10/01/08			Closed-NFA	08/13/09		
2787	Airstream, Inc.	3	SWDO	JP	EY	SF	01/09/09					08/11/09	
2788	Gas Express, Inc.	3	Akron	TK	JK	DV	01/27/09						08/12/09
2832	United Tool and Machine	1	SWDO	JP	EY	SF	07/01/09		8/4/09 (DWL)	Closed-NFA	08/13/09		
2704	Gallo's Convenient Market	1	Cleve.	JP	EY	SF	03/05/08			Closed-NFA	08/13/09		
2732 VC	Ohio DNR, Division of Forestry (for open burning permit 07-30)	3	Ports	JP	JP	MG	05/14/08			Closed-NFA	08/14/09		
2807	Hishan Judi, d.b.a. Avon Lake Shell	3	NEDO	TK	JK	MG	03/16/09						08/19/09
2812	Saif Khan, d.b.a. Lakeland Valero	3	NEDO	TK	JK	MG	03/25/09					08/20/09	

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

August

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
2846	Joseph Parker	3	SWDO	JP	EY	MG	08/03/09			Unilateral F&O's		08/18/09	

Total for the month of August = 10

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

September

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
2666	James Conley	1	Akron	JP	EY	BZ	09/25/07			Closed-NFA	09/24/09		
2733	McCarthy Corporation	3	NWDO	TK	UD	SF	06/23/08			Unilateral F&O's		09/22/09	
2754	Lepi Enterprises, Inc. (asbestos)	3	SEDO	TK	TT	DV	09/12/08					09/08/09	
2756	Pioneer Environmental Systems, Inc. (asbestos)	3	NWDO	TK	JK	BZ	10/03/08					09/22/09	
2774	Total Environmental Services, LLC (asbestos)	3	SEDO	TK	TT	SF	10/29/08					09/17/09	
2796	Speedway SuperAmerica, LLC (#3648 and #9975)	3	NEDO	TK	JK	SF	02/24/09					09/22/09	

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

September

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
2862	Speedway SuperAmerica, LLC (#1183 and #5110)	3	HAMCO	TK	JK	SF	05/21/09					09/22/09	
2818	Mac Trailer Manufacturing, Inc.	1	Canton	TK	MM	SF	04/07/09		06/17/09 DWL	Closed - NFA	09/24/09		
2838	Englefield, Inc., d.b.a. Ashtabula Duchess	1	NEDO	TK	JK	SF	07/14/09		08/12/09 DWL	Closed - NFA	09/24/09		

Total for the month of September = 9

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

October

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
2696	Eramet Marietta, Inc	3	N/A	TK	KJ	BZ	01/18/08					10/07/09	
2837	Flying J. Inc. (Austinburg Truck Stop)	3	NEDO	TK	JK	MG	07/08/09						09/29/09
2710	Stein, Inc.	3	Cleve.	JP	EY	BZ	03/14/08					10/13/09	
2851	Joseph and Marie Eberz	3	Akron	TK	JK	SF	08/10/09					10/19/09	

Total for the month of October = 4

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

November

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
2776	Circle K Midwest (GDFs 5204, 5209, 5318 amd 5320)	3	NEDO	TK	JK	MG	11/04/08					11/04/09	
2863	Circle K Midwest (GDFs 0059, 5217, 5557, and 5558)	3	HAMCO	TK	JK	MG	08/01/09					(11/04/09)	
2868	Endres Processing, LLC	3	NWDO	JP	JP	BZ	10/06/09						11/03/09
2618	TRC Industries, Inc.	1	Akron	TK	MM	SF	05/04/07			Closed-NFA	11/19/09		
2657	Environvironmental Affairs Management, Inc.	3	MTAPCA	TK	FU	SF	08/17/07						11/13/09
2679	S. R. Restaurant Corporation, d.b.a. Rascal House Pizza (asbestos)	3	Cleve.	JP	EY	BZ	12/04/07					11/12/09	

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

November

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
2748	Great Plains Exploration	3	NEDO	TK	UD	BZ	08/27/08					11/12/09	
2779 (112r)	Sunoco, Inc., Toledo Refinery	3	N/A	TK	KJ	DV	11/14/08					11/12/09	
2843	Bruewer Woodwork Mfg. Co. (FER case)	1	HAMCO	TK	UD	MG	07/28/09			Closed-NFA	11/19/09		

Total for the month of November = 9

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

December

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
2707	Thermo-Rite Manufacturing Co.	3	Akron	TK	UD	MG	03/12/08					12/02/09	
2786	D & R Supply, Inc.	3	NEDO	TK	UD	MG	12/24/08					12/02/09	
2800	Gary Rogers, d.b.a. Rogers Sunoco	3	NEDO	TK	JK	DV	02/24/09						11/30/09
2801	Alton C. Laccheo and Terry Adams, d.b.a. Rusty's Auto Care Shell	3	NEDO	TK	JK	MG	02/25/09						11/30/09
2783	Evonik Degussa Engineered Carbons Corporation (HPV)	3	SEDO	TK	TT	MG	11/26/08					12/17/09	
2799	Convenient Food Mart, Inc., No. 391	1	NEDO	TK	JK	SF	02/24/09			Closed-NFA	12/17/09		
2830	Barberton Steel Industries, Inc.	1	Akron	TK	MM	MG	06/16/09			Closed-NFA	12/17/09		

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

December

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
2836	Uni-Mart, Inc. (GDFs #04767, #04768, and #74775)	3	NEDO	TK	JK	DV	07/13/09						12/11/09
2842	Duff Quarry, Inc.	3	SWDO	JP	EY	DV	07/28/09					12/11/09	
2723	Emery Oleochemicals, LLC (HPV)	3	HAMC O	TK	PP	DV	05/19/08					12/17/09	

Summary of Compliance with Effective Findings and Orders

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Ball & Sons Construction (11/08/96)	Civil penalty: (\$1,000.00)	563513	11/22/96	Y	FSC**

Smith Foundry & Machine Co. (12/31/96)	Civil penalty: (\$25,000.00)				
	\$5,000.00	530404	01/31/97		01/23/97
	\$5,000.00	530405	01/31/98		01/23/98
	\$5,000.00	530406	01/31/99		01/19/99
	\$5,000.00	530407	01/31/00	Y	ACT**
	\$5,000.00	541831	01/31/01	Y	ACT**
	AC		01/15/97		N/A*
	IC		06/16/97		N/A*
	CC		08/15/97		N/A*
	Conduct emission tests - submit results		10/15/97		N/A*
* The cupola has been removed. The 12/96 F&O's were revised to reflect the installation of electric induction furnaces rather than controls for the cupola.					

Mark Fuerst (02/08/00)	Civil penalty (\$10,000.00)				
	to ODNR \$2,000.00	606212	03/08/00	Y	FSC**
	to OEPA \$2,000.00	172154	04/08/00	Y	*
	\$2,000.00	172155	05/08/00	Y	FSC**
	\$2,000.00	172156	06/08/00	Y	FSC**
	\$2,000.00	172157	07/08/00	Y	FSC**
* Paid \$1,654 on 2/10/09. \$165.40 of that amount was paid to AGO.					

American Environmental Abatement Company, Inc. (12/29/00)	Civil penalty: (\$2,500)				
	to OEPA \$2,000	206005	01/12/01		01/16/01
	to ODNR \$500	564224	01/29/01	N	

Anco Properties (06/19/01)	Civil penalty: (\$23,000)				
	to OEPA \$4,600	224714	09/19/01	Y	FSC**
	\$4,600	224715	12/19/01	Y	FSC**
	\$4,600	224716	03/19/02	Y	FSC**
	\$4,600	224717	06/19/02	Y	FSC**
	to ODNR \$4,600	613129	07/19/01	N	FSC**

Superior Demolition and Excavating (12/28/01)	Civil penalty: (\$15,000)				
	to ODNR \$3,000	270395	01/11/02		01/10/02
	to OEPA \$3,000	270396	01/28/02		02/11/02
	\$3,000	270397	02/28/02		03/14/02
	\$3,000	270398	03/28/02		04/23/02
	\$3,000	270399	04/28/02	Y	UNC**

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	Cert. y/n	Completion Date
Richard and Joby Hackett (04/04/02)	Civil penalty: (\$3,000)				
	to OEPA	\$150	279226	09/04/02	Y RTN**
		\$150	279227	10/04/02	Y RTN**
		\$150	279228	11/04/02	Y RTN**
		\$150	279229	12/04/02	Y RTN**
		\$150	279230	01/04/03	Y RTN**
		\$150	279231	02/04/03	Y RTN**
		\$150	279232	03/04/03	Y RTN**
		\$1,350	279233	04/04/03	Y RTN**
	to ODNR	\$150		05/04/02	
		\$150		06/04/02	
	\$150		07/04/02		
	\$150		08/04/02		

Schloss Materials Company (09/18/02)	Civil penalty: (\$6,000)				
	to OEPA	\$4,000	304257	10/02/02	09/30/02
	to ODNR	\$2,000	564243	10/18/02	N
	pave entrance & access road to facility			10/31/02	06/03/04*
* CDAQ inspection date					

City of Oregon (09/16/02)	Civil penalty: (\$10,000)				
	to OEPA	\$8,000	304256	09/30/02	09/30/02
	to ODNR	\$2,000	564249	09/30/02	N
	conduct asbestos fire training			02/01/03	01/8-14-15&29/03

Cleveland Industrial Drum Service, Inc. (10/30/02)	Civil penalty: (\$1,000)				
	to OEPA	\$800	314152	11/13/02	06/24/03
	to ODNR	\$200	564255	11/30/02	N

M & J Excavating (11/27/02)	Civil penalty: (\$2,450)				
	to ODNR	\$490	564257	12/27/02	09/25/02
	to OEPA	\$392	333074	01/27/03	Y 09/27/03
		\$392	333075	02/27/03	Y 10/25/03*
		\$392	333076	03/27/03	Y UNC
		\$392	333077	04/27/03	Y 01/24/04*
	\$392	333078	05/27/03	Y 01/24/04*	

Chris Corso (12/02/02)	Civil penalty: (\$7,000)				
	to OEPA	\$1,600	319940	12/16/02	12/16/02
		\$2,000	319941	03/02/03	09/04/03
		\$2,000	319942	06/02/03	09/27/03
	to ODNR	\$1,400	614162	01/02/03	N

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
Hydraulic Press Brick (04/28/04)	Civil penalty: (\$19,000)					
	\$7,000	439209	05/12/04		05/12/04	
	\$7,000	439210	08/12/04		05/12/04	
	Submit P ² reports			07/28/04		07/26/04
				10/28/04		10/25/04
				01/28/05		01/21/05
Submit cost of P ² study		03/28/05		N/A		
			04/05/05			

Kerry's Motor World (05/13/04)	Civil penalty: (\$3,000.00)	443684	05/27/04	Y		

John Dubuk (12/29/04)	Civil penalty: (\$10,000.00)					
	\$834.00	489979	01/28/05		01/24/05	
	\$834.00	489980	02/27/05		02/24/05	
	\$834.00	489981	03/29/05		03/26/05	
	\$834.00	489982	04/28/05	Y	07/29/06	
	\$834.00	489983	05/28/05	Y	UNC**	
	\$834.00	489984	06/27/05	Y	07/29/06	
	\$834.00	489985	07/27/05	Y	UNC**	
	\$834.00	489986	08/26/05	Y	UNC**	
	\$834.00	489987	09/25/05	Y	UNC**	
	\$834.00	489988	10/25/05	Y	UNC**	
\$834.00	489989	11/24/05	Y	UNC**		
\$826.00	489990	12/24/05	Y	UNC**		

C & J Contractors (12/21/04)	Civil penalty: (\$5,600.00)	479998	01/21/05	Y	*	
* 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: (\$127,900.00)	550712	04/14/05	Y		

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

Alfred Nickles Bakery, Inc. (08/24/05)	Civil penalty: (\$37,800)				
	OEPA	\$10,240	519964	09/24/05	09/23/05
	Bus Fund	\$7,560	519965	09/24/05	09/23/05
	Submit P 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	

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

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Environmental Affairs Management (12/29/05)	Civil penalty: (\$10,000)				
	OEPA	\$1,000	541425		03/29/06
		\$1,000	541426		03/29/06
		\$1,000	541427	Y	FSC**
		\$1,000	541428	Y	FSC**
		\$1,000	541429	Y	12/28/07
		\$1,000	541430	Y	FSC**
		\$1,000	541431	Y	FSC**
		\$1,000	541432	Y	FSC**
		\$1,000	541432	Y	ACT**
Bus Fund		\$1,000	541433		01/25/06
		\$1,000	541434		02/25/06

Cargill, Incorporated (03/03/06 - Consent Decree) * - CD modification on 11/26/08	Civil penalty: (\$61,538)				
	OEPA	\$30,769	551695		03/27/06
	RAPCA	\$30,769	----		03/27/06
	Pay Title V permit fees	\$216,133.86			02/27/06
	Contribute \$75,000 to RAPCA's wood stove replacement program				04/15/06
	Retire B005				03/21/06
	Install LNB & FGR for B006				09/01/07
	Propose final VOC solvent loss limit for Sidney				09/14/06
	Comply w/final VOC solvent loss limit for Sidney				03/03/11
	Meet 95% control for VOC or 10 ppm for P067 & P582 at Dayton				02/27/09
	Meet 98% control for VOC for P057, P031, P052, P088, & P072 at Dayton				02/27/10
	Meet control equipment operating parameters for P032, P033 and P034 at Dayton				02/27/09
	Test and establish an allowable short-term VOC limit for each scrubber stack serving P032, P033 and P034 at Dayton				02/28/10*
	Submit permit applications for P032, P033 and P034 at Dayton to incorporate control equipment operating parameters and VOC emission limits				02/28/10*
	Submit PTI application to cap VOC and NOx emissions from Dayton at less than 854 tons/yr				09/01/10*
	Comply w/ emission cap for Dayton				09/01/10*
	Submit odor control optimization report for Dayton				09/01/10
	Meet 90% control for CO or 100 ppm for P067 and P582 at Dayton				09/01/06
	Meet 90% control for CO or 100 ppm for P057, P031, P052, P088 & P072				08/29/06

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

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

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

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Astro Manufacturing & Design, Inc. (12/29/06)	Civil penalty (\$34,000)				
	OEPA	\$12,200	600221	01/29/07	01/23/07
	Bus Fund	\$ 6,800	600222	01/29/07	01/23/07
	Submit INR			01/29/07	11/30/06
	Submit semi-annual exceedance reports			01/29/07	04/12/07
	Submit detailed P ² report			03/29/07	03/29/07
	Submit detailed P ² report			06/29/07	
	Submit detailed P ² report			09/29/07	
	Submit final P ² report			11/29/07	
	Submit PTI and Title V permit applications			03/01/07	11/30/06

Gas and Oil, Inc. (03/14/07)	Civil penalty: (\$10,000)				
	OEPA	\$8,000	607778	06/14/07	Y BSC
	Bus Fund	\$2,000	607779	06/14/07	Y BSC
	Submit ITT			04/14/07	
	Conduct tests for #2, #3, #15 & #19			06/14/07	
	Submit test results			07/14/07	
	Submit PTO renewal application for #19			04/14/07	

Robert Henry and April Garner (07/11/07)	Civil penalty: (\$1,000)		616290	08/11807	Y ACT

Eslich Wrecking Company (07/16/07 - Consent Order)	Civil penalty: (\$44,853)		623581	08/16/07	08/20/07
	(\$44,853 = 45% of \$99,674)				
	Submit survey and plan to install protective physical barrier			08/16/07	
	Install cap			w/i 60 days of OEPA approval of survey and plan	
	Grant a new deed			w/i 30 days of OEPA approval of survey	

Avalon Cleaners (08/21/07)	Civil penalty: (\$1,000)				
	OEPA	\$250	624475	09/21/07	Y
		\$250	624476	10/21/07	Y
		\$250	624477	11/21/07	Y
		\$250	624478	12/21/07	Y
	Submit records & documentation			01/31/08	
	Submit records & documentation			07/31/08	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Tim Weiland (09/06/07)	Civil penalty: (\$250)	624378	10/06/07	Y	SKP

Alfred Nickles Bakery, Inc. (11/08/07)	Civil penalty: (\$60,250)				
	OEPA	\$46,200	634724	12/08/07	11/02/07
	Bus Fund	\$14,050	634725	12/08/07	11/02/07
	Submit P ² report			02/08/07	
	Submit P ² report			05/08/07	
	Submit P ² report			08/08/07	
	Submit final P ² report			10/08/07	
	Submit cost documentation			w/i 30 days of approval of report by OEPA	

The Premcor Refining Group, Inc. (11/20/07 - Consent Decree)	Civil penalty: (\$800,000)				
	OEPA	\$640,000	634775	12/20/07	12/19/07
	Bus Fund	\$160,000	634776	12/20/07	12/19/07
	Submit plan to meet .060 lb NO _x /MMBtu for heaters and boilers			12/31/08	12/10/08
	Install controls to meet .060 lb NO _x /MMBtu for heaters and boilers			12/31/11	
	Submit plan to meet .044 lb NO _x /MMBtu for heaters and boilers			12/31/10	
	Install controls to meet .044 lb NO _x /MMBtu for heaters and boilers			12/31/13	
	Submit report that demonstrates compliance with limits for heaters and boilers			03/31/12	
				03/31/14	
	Submit report re: the NO _x concentration emissions for the FCCU thru optimization of O ₂ CS			03/01/12	
	Submit report that demonstrates compliance w/ <u>interim</u> NO _x system-wide average for FCCUs			03/31/11	
	Submit report that demonstrates compliance w/ final NO _x system-wide average for FCCUs			03/31/14	
	Commence implementation of SO ₂ adsorbing catalyst additive protocol for FCCU			11/20/07	09/07/07
	Comply w/ CO emission limit for FCCU			02/20/08	11/20/07
	Comply w/ opacity and PE limits for FCCU			12/31/13	
	Submit alternative monitoring plan application for NSPS Subpart J monitoring for SO ₂ at FCCU			12/31/08	12/19/08

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

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
The Premcor Refining Group, Inc (Continued)	Transfer \$50,000 to Ohio Environmental Council for control of emissions from municipal trucks and buses		02/20/08		01/18/08

E. I. Du Pont de Nemours & Company (11/06/07 - Consent Decree)	Civil penalty: (\$550,000)				
	OEPA	\$440,000	634777	12/06/07	12/19/07
	Bus Fund	\$110,000	634778	12/06/07	12/19/07
	Comply w/ short-term SO ₂ emission limit of 2.2 lbs/ton		03/01/11		
	Comply w/ Mass Cap of 281 TPY		03/01/13		
	Submit proposed O&M Plan for short-term SO ₂ limit		11/01/10		
	Submit a complete T5 permit application for Consent Decree SO ₂ limits		09/01/11		

Converters Prepress (12/06/07 - Consent Order)	Civil penalty: (\$5,004)				
	OEPA	\$139.00	644190	01/06/08	02/22/08
		\$139.00	644191	02/06/08	03/26/08
		\$139.00	644192	03/06/08	03/26/08
		\$139.00	644193	04/06/08	04/04/08
		\$139.00	644194	05/06/08	05/05/08
		\$139.00	644195	06/06/08	05/30/08
		\$139.00	644196	07/06/08	07/14/08
		\$139.00	644197	08/06/08	08/04/08
		\$139.00	644198	09/06/08	08/29/08
		\$139.00	644199	10/06/08	09/29/08
		\$139.00	644200	11/06/08	11/06/08
		\$139.00	644201	12/06/08	12/02/08
		\$139.00	644202	01/06/09	12/30/08
		\$139.00	644203	02/06/09	02/09/09
		\$139.00	644204	03/06/09	03/11/09
		\$139.00	644205	04/06/09	03/31/09
		\$139.00	644206	05/06/09	05/05/09
		\$139.00	644207	06/06/09	06/01/09
		\$139.00	644208	07/06/09	07/06/09
		\$139.00	644209	08/06/09	08/07/09
		\$139.00	644210	09/06/09	
		\$139.00	644211	10/06/09	
		\$139.00	644212	11/06/09	
		\$139.00	644213	12/06/09	
		\$139.00	644214	01/06/10	
		\$139.00	644215	02/06/10	
		\$139.00	644216	03/06/10	
		\$139.00	644217	04/06/10	
		\$139.00	644218	05/06/10	
		\$139.00	644219	06/06/10	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Converters Prepress (Con't)		\$139.00 644220	07/06/10		
		\$139.00 644221	08/06/10		
		\$139.00 644222	09/06/10		
		\$139.00 644223	10/06/10		
		\$139.00 644224	11/06/10		
		\$139.00 644225	12/06/10		

Real Spaces Property for Rent (12/31/07)	Civil penalty: (\$17,700)				
	OEPA	\$ 600.00 645338	01/30/08		02/07/08
		\$ 600.00 645339	02/29/08		03/12/08
		\$ 600.00 645340	03/30/08		05/05/08
		\$ 600.00 645341	04/29/08		06/09/08
		\$ 600.00 645342	05/29/08		07/03/08
		\$ 600.00 645343	06/28/08		08/04/08
		\$ 600.00 645344	07/28/08		09/11/08
		\$ 600.00 645345	08/27/08		11/17/08
		\$ 600.00 645346	09/26/08		01/13/09
		\$ 600.00 645347	10/26/08	Y	
		\$ 600.00 645348	11/25/08	Y	
		\$ 600.00 645349	12/25/08	Y	
		\$ 600.00 645350	01/24/09	Y	
		\$ 600.00 645351	02/23/09		
		\$ 600.00 645352	03/25/09		
		\$ 600.00 645353	04/24/09		
	\$ 600.00 645354	05/24/09			
	\$ 600.00 645355	06/23/09			
	\$3,360.00 645356	07/23/09			
	Bus Fund	\$3,560.00 645357	07/23/09		

Christopher Vincent (02/15/08)	Civil penalty: (\$1,000)	653134	03/16/08	Y	ACT

James Brown (03/11/08)	Civil penalty: (\$750)	653125	04/11/08	Y	ACT

Bates Recycling, Inc. (06/04/08)	Civil penalty: (\$1,000)	657594	06/18/08	Y	

Craig Eddy (06/04/08)	Civil penalty: (\$750)	657302	07/04/08	Y	

Warren Ropp (06/02/08)	Civil penalty: (\$250)	657293	07/02/08	Y	

JR's Truck Parts (06/02/08)	Civil penalty: (\$500)	657294	07/02/08	Y	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Peter Backer (07/01/08)	Civil penalty: (\$750)	657790	07/31/08	Y	

W. A. Miller (07/16/08)	Civil penalty: (\$1,000)	666334	08/16/08	Y	*
* Partial payment of \$350 received 10/20/08 - Potential to Certify.					

Lanny Reynolds (07/16/08)	Civil penalty: (\$750)	666335	08/16/08	P	

Lance Dudgeon (07/09/08)	Civil penalty: (\$500)	659540	08/09/08	Y	

Johnathan Strickland (07/16/08)	Civil penalty: (\$2,000)	666331	08/16/08	Y	

Luci, Inc. (07/08/08)	Civil penalty: (\$10,000)				
	OEPA \$8,000	659538	08/08/08	Y	
	Bus Fund \$2,000	659539	08/08/08	Y	

Ford Motor Company (07/31/08)	Civil penalty: (\$1,400,000)				
	OEPA \$1,120,000	666337	08/31/08		08/18/08
	Bus Fund \$280,000	666338	08/31/08		08/18/08
	Shut down cupola 3 and mold line 7		12/31/08		12/11/08
	Shut down cupola 1 & 2 and mold lines 2 & 3		12/31/10		

Douglas Kehres (08/13/08)	Civil penalty: (\$500)	666363	09/13/08	Y	

Great Lakes Crushing Ltd. (10/01/08)	Civil penalty: (\$12,000)				
	OEPA \$9,600	686990	10/31/08	Y	09/10/09*
	Bus Fund \$2,400	686991	10/31/08	Y	04/23/09**
* Paid the \$9,600 plus \$1,095.45 in interest to AGO Revenue Recovery. AGO took \$1,069.55 for its collection efforts.					
** AGO took \$240 of this amount for its collection efforts.					

Erie Materials, Inc. (09/24/08 - Consent Order)	Civil penalty: (\$180,000)				
	OEPA \$144,000	686933	10/24/08		12/03/08
	Bus Fund \$ 36,000	686932	10/24/08		12/03/08
	Conduct emission testing		w/i 60 days of permit issuance or w/i 60 days of startup of 2009 season if permit issued after 9/1/08		
	Pay emissions fees of \$7,330 for 1995 through 2007 for Sandusky and for 1999 through 2005 for Portage		10/24/08		10/09/08

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Robert Montgomery, Sr., d.b.a. Montgomery Auto Salvage (10/16/08)	Civil penalty: (\$3,000)	688462	11/15/08	Y	

Re-Gen, Inc. (01/15/09 - Consent Order)	Civil penalty: (\$70,000)				
	OEPA	\$28,000	709526	02/14/09	02/11/09
		\$28,000	709527	01/15/10	
	Bus Fund	\$ 7,000	709528	02/14/09	02/11/09
		\$ 7,000	709529	01/15/10	
	Submit complete approvable synthetic minor PTIO app.		w/i 60 days of resuming operations		
	Submit FERs for 1999-2007 and pay \$8,000 in past emission fees		upon receipt of invoice from OEPA		06/12/09

Ultimate Industries, Inc. (02/25/09 - Consent Order)	Civil penalty: (\$4,200)				
	EPA	\$175.00	712529	03/05/09	05/12/09
		\$175.00	712530	04/05/09	06/15/09
		\$175.00	712531	05/05/09	08/07/09
		\$175.00	712532	06/05/09	09/28/09
		\$175.00	712533	07/05/09	
		\$175.00	712534	08/05/09	
		\$175.00	712535	09/05/09	
		\$175.00	712536	10/05/09	
		\$175.00	712537	11/05/09	
		\$175.00	712538	12/05/09	
		\$175.00	712539	01/05/10	
		\$175.00	712540	02/05/10	
		\$175.00	712541	03/05/10	
		\$175.00	712542	04/05/10	
		\$175.00	712543	05/05/10	
		\$175.00	712544	06/05/10	
		\$175.00	712545	07/05/10	
		\$175.00	712546	08/05/10	
		\$175.00	712547	09/05/10	
		\$175.00	712548	10/05/10	
		\$175.00	712549	11/05/10	
		\$175.00	712550	12/05/10	
		\$175.00	712551	01/05/11	
		\$175.00	712552	02/05/11	

N-Viro International Corp. (03/24/09)	Civil penalty: (\$16,000)				
	OEPA	\$4,000	707974	07/22/09	04/22/09
		\$4,000	707975	10/20/09	07/21/09
		\$4,000	707976	01/18/10	10/19/09
		\$4,000	707977	04/18/10	
	Bus Fund	\$4,000	707978	04/23/09	04/27/09

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Brush Wellman, Inc. (03/24/09)	Civil penalty: (\$40,000)				
	OEPA	\$28,000 711745	04/24/09		03/26/09
	Bus Fund	\$12,000 711746	04/24/09		03/26/09
	Install 3 TRIBO.d2 particulate emission monitors		09/24/09		
	Submit documentation of SEP cost		10/24/09		

Chemtrade Logistics Inc/Marsulex, (04/02/09 - Consent Decree)	Civil penalty: (\$120,000)				
	OEPA	\$72,000 712639	05/02/09		05/26/09
	Bus Fund	\$24,000 712640	05/02/09		05/26/09
	ODNR	\$24,000	05/02/09		
	Comply w/ short-term and long-term SO ₂ emission rates:	Oregon	07/01/11		
		Cairo	07/01/11		
	Comply w/ acid mist emission rate:	Oregon	04/02/09		
		Cairo	07/01/11		
	Install SO ₂ CEMS:	Oregon	07/01/11		
		Cairo	07/01/11		
	Perform compliance tests:	Oregon	07/01/11		
	Submit O&M Plans:	Cairo	07/01/11		
Submit permit applications:	Oregon	07/01/11			
	Cairo	07/01/11			
	Oregon	01/01/13			
Submit report re: how compliance will be achieved:	Cairo	(365 days after acceptance of short-term limit)			
	Oregon	07/01/10			
	Cairo	07/01/10			

Lagrange Township Trustees (04/14/09)	Civil penalty: (\$250)	713233	05/14/09		
	Report the results of vehicle inspections		12/31/09		

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

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

Lorain County Regional Transit Authority (05/15/09)	Civil penalty: (\$250)	714622	06/15/09		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Container Recyclers, Inc. (d.b.a. Colimbus Steel Drum) (06/08/09 Amended Consent Order for stipulated penalties)	Stipulated penalty: (\$87,050)				
	OEPA	\$21,762.50 713429	10/23/09		10/21/09
		\$21,762.50 713430	01/18/10		
		\$21,762.50 713431	04/16/10		
	Bus Fund	\$10,881.25 713432	06/05/09		06/01/09
	\$10,881.25 713433	07/17/09		07/16/09	

Plasti-Kote Company, Inc. (06/17/09)	Civil penalty: (\$240,000)				
	OEPA	\$192,000 714631	07/01/09		08/21/09
	Bus Fund	\$48,000 714632	07/17/09		08/21/09
	Submit either a Title V permit app or a synthetic minor PTI/FESOP app		10/17/09		

T.S. Trim Industries, Inc. (06/17/09)	Civil penalty: (\$85,200)				
	OEPA	\$68,160 714704	07/17/09		06/25/09
	Bus Fund	\$17,040 714705	07/17/09		06/25/09
	Conduct emission tests Submit test report		08/07/09 09/07/09		

Village of Gloria Glens (06/18/09)	Civil penalty: (\$250)	714659	07/18/09		
	Have all vehicles tested and report results		12/31/09		

Village of North Randall (06/30/09)	Civil penalty: (\$1,500)	714660	07/30/09		
	Have all vehicles tested and report results		12/31/09		

Leroy and Judith Schaffer (06/30/09)	Civil penalty: (\$250)	714661	07/30/09		

Precision Aggregates III, LLC (07/08/09)	Civil penalty: (\$15,000)				
	OEPA	\$4,500 715181	09/15/09		09/14/09
		\$7,500 715182	09/15/10		
Bus Fund	\$3,000 715183	09/15/09		09/14/09	

Village of Oakwood (07/07/09)	Civil penalty: (\$2,500)	714842	08/07/09		08/17/09
	Have all vehicles tested and report results		11/02/09		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
The Belden Brick Company, L.L.C. (07/06/09 - Consent Order)	Civil penalty: (\$850,000)				
	OEPA	\$170,000	717042	08/06/09	08/17/09
		\$170,000	717043	07/06/10	
		\$170,000	717044	01/06/11	
		\$170,000	717045	07/06/11	
	Bus Fund	\$170,000	717046	08/06/09	08/17/09
	Pay \$334,514.43 for Title V permit emission fees for CY 2001 thru 2006			Upon receipt of invoice from OEPA	
	Submit SO ₂ FERs for CY 1993 thru 2000		01/06/10		
	For Plant 8, pay difference in emission fees for CY 1999 and 2000		Upon receipt of invoice from OEPA		

Cleveland Board of Education (E-Check) (08/11/09)	Civil penalty: (\$5,000)		726483	09/11/09	
	Have all vehicles tested and report results			12/31/09	

Saif Khan, d.b.a. Lakeland Citgo (08/20/09)	Civil penalty: (\$10,000)				
	OEPA	\$ 500	726488	09/20/09	08/06/09
		\$2,500	726489	12/20/09	11/30/09
		\$2,500	726490	03/20/10	
		\$2,500	726491	06/20/10	
	Bus Fund	\$2,000	726492	09/20/09	08/06/09

Joseph Parker (08/18/09)	Civil penalty: (\$250)		725188	09/18/09	

The Shelly Holding Company, et al. (09/02/09 - Court Order)	Civil penalty: (\$350,123.52)			10/02/09	

McCarthy Corporation (09/22/09)	Civil penalty: (\$3,000)		727233	10/05/09	

Pioneer Environmental Companies (09/22/09)	Civil penalty: (\$7,000)				
	OEPA	\$2,100	727235	10/22/09	
		\$3,500	727236	03/22/10	
	Bus Fund	\$1,400	727237	10/22/09	

Total Environmental Services, LLC (09/17/09)	Civil penalty: (\$5,000)				
	OEPA	\$4,000	727529	10/01/09	
	Bus Fund	\$1,000	727530	10/17/09	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Speedway SuperAmerica, LLC (09/22/09)	Civil penalty: (\$35,880)				
	OEPA	\$28,704	727238	10/05/09	09/29/09
	Bus Fund	\$7,176	727239	10/22/09	09/29/09
	Submit weekly inspection records			11/14/10	
	Submit weekly inspection records			11/14/11	
	Submit results of static leak and A/L ratio tests for 2010			04/14/10	
	Submit results of static leak and A/L ratio tests for 2011			09/14/10	
	Submit results of static leak and A/L ratio tests for 2011			04/14/11	

Eramet Marietta, Inc. (10/07/09)	Civil penalty: (\$30,000)				
	OEPA	\$24,000	735687	10/21/09	10/13/09
	Bus Fund	\$6,000	735688	11/06/09	10/13/09
	Submit copy of inspection & testing schedule			11/06/09	09/10/09
	Submit documentation of de-registering of formerly covered processes			11/06/09	08/13/09

Stein, Inc. (10/13/09)	Civil penalty: (\$50,000)				
	Bus Fund	\$10,000	735700	11/13/09	10/23/09
	OEPA	\$10,000	735696	05/13/10	
		\$10,000	735697	08/13/10	
		\$10,000	735698	11/13/10	
	\$10,000	735700	02/13/11		

Joseph and Marie Eberz (10/19/09)	Civil penalty: (\$500)		735796	11/19/09	

CertainTeed Corp (10/19/09 - CO)	Civil penalty: (\$230,000)				
	OEPA	\$184,000	735799	11/19/09	
	Bus Fund	\$ 46,000	735800	11/19/09	
	Submit Title V permit appl.			w/i 90 days of issuance of PTI	
	Submit plan for measuring OC content of stone			01/19/10	
Submit FERs for 1993-1996			04/19/10		

Aleris International, Inc., et. Al. (10/30/09 - CO)	Civil penalty: (\$334,545)				
				when U.S. Bankruptcy court for District of Delaware decides	
	Install load cells to weigh flux			04/29/10	
	Submit Capture and Collection System Improvement Plan			11/29/09	
	Complete all improvements described in CCSIP			04/29/10	
	Measure fan RPM			01/29/10	
	Measure static pressure of air curtain			01/29/10	
	Perform compliance tests			10/29/10	
Submit test results			12/29/10		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Aleris Int'l, Inc., et. Al. (Con't)	Submit HCI PTE analysis		12/29/10		
	Conduct additional compliance tests		03/29/10		
	Comply with all requirements of Subparts A and RRR		09/29/10		

Circle K Midwest (GDFs 5204, 5209, 5318, 5320, 5557, 5558, 0059, and 5217) (11/04/09)	Civil penalty: (\$100,000)				
	OEPA	\$80,000 735797	12/04/09		11/13/09
	Bus Fund	\$20,000 735798	12/04/09		11/13/09
	Perform static leak & A/L ratio tests at each GDF		03/31/10		
			08/31/10		
		03/31/11			
		08/31/11			

Rascal House Pizza (11/12/09)	Civil penalty: (\$10,000)				
	OEPA	\$1,250 746346	12/12/09		12/07/09
		\$1,250 746347	03/12/10		
		\$1,250 746348	06/12/10		
		\$1,250 746349	09/12/10		
		\$1,250 746350	12/12/10		
		\$1,250 746351	03/12/11		
	\$1,250 746352	06/12/11			
	\$1,250 746353	09/12/11			

Great Plains Exploration (11/12/09)	Civil penalty: (\$19,000)				
	OEPA	\$1,000 746093	03/01/10		
		\$1,000 746094	04/01/10		
		\$1,000 746095	05/01/10		
		\$1,000 746096	06/10/10		
		\$1,000 746097	07/01/10		
		\$1,000 746098	08/01/10		
		\$1,000 746099	09/01/10		
		\$1,000 746100	10/01/10		
		\$1,000 746101	11/01/10		
		\$1,000 746102	12/01/10		
		\$1,000 746103	01/01/11		
		\$1,000 746104	02/01/11		
		\$1,000 746105	03/01/11		
		\$1,000 746106	04/01/11		
	\$1,000 746107	05/01/11			
	Bus Fund	\$1,000 746108	11/01/09		
		\$1,000 746109	12/01/09		
		\$1,000 746110	01/01/10		
		\$1,000 746111	02/01/10		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
Sunoco, Inc. (Toledo Refinery) (11/12/09)	Civil penalty: (\$32,250)					
	OEPA	\$25,800 746355	11/26/09		11/06/09	
	Bus Fund	\$6,450 746356	12/12/09		11/06/09	
	Complete corrective actions in Finding 15(a) and submit documentation			12/31/09		
	Correct deficiencies in butane sphere inspection reports and submit documentation			06/30/10		
	Resolve compliance audit findings in Finding 14(c) and submit documentation			12/31/09		

Thermo-Rite Manufacturing Company, Inc. (12/02/09)	Civil penalty: (\$36,000)					
	OEPA	\$ 800 747314	03/01/10			
		\$2,000 747315	04/01/10			
		\$2,000 747316	05/01/10			
		\$2,000 747317	06/01/10			
		\$2,000 747318	07/01/10			
		\$2,000 747319	08/01/10			
		\$2,000 747320	09/01/10			
		\$2,000 747321	10/01/10			
		\$2,000 747322	11/01/10			
		\$2,000 747323	12/01/10			
		\$2,000 747324	01/01/11			
		\$2,000 747325	02/01/11			
		\$2,000 747326	03/01/11			
		\$2,000 747327	04/01/11			
		\$2,000 747328	05/01/11			
	Bus Fund	\$2,000 747329	12/01/09		11/30/09	
		\$2,000 747330	01/01/10			
		\$2,000 747331	02/01/10			
		\$1,200 747332	03/01/10			

D & R Supply, Inc. (12/02/09)	Civil penalty: (\$20,000)					
	OEPA	\$5,000 746313	01/01/10			
		\$2,750 746314	04/01/10			
		\$2,750 746315	07/01/10			
		\$2,750 746316	10/01/10			
		\$2,750 746317	01/01/11			
	Bus Fund	\$4,000 746318	12/01/09		11/06/09	

Duff Quarry, Inc. (12/11/09)	Civil penalty: (\$5,000)	747347	01/11/10		12/07/09	

Evonik Degussa Engineered Carbons Corp. (12/17/09)	Civil penalty: (\$34,310)					
	OEPA	\$27,448		01/17/10		
	Bus Fund	\$ 6,862		01/14/10		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Emery Oleochemicals, LLC (12/17/09)	Civil penalty: (\$57,400)				
	OEPA	\$28,700	747345		12/31/09
	Bus Fund	\$28,700	747346		12/31/09
	For odor emission control system for P004 (penalty credit project):				
	submit plans				03/01/10
	issue purchase odors				07/01/10
	initiate construction				10/01/10
	complete construction				12/31/10
submit documentation of spending at least \$340,000				01/31/11	

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



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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

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

MAILING ADDRESS:

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

December 17, 2009

CERTIFIED MAIL

Mr. Gary E. Powell, Esq.
1014 Vine Street
Suite 1919
Cincinnati, Ohio 45202

Re: Final Findings and Orders for:
Emery Oleochemicals LLC,
4900 Este Avenue, Cincinnati, Ohio

Dear Mr. Powell:

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 #14)
Donald L. Vanterpool, Legal Office
Kerri Castlen/Tom Wittekind, HCDES
Patty Porter, DAPC
Michael E. Groh, Emery

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

OHIO E.P.A.

DEC 17 2009

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Emery Oleochemicals LLC
4900 Este Avenue
Cincinnati, Ohio 45232-1419

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:

Director's Final Findings

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

PREAMBLE

It is agreed by the parties hereto as follows:

By: [Signature] Date: 12-17-09

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Emery Oleochemicals LLC ("Respondent"), previously Cognis Oleochemicals, LLC, 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 OAC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings of fact:

- Respondent owns and operates a chemical manufacturing plant located at 4900 Este Avenue, in Cincinnati (Hamilton County), Ohio, that is defined as a "facility" in OAC Rule 3745-31-01(OO). In November 2008 through a name change only sale the former Cognis Corporation (Cognis) finalized sale of its interest. The name change to Emery Oleochemicals LLC became effective on May 15, 2009. The facility is classified as a "major source" for Title V and the Prevention of Significant Deterioration/New Source Review ("PSD/NSR") regulations in Ohio Administrative Code ("OAC") Chapters 3745-77 and 3745-31, respectively. At this facility, azelaic and pelargonic acids are produced in two similar, but separate, processes referred to as ozonolysis process II (building 60) and ozonolysis III (building 68). The ozonolysis processes consist of ozone generators,

reactors, running tanks, stills, extractors, and vacuum systems, and are collectively identified by Ohio EPA as emissions units P010 and P017 for building 60 and 68, respectively. Each emissions unit previously employed a packed tower scrubber and a catalytic oxidizer in series for the control of organic compound emissions. Currently, the organic compound emissions are being controlled by regenerative thermal oxidizers ("RTOs"). Respondent also operates a 38.2 million Btu per hour ("MMBtu/hr") coal/fuel oil-fired boiler, whose particulate emissions are controlled with a baghouse, which is identified by Ohio EPA as emissions unit B028.

2. The emissions units identified in Finding 1 emit, in part, volatile organic compounds ("VOCs") and hazardous air pollutants ("HAPs"), as defined in OAC Rules 3745-21-01(B)(14) and 3745-77-01(V), respectively, and/or particulate emissions ("PE"), particulate matter ("PM"), and particulate matter with an aerodynamic diameter of 10 microns or less ("PM₁₀"), which are defined as "air pollutants" or "air contaminants" in OAC Rule 3745-15-01(C). Additionally, these emissions units are "air contaminant sources" as defined in OAC Rules 3745-31-01(I) and 3745-15-01(C) and (W).

3. Unless otherwise exempt from the rule, OAC Rule 3745-21-13 requires, in part, any group 1 reactor or distillation unit in a synthetic organic chemical manufacturing industry ("SOCMI") chemical process unit, located in Hamilton County, to reduce VOC emissions vented to a control device by at least 98 percent or emit VOC at a concentration less than twenty parts per million by volume ("ppm_v"). Existing group 1 reactors or distillation units process vents that were controlled by combustion control devices prior to May 27, 2005, did not have to comply with this limitation provided the existing combustion control devices reduced VOC emissions by at least 90 percent and were not capable of reliably reducing VOC emissions to meet the more stringent limitation (i.e., 98 percent). Existing reactors and distillation units located in Hamilton County were required to comply with the applicable VOC limitation by May 27, 2006 and to demonstrate compliance 90 days thereafter. Emissions units P010 and P017 contain reactors and distillation units defined as group 1 and are subject to all the applicable requirements specified in OAC Rule 3745-21-13. OAC Rule 3745-21-13 was adopted under the authority of ORC Chapter 3704.

4. OAC Rule 3745-31-05(C) states, in part, that the Director of Ohio EPA may impose special terms and conditions in a PTI as are appropriate or necessary to ensure compliance with applicable laws and to ensure adequate protection of the environment.

5. OAC Rule 3745-77-02(B) states, in part, that major sources are subject to the permitting requirements of OAC Chapter 3745-77 (i.e., Title V).

6. OAC Rule 3745-77-07(A)(1) requires, in part, that a Title V permit include emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of issuance. OAC Rule 3745-77-07(A)(3) requires, in part, that a Title V permit contain emission monitoring and analysis procedures or test methods sufficient to yield reliable

representative data to determine the source's compliance with the permit and applicable emission limitations.

7. ORC § 3704.05(C) prohibits any person from violating any terms or conditions of any permit issued by the Director of Ohio EPA.

8. ORC § 3704.05(G) prohibits any person from violating any order, rule or determination of the Director of Ohio EPA issued, adopted, or made under the authority of ORC Chapter 3704.

9. ORC § 3704.05(J)(2) prohibits, in part, any person from violating any applicable requirement of a Title V permit or any permit condition, except for an emergency as defined in 40 CFR 70.6(g).

Failure to comply with the requirements of OAC Rule 3745-21-13

10. On May 10, 2006, Respondent requested the May 27, 2006, compliance deadline contained in OAC Rule 3745-21-13 be extended until September 30, 2007, for the applicable emissions units associated with the ozone oxidation processes. The extension was needed to determine applicability and to evaluate and identify the most effective compliance options. USEPA's Miscellaneous Organic National Emission Standards for Hazardous Air Pollutants ("MON") regulation promulgated on November 10, 2003 contained similar emission control requirements; however, the regulation did not require compliance until May 10, 2008 (i.e., allowing 4 1/2 years for sources to achieve compliance). Respondent stated that the emissions units associated with the ozone oxidation processes had control devices that meet the 90 percent control efficiency option specified in OAC Rule 3745-21-13 for existing combustion control devices; however, because the packed tower scrubbers are not combustion control devices, the existing control devices did not qualify for this control option.

11. On or around September 2007, Respondent shut down emissions units P010 and P017 to replace the existing catalytic incinerators with new RTOs. On January 23 and 24, 2008, Respondent conducted stack tests for emissions units P010 and P017 which demonstrated compliance with OAC Rule 3745-21-13. Respondent failed to comply with the applicable requirements specified in OAC Rule 3745-21-13 within the required time frame, in violation of ORC § 3704.05(G). Respondent violated the requirements of OAC Rule 3745-21-13 from May 27, 2006 (the rule compliance deadline) until January 24, 2008 when compliance was finally demonstrated.

Failure to comply with PTI and Title V Permit OC emission limitations

12. From January 23, 2002 to December 21, 2006, Respondent conducted several stack tests that demonstrated that emissions units P010 and P017 were not complying with the OC emission limitations contained in PTI # 14-04576 and the Title V permit. Respondent made modifications to the control devices to try to bring the emissions

units into compliance with the OC emission limitations and agreed to conduct quarterly compliance testing until the installation of the new RTOs scheduled for the third quarter of 2007.

13. On May 8, 2007, Ohio EPA issued revisions to PTI # 14-04576 that required emissions units P010 and P017 to operate the primary and secondary control devices in series. Additionally, the permit limited the short term OC emissions to 2.59 and 2.54 lbs/hr for emissions units P010 and P017, respectively.

14. On June 5 and 6, 2007, Respondent conducted quarterly compliance tests for emissions units P010 and P017. The test results showed that emissions unit P010 was in compliance. However, Respondent failed to demonstrate that emissions unit P017 was in compliance with the OC emission limitation contained in PTI # 14-04576 and Respondent's Title V operating permit, in violation ORC § 3704.05(C) and J(2) (specific measured OC values are identified in the following table). On August 7, 2007, Hamilton County Department of Environmental Services ("HCDES"), Ohio EPA's contractual representative in Hamilton County, sent Respondent a notice of violation ("NOV") for the failed stack test.

Results of Compliance Demonstrations				
Date	Emissions Unit	Measured OC Lb/Hr	Allowable OC Lb/Hr	Passed/Failed
June 5, 2007	P010	1.48	2.59	Passed
June 6, 2007	P017	6.08	2.54	Failed
Sept. 6, 2007	P010	2.93	2.59	Failed
Sept. 7, 2007	P017	2.61	2.54	Failed
Jan. 23, 2008 [#]	P010	0.102	2.59	Passed
Jan. 24, 2008 [#]	P017	0.062	2.54	Passed

[#] Compliance demonstration with the emissions generated by emissions units P010 and P017 being controlled by the new RTOs.

15. On September 6 and 7, 2007, Respondent conducted another compliance test for emissions units P010 and P017. The test results indicated that both emissions units were not complying with the OC emission limitations contained in PTI # 14-04576 and Respondent's Title V operating permit, in violation ORC § 3704.05(C) and J(2) (specific measured OC values are contained in Finding 14's table).

16. In a letter dated October 4, 2007, Respondent informed HCDES of the September 2007 test results and that it shut down emissions units P010 and P017 to install

the new RTOs. On January 10, 2008, Respondent notified HCDES that emissions units P010 and P017 recommenced operation on November 12, 2007.

17. On December 28, 2007, HCDES sent a NOV to Respondent for the failed performance tests. The NOV also stated that the installation of the RTOs was acceptable as a compliance plan.

18. On January 23 and 24, 2008, Respondent performed stack tests for emissions units P010 and P017. The measured emission rates demonstrated that emissions units P010 and P017 were complying with the OC emission limitations specified in the Title V permit and PTI # 14-04576 and all other applicable requirements.

19. Respondent's failure to comply with the OC emission limitations specified in PTI # 14-04576 and the Title V operating permit for emissions units P010 and P017 were in violation of ORC § 3704.05(C) and (J)(2). Emissions units P010 and P017 violated the OC emission limitations from September 6, 2007 and June 6, 2007 (the date of the first failed compliance tests after the compliance demonstration required by the December 29, 2006, Director's Final Findings and Orders), respectively, until January 23 and 24, 2008 (the date compliance was demonstrated), respectively, excluding the time the emissions units did not operate for the installation of the RTOs. Emissions units P010 and P017 also violated OAC Rule 3745-21-13 from May 27, 2006 until January 23 and 24, 2008.

Failure to comply with PTI and Title V Permit PE limitation

20. On January 20, 1981, Ohio EPA issued PTI # 14-312 to Respondent authorizing the installation of emissions unit B028 (i.e., boiler # 2). The PTI limited emissions unit B028's PE to 0.06 pound per million Btu ("lb/MM Btu") of actual heat input. Respondent's Title V permit, issued on October 22, 2007, required that emission testing be conducted on emissions unit B028 to demonstrate compliance with the 0.06 lb/MMBtu PE limitation.

21. On May 14, 2008, Respondent conducted the compliance test for emissions unit B028. The compliance test measured the average PE rate at 0.716 lb/MMBtu, an exceedance of the 0.06 lb/MM Btu limitation specified in Respondent's Title V permit and PTI. This exceedance was a violation of ORC § 3704.05(C) and (J)(2). On June 30, 2008, HCDES sent Respondent a NOV letter for the failure to comply with the terms and conditions of Respondent's Title V permit and PTI and requested Respondent submit a plan to bring emissions unit B028 into compliance ("compliance plan").

22. On July 17, 2008, Respondent replied to the June 30, 2008, NOV. The reply stated that on July 9, 2008, Respondent switched from using coal to number 4 fuel oil to lower the PE.

23. On July 11, 2008, Respondent retested emissions unit B028 while burning fuel oil. The PE were measured at 0.09 lb/MM Btu demonstrating that the boiler was still

operating out of compliance. On August 27, 2008, HCDES sent Respondent a NOV letter requesting the submittal of another compliance plan to bring the boiler into compliance.

24. On September 12, 2008, Respondent replied to the August 27, 2008, NOV.

25. On August 15, 2008, Respondent retested emissions unit B028. The results (i.e., 0.011 lb of PE/MM Btu) indicated that emissions unit B028 was in compliance with the PE limitation. Respondent failed to comply with the PE limitation specified in the Respondent's Title V permit and PTI, from May 14, 2008 (the date of the first failed stack test) until August 15, 2008 (the date compliance was demonstrated), excluding approximately one month while the boiler was shut down for repairs and maintenance, in violation of ORC § 3704.05(C) and (J)(2).

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

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of one hundred forty-three thousand and five hundred dollars (\$143,500) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for twenty-eight thousand and seven hundred dollars (\$28,700) of the civil penalty amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent, to:

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

2. In lieu of paying twenty-eight thousand and seven hundred dollars (\$28,700) of the remaining civil penalty amount, 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 \$28,700 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 \$28,700. 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 \$28,700 of the civil penalty in accordance with the procedures in Order 1.

5. In lieu of paying eighty-six thousand and one hundred dollars (\$86,100) of the remaining civil penalty amount, and as a penalty credit project to benefit the public residing in the vicinity of Respondent's facility, Respondent shall install and operate an odor emission control system for tank vent emissions from Respondent's Southeast Tank Farm ("SETF"). Specifically, Respondent shall duct the emissions from (1) the six tanks that are used primarily for intermediate storage of pressure split tallow fatty acids ("PFA") and are identified by Ohio EPA as part of emissions unit P004 (High Pressure Splitters 2-6) and (2) the one tank used as a stormwater retention tank, to a new vent collection system header that will route the emissions to either a biofilter or a venturi scrubber for control. The odor emission control system shall be installed and brought into operation in accordance with the following schedule:

- a. Submit detailed plans of the odor emission control system, including the selection of the control equipment, and a PTI modification application for emissions unit P004 that includes the odor emission control system, by no later than **March 1, 2010**;
- b. Issue purchase orders or award contracts for the odor emission control system by no later than **July 1, 2010**;
- c. Initiate construction or installation of the odor emission control system by no later than **October 1, 2010**; and
- d. Complete construction or installation of the odor emission control system and begin operation by no later than **December 31, 2010**.

6. The odor emission control system shall be designed to handle flow rates from the tank vents, including those from situations where steam is blown into the tanks to clear lines of PFA for stock changes and process shutdowns.

7. Respondent shall expend at least \$340,000 for the total cost of the odor emission control system, and shall keep records of all expenditures. Within thirty (30) days

after the deadline in milestone 5.d or within thirty (30) days after the installation and beginning operation of the system, whichever is earlier, Respondent shall submit documentation of expenditure of at least \$340,000 on the odor emission control system.

8. Respondent shall submit progress reports to Ohio EPA and HCDES within thirty (30) days after each of the above milestone dates in Order 5 or within thirty (30) days after completion of the milestone, whichever is earlier. The reports shall indicate whether the milestone was completed, the date completed, and, if not completed, the anticipated completion date and reason(s) for the failure to achieve the completion date.

9. Respondent shall operate and maintain the odor emission control system in a manner that achieves maximum effectiveness for odor emission reduction. Operating parameter monitoring, record-keeping, reporting and testing requirements for the biofilter or venturi scrubber that are critical to maintain good operation and maintenance shall be specified in the terms and conditions of an Ohio EPA PTI modification for emissions unit P004.

VI. TERMINATION

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

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

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

VII. OTHER CLAIMS

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

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

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

X. NOTICE

Except as otherwise provided in these Orders, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Hamilton County Department of Environmental Services
Air Quality Programs
250 William Howard Taft Road
Cincinnati, Ohio 45219-2660
Attention: Kerri Castlen

and to:

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

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

XI. RESERVATION OF RIGHTS

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

XII. WAIVER

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

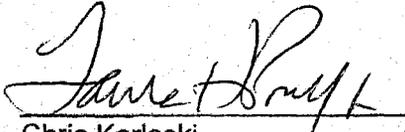
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

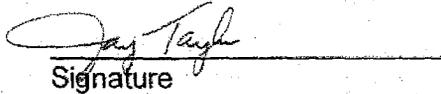


Chris Korleski
Director

12-16-09
Date

AGREED:

Emery Oleochemicals LLC


Signature

12-14-2009
Date

Jay Taylor
Printed or Typed Name

General Manager
Title



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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

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

MAILING ADDRESS:

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

December 16, 2009

CERTIFIED MAIL

Mr. William D. Hayes, Esq.
Vorys, Sater, Seymour and Pease
221 East Fourth Street
Suite 2000, Atrium Two
Cincinnati, Ohio 45202

Re: Final Findings and Orders for:
Evonik Degussa Engineering Carbons
Corporation at 11135 State Route 7,
Belpre, Ohio

Dear Mr. Hayes:

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)
Marcus Glasgow, Legal Office
Tan Tran, DAPC
Bruce Weinberg/Sarah Harter/Michael Carper, SEDO
Donnie Loubiere, Evonik

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

OHIO E.P.A.

DEC 17 2009

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Evonik Degussa Engineered
Carbons Corporation
11135 State Route 7
Belpre, Ohio 45714

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Director's Final Findings
and Orders

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

PREAMBLE

It is agreed by the parties hereto as follows:

By: Daryl Lasser Date: 12-17-09

I. JURISDICTION

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

II. PARTIES BOUND

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

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent's facility processes feedstock into carbon black. At this facility, among other equipment, Respondent owns and operates four carbon black production units 1 through 4 [emissions units ("EUs") P001, P002, P011, and P012]. The carbon black produced in units 1 and 2 is further processed in dryers (EUs P005 and P006, respectively). EUs P011 and P012 do not have any dryers associated with them. There are also several supporting EUs used to store raw material and collect, transfer, and load the carbon black material into railcars and tanker trucks. This property is located at 11135 State Route 7 in Belpre (Washington County), Ohio.

2. Each of the above-mentioned EUs in Finding 1 is an "air contaminant source" as defined in OAC Rules 3745-31-01(I) and 3745-15-01(C) and (X). Emissions from EUs P001 and P002 are vented to a common flare for oxidation. Emissions from EUs P011 and P012 are vented to a common thermal incinerator for oxidation.

3. ORC § 3704.05(C) states, in part, that no person who is a holder of a permit issued under ORC § 3704.03(F) or (G) shall violate any of its terms and conditions. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA. ORC § 3704.05(J)(2) prohibits the violation of any term and condition of a Title V permit.

4. On December 31, 2002, a Title V permit was issued to Respondent for its facility. The Title V permit established emission limitations and monitoring, recordkeeping and reporting requirements for all EUs at the facility. The Title V permit expired on December 31, 2007; however, pursuant to OAC Rule 3745-77-08(E)(1), the requirements of the expired Title V permit remain in effect until the Director takes final action on the timely filed renewal permit application submitted by Respondent.

5. On November 29, 2007, a final permit to install ("PTI") modification was issued to Respondent for EUs P001, P002, P011 and P012. This PTI modification was issued to increase the sulfur content of the feedstock oil from 3 percent to 4 percent. This PTI modification also established the combined allowable emission rates for nitrogen oxides ("NOx") and volatile organic compounds ("VOC") for EUs P001 and P002 at 43.7 pounds per hour ("lbs/hr") and 9.4 lbs/hr, respectively. Further, this PTI modification established the combined allowable emission rates for NOx and VOC for EUs P011 and P012 at 37.0 lbs/hr and 10 lbs/hr, respectively.

Failure to Maintain the Combustion Temperature Within Required Range

6. Part III.A.II.3 of the special terms and conditions of Respondent's Title V permit states that the average combustion temperature within the thermal incinerator, for any 3-hour block of time when an emissions unit is in operation, shall not be more than 50 degrees Fahrenheit below the average temperature during the most recent emission test that demonstrated EUs P011 and P012 were in compliance (average test temperature was 1,632 degrees Fahrenheit on January 10, 2008).

7. There were 906 hours of operation in the first quarter of 2008, 1,715 hours of operation in the second quarter of 2008, 1,608 hours of operation in the third quarter of 2008, and 537 hours of operation in the fourth quarter of 2008 during which Respondent failed to maintain the average combustion temperature inside the thermal incinerator within the required range for EUs P011 and P012, in violation of the Title V permit and ORC § 3704.05(C) and (J)(2).

8. Respondent reported to Ohio EPA that the temperature during the January 2008 test was the result of a technical oversight by site personnel who failed to reduce the combustor temperature during the test. Respondent indicated that using the lower combustor temperatures of the 2005, 2006 and 2007 stack tests that demonstrated compliance, Respondent would have been in compliance for all but a limited number of instances.

9. On March 17, 2009, Respondent performed a follow-up emission test for EUs P011 and P012 which demonstrated compliance. A lower average test temperature of 1,461 degrees Fahrenheit was established during that test.

Failure to Comply with the Limits for NOx and VOC

10. The results of stack test performed by Respondent on January 10, 2008 revealed that the tested NOx and VOC emissions rates for EUs P001 and P002 were 52.8 lbs/hr and 11.4 lbs/hr, respectively. Based on these results, SEDO concluded that Respondent was not in compliance with the combined allowable NOx and VOC limits in its PTI modification, which are 43.7 lbs/hr and 9.4 lbs/hr.

11. Respondent retested on May 7, 2008 and complied with these limits. The tested emissions rates for NOx and VOC were 5.3 lbs/hr and 9.2 lbs/hr, respectively. Therefore, from January 10, 2008 through May 7, 2008, Respondent was in violation of the terms and conditions of its permit to install modification and ORC § 3704.05(C).

Failure to Report Malfunctions

12. Part I.A.2 of the general terms and conditions of Respondent's Title V permit requires Respondent to immediately notify Ohio EPA of a malfunction pursuant to OAC Rule 3745-15-06(B).

13. OAC Rule 3745-15-06(B)(1) requires that in the event that any emission source or air pollution control equipment located at a facility breaks down in such a manner as to cause the emission of air contaminants in violation of any applicable law, the facility shall immediately notify Ohio EPA of such failure or breakdown and provide the Agency with the information required in OAC Rule 3745-15-06(B)(1).

14. Respondent failed to immediately notify Ohio EPA of five malfunctions that occurred on October 16, 2008, October 20, 2008, October 31, 2008, and November 5, 2008, concerning EUs F003 and/or F004, in violation of the terms and conditions of the Title V permit, OAC Rule 3745-15-06(B)(1), and ORC § 3704.05(C), (G) and (J)(2). The failure to provide immediate notification in these instances was discovered by Respondent who then reported the failure on quarterly deviation reports, which were received by Ohio EPA on January 28, 2009.

15. SEDO issued notices of violation ("NOV") to Respondent addressing the violations described in the Findings 6 through 14. The NOV's were dated March 17, 2008, November 20, 2008, and March 4, 2009. Respondent provided responses to the NOV's on April 14, 2008, May 14, 2008, December 5, 2008, and April 8, 2009.

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-four thousand three hundred and ten dollars (\$34,310) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC § 3704.06. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for twenty-seven thousand four hundred and forty-eight dollars (\$27,448) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

2. In lieu of paying the remaining six thousand eight hundred and sixty-two dollars (\$6,862) of civil penalty to Ohio EPA, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$6,862 to the 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 \$6,862. 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
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required timeframe in Order 2, Respondent shall immediately pay to Ohio EPA \$6,862 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

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

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the 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, Southeast District Office
2195 Front Street
Logan, Ohio 43138
Attention: Michael Carper

and to:

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

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

XI. RESERVATION OF RIGHTS

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

XII. WAIVER

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

XIII. EFFECTIVE DATE

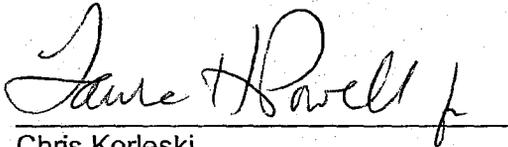
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

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

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Chris Korleski
Director

12-15-09
Date

AGREED:

Evonik Degussa Engineered Carbons Corporation



Signature

12-10-2009
Date

JOHNNY COVEY
Printed or Typed Name

VP PRODUCTION & TECHNOLOGY
Title



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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

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

MAILING ADDRESS:

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

DEC 11 2009

The Honorable Richard Cordray
Attorney General of Ohio
Environmental Enforcement Section
State Office Tower, 25th Floor
30 East Broad Street
Columbus, Ohio 43266-0410

Re: Referral of Uni-Mart, Inc. (EC Case #2836)

Dear Mr. Cordray:

Pursuant to ORC § 3704.06, I hereby request that you initiate all necessary legal and/or equitable civil actions as may be deemed necessary and seek appropriate penalties against the above-referenced party and any other appropriate party for the violations of ORC Chapter 3704 and the regulations adopted thereunder. A copy of the Division of Air Pollution Control's enforcement file is enclosed.

Thank you for your assistance in this matter. Any questions you may have should be directed to Jim Kavalec of the Division of Air Pollution ("DAPC") (644-4840). He, as well as Tom Kalman of the DAPC Enforcement Section (644-3598), should be kept apprised of the status of this matter and any action taken with regard to it. Please also coordinate all negotiations and any resolution of this case with Jim Orlemann, Assistant Chief, SIP Development and Enforcement, and Enforcement Coordinator of the DAPC.

Sincerely,

Chris Korleski
Director

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Donald L. Vanterpool, Legal Office
Jim Kavalec, DAPC
Tim Fischer, NEDO DAPC

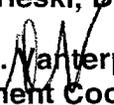
Enclosures

CK/JK/jk

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

Ohio EPA
Division of Air Pollution Control

INTER-OFFICE COMMUNICATION

TO: Chris Korleski, Director 
FROM: Donald L. Vanterpool, Staff Attorney and Jim Orlemann, DAPC
Enforcement Coordinator 
SUBJECT: Recommendation for referral of Uni-Mart, Inc. to the Attorney
General's Office ("AGO")
DATE: December 3, 2009

**CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGED COMMUNICATION
CONFIDENTIAL LAW ENFORCEMENT INVESTIGATORY RECORD**

Attached for your review and signature is a letter to the Attorney General requesting that an enforcement action be taken against Uni-Mart, Inc. and any other appropriate party for violations of ORC Chapter 3704 and OAC Rule 3745-21-09(DDD). Also, attached is an Inter-Office Communication to Dale Vitale, Chief of the Environmental Enforcement Section of the AGO, which contains a briefing of the case.

This matter is being recommended for referral to the AGO because Uni-Mart, Inc. notified Ohio EPA that it filed for Chapter 11 bankruptcy protection in July of 2008 and therefore is unable to apply funds to pay the civil penalty for the violations alleged in the proposed Findings and Orders dated September 21, 2009. The AGO's assistance is needed to file Ohio EPA claims for civil penalties with the bankruptcy court. Please contact one of us if you have questions.

DV/JO/JK/jk

Attachments

xc: Tom Kalman, DAPC
Jim Kavalec, DAPC

Ohio EPA
Division of Air Pollution Control

INTER-OFFICE COMMUNICATION

TO: Dale Vitale, Chief, Environmental Enforcement Section, Attorney General's Office

FROM: Donald E. Manterpool, Staff Attorney and Jim Orlemann, DAPC Enforcement Coordinator

SUBJECT: Notes concerning the referral of Uni-Mart, Inc. to the Attorney General's Office (EC Case #2836)

DATE: December 2, 2009

**CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGED COMMUNICATION
CONFIDENTIAL LAW ENFORCEMENT INVESTIGATORY RECORD**

The Director of Ohio EPA is referring Uni-Mart, Inc. ("Uni-Mart") to the Attorney General's Office ("AGO") for violations of Ohio Revised Code ("ORC") Chapter 3704 and Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD). The September 21, 2009 proposed Director's Final Findings and Orders ("DFFOs"), which were sent to Uni-Mart in an unsuccessful attempt to settle this matter administratively (due to Uni-Mart's July 2008 Chapter 11 bankruptcy filing), are attached for the AGO's use in preparing a complaint and consent order. A copy of the enforcement case file is also attached. A brief summary of the case is provided below.

SYNOPSIS

- Uni-Mart owns and operates gasoline dispensing facilities ("GDFs") located at 4000 Park Ave., in Ashtabula, Ohio (Uni-Mart #04768); 6000 Vrooman Rd., in Painesville, Ohio (Uni-Mart #74775); and 1769 State Route 534 South, in Geneva, Ohio (Uni-Mart #04767). These GDFs are subject to the requirements of Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD) concerning Stage II vapor control systems. As part of the Stage II vapor control system requirements, these GDFs are required to conduct Stage II compliance tests, which consist of annual static leak and air-to-liquid ("A/L") ratio tests and a five-year dynamic pressure performance test. The purpose of these tests is to ensure that the Stage II vapor control systems are working properly to capture gasoline vapors so they do not contribute to ozone formation.
- Since taking ownership of these GDFs in early 2007, Uni-Mart has failed to successfully pass the annual Stage II vapor control system testing requirements at each of these GDFs. Uni-Mart failed the A/L ratio test at each of these GDFs

in 2007 and 2008, with anywhere from 1 to 5 dispensers failing the A/L ratio test at each GDF. In addition, the static leak test failed in 2007 at two of these GDFs and again in 2008 at one of the same GDFs. Only one GDF has tested in 2009 and that GDF failed the A/L ratio test. Two of the GDFs, Uni-Mart #04768 and Uni-Mart #74775, have been out of compliance since November 12, 2008. Uni-Mart #04767 closed sometime earlier this year. Lastly, each of these GDFs also failed to maintain records demonstrating proof of attendance and completion of the training required by Ohio EPA.

- The proposed DFFOs were sent to Uni-Mart on September 21, 2009. The proposed DFFOs would have required Uni-Mart to: demonstrate that the vapor control systems are operating correctly by conducting and passing the static leak, A/L ratio, and dynamic pressure performance tests at Uni-Mart #04768 and Uni-Mart #74775; conduct weekly inspections of the Stage II vapor control system for the next two ozone seasons, checking for leaks, malfunctions or damage to the systems; perform static leak and A/L ratio tests, during the next two ozone seasons, at Uni-Mart #04768 and Uni-Mart #74775 prior to the beginning (during March) of each ozone season and during August of each ozone season; and submit documentation, to Ohio EPA, demonstrating the operators or local managers of Uni-Mart #04768 and Uni-Mart #74775 have completed the training required by Ohio EPA. Lastly, the proposed DFFOs would have required Uni-Mart to pay Ohio EPA a civil penalty in the amount of eighty-five thousand nine hundred dollars (\$85,900), from which seventeen thousand one hundred and eighty dollars (\$17,180) will go towards the Ohio EPA's Clean Diesel School Bus Program Fund.
- Ohio EPA spoke with Uni-Mart's counsel in October and November concerning the September 21, 2009 proposed DFFOs. Uni-Mart indicated that it filed for Chapter 11 bankruptcy protection in July of 2008 and therefore is unable to apply funds to pay the civil penalty for the violations alleged in the proposed DFFOs. Uni-Mart expressed interest in resolving the matter within the constraints imposed by the Chapter 11 bankruptcy filing.

PENALTY

The calculated civil penalty is \$85,900. (See the attached penalty worksheets.) The Enhanced Enforcement Protocol penalty policy for Stage II vapor control system violations applies a \$5,000 penalty when there are two consecutive test failures for the same test in the same year or when a facility fails any test in two consecutive years. Uni-Mart #04768 failed the static leak and A/L ratio tests in 2007 and 2008; Uni-Mart #74775 failed the A/L ratio test in 2007, four times in 2008, and once in 2009; Uni-Mart #04767 failed the static leak and A/L ratio tests in 2007 and the A/L ratio test in 2008; therefore, a \$5,000 penalty was applied to each these GDFs. In addition, a multi-day penalty of \$25 per day was assessed to each GDF for failing to fix and pass the static leak or A/L ratio retests within 30 days. Lastly, known multi-day violations prior to eighteen months before the Enforcement Action Request was submitted from the Ohio

EPA District Office were not penalized per Ohio EPA's internal statute of limitations policy.

RECOMMENDATION

Ohio EPA is recommending that the AGO resolve this enforcement case by obtaining a consent order (or a court order, if necessary) requiring the responsible parties to comply with the actions in the proposed DFFOs and pay an appropriate civil penalty. The claim for penalty can then be filed with the bankruptcy court by the AGO. If you have any questions, please contact one of us.



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

SEP 21 2009

CERTIFIED MAIL

Mr. Henry Sahakian
Chief Executive Officer
Uni-Mart, Inc.
477 E. Beaver Ave.
State College, PA 16801

Re: Proposed Director's Final Findings and Orders for Uni-Mart, Inc.'s Ashtabula, Painesville and Geneva, Ohio Facilities

Dear Mr. Sahakian:

My staff has informed me of the violations of Ohio Administrative Code Rule 3745-21-09(DDD) and ORC § 3704.05(G) associated with the Uni-Mart, Inc.'s gasoline dispensing facilities ("GDFs") located at 4000 Park Ave., Ashtabula, Ohio (Uni-Mart #04768); 6000 Vrooman Rd., Painesville, Ohio (Uni-Mart #74775); and 1769 State Route 534 South, Geneva, Ohio (Uni-Mart #04767). I would like to express my concern regarding the violations of the Stage II vapor control system requirements at the above-mentioned GDFs located in an area that is in non-attainment of the National Ambient Air Quality Standard for ozone. Compliance with Stage II vapor control system requirements is an important element in our State Implementation Plan and in avoiding continued non-attainment of the ambient air quality standard. In addition, it is my understanding that several of these violations have not yet been corrected.

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

Please note that the proposed Findings and Orders include a provision for 20 percent of the total civil penalty amount to go toward the funding of a supplemental environmentally beneficial project involving the retrofitting of school buses with control equipment to reduce diesel particulate emissions. This project has the primary benefits of reducing children's exposure to harmful diesel exhaust emissions and

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

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.

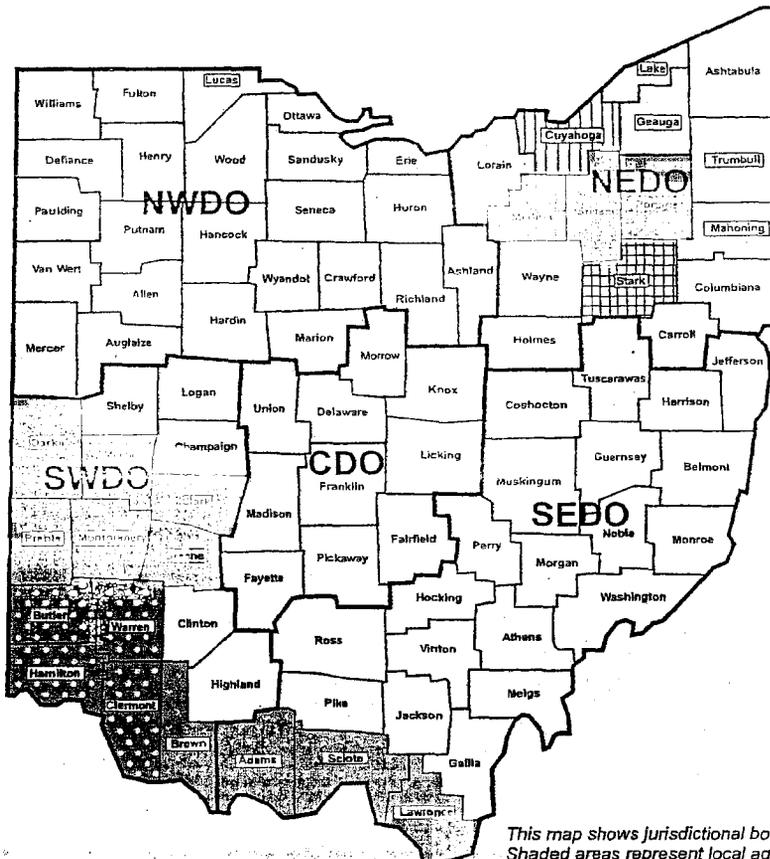
If I want to have a meeting, what should I do to prepare for it?

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.

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.

OhioEPA

District Offices

- CDO Adam Ward, APC Manager**
01 Central District Office
50 West Town Street, Suite 700
Columbus, OH 43215
(614) 728-3778 FAX (614) 728-3898
e-mail: adam.ward@epa.state.oh.us
- SEDO Bruce Weinberg, APC Manager**
05 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

- 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.

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.

2. On December 27, 2005, previous owner, BP Products North America submitted applications for, and on January 3, 2006, May 8, 2006 and September 5, 2006 obtained, permit-by-rules ("PBRs") for Uni-Mart #04768, Uni-Mart #74775 and Uni-Mart #04767 pursuant to OAC Rule 3745-31-03(A)(4). OAC Rule 3745-31-03(A)(4) provides for exemptions from the requirement to obtain a permit-to-install for certain air contaminant sources. However, these exemptions are valid only as long as the owner or operator complies with all of the permit-by-rule general provisions, meets qualifying criteria defined in the applicable permit-by-rule, and complies with all of the requirements under the applicable permit-by-rule specific provisions. In early 2007, ownership of these GDFs was transferred from BP Products North America to Respondent.

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

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

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

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

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

8. OAC Rule 3745-21-09(DDD)(3)(a)(vi) states, in part, that any owner or operator of a GDF 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 GDF.

Uni-Mart #74775

12. By letter dated September 28, 2007, Ohio EPA notified Respondent that the 2007 annual Stage II vapor control system compliance tests had yet to be conducted. On October 30, 2007, Respondent conducted an annual Stage II compliance test at this GDF. The dynamic pressure test and the static leak test passed. The A/L ratio test failed for dispensers 1, 3, 4, 7 and 8. On January 23 and March 25, 2008, A/L ratio retests were conducted and dispensers 3 and 8 failed on both dates. Respondent was operating these dispensers prior to and after the failed A/L ratio tests. On each of the testing dates numerous defective hoses, nozzles and breakaways were replaced. The failure to properly install, operate, and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle is a violation ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). In addition, Respondent failed to maintain records demonstrating proof of attendance and completion of the training required by Ohio EPA, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(3)(a)(vi). By letter dated March 26, 2008, Ohio EPA notified Respondent of the violations pertaining to the A/L ratio test failures. On March 28, 2008, Respondent conducted and passed a retest at this GDF.

13. On November 12, 2008, Ohio EPA conducted an inspection at this GDF to determine compliance with the Stage II annual static leak and A/L ratio tests. The static leak test passed; however, the A/L ratio test failed for dispensers 1 and 3. Respondent was transferring gasoline into motor vehicles prior to and after the failed A/L ratio test. During this inspection, the nozzles on dispensers 1 and 3 were replaced and the whip and hose on dispenser 3 was also replaced. The failure to properly install, operate, and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle are violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). As of the date of this inspection, Respondent still failed to maintain records demonstrating proof of attendance and completion of the training required by Ohio EPA, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(3)(a)(vi).

14. On May 15, 2009, Respondent conducted an A/L ratio retest and dispensers 2, 5, and 8 failed the A/L ratio test. Respondent was transferring gasoline into motor vehicles prior to and after the failed A/L ratio test. The failure to properly install, operate, and maintain the vapor control system and to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle are violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). In addition, Respondent failed to maintain records demonstrating proof of attendance and completion of the training required by Ohio EPA, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(3)(a)(vi). By letter dated July 6, 2009, Ohio EPA notified Respondent of these violations. To date, Respondent has failed to successfully pass an

3. For the next two ozone seasons (April 1, 2010 – October 31, 2010 and April 1, 2011 – October 31, 2011), starting two weeks prior to the start of the ozone season, i.e., by March 15, 2010 and March 15, 2011, and continuing until October 31, 2010 and October 31, 2011, respectively, Respondent shall conduct weekly inspections of the Stage II vapor control systems at Uni-Mart #04768 and Uni-Mart #74775, checking for leaks, malfunctions or other damage to the system and shall keep records of these inspections and any repairs made. The inspections shall be recorded in an inspection log or checklist. Copies of the inspection logs or checklists shall be submitted to Ohio EPA during the middle and at the end of each ozone season. Specifically, copies of the weekly inspection records for the period from March 15 through July 31 shall be submitted by August 14 of that year. Copies of the weekly inspection records for August 1 through October 31 shall be submitted by November 14 of that year.

4. For the next two ozone-producing seasons (i.e., April 1, 2010 – October 31, 2010 and April 1, 2011 – October 31, 2011), Respondent shall perform static leak and A/L ratio tests at Uni-Mart #04768 and Uni-Mart #74775 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.

5. Respondent shall pay the amount of eighty-five thousand nine hundred dollars (\$85,900) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for sixty-eight thousand seven hundred and twenty dollars (\$68,720) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

6. In lieu of paying the remaining seventeen thousand one hundred and eighty dollars (\$17,180) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$17,180 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 \$17,180. 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.

enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

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

X. NOTICE

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

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

and to:

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

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

XI. RESERVATION OF RIGHTS

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

XII. WAIVER

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

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

GDF PENALTY WORK SHEET

Uni-Mart, Inc.

(for settlement purposes only)

A. Benefit Component:		\$0	Economic benefit is negligible (i.e., less than \$5,000).
B. Gravity Component:			
1. Testing violations:			
a. Consecutive test failures:	\$5,000		For Uni-Mart #04768, on 2/13/07, Respondent failed the annual A/L ratio test for dispensers 4, 8, 9 and 10. On 3/12/07, Respondent passed the A/L ratio retest. On 12/3/07, Respondent failed the static leak and the A/L ratio test for dispensers 1, 2, 5, 9 and 10. Dispensers 1, 2, 5 and 10 failed due to low flow and dispenser 9 failed due to a leaking breakaway. On 5/20/08, Respondent passed the static leak and A/L ratio retests. On 11/12/08, Respondent conducted a Stage II compliance test at this facility. The static leak test failed and the A/L test could not be conducted because several nozzles were incorrectly installed. To date, Respondent has failed to pass static leak and A/L ratio retests. The failure to properly install, operate, and maintain the vapor control system and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle are violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). Per the GDF penalty policy, when a facility fails any test in two consecutive years or fails two consecutive tests the penalty is \$5,000.
b. Consecutive test failures:	\$5,000		For Uni-Mart #74775, on 10/30/07, Respondent conducted an annual Stage II compliance test at this GDF. The dynamic pressure test and the static leak test passed. The A/L ratio

			\$5,000.
2. Length of violation:			
a.	\$7,600		For Uni-Mart #04768, from 11/12/08 until the present (10/12/09), Respondent has operated the vapor control system while it was malfunctioning and has failed to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and(c). Per GDF penalty policy, 30 days is given to fix the problems and retest. Any additional days beyond the initial 30 days are penalized \$25 per day. So 12/12/08 until 10/12/09 (304 days). 304 days x \$25 per day = \$7,600.
b.	\$7,600		For Uni-Mart #74775, from 11/12/08 until the present (10/12/09), Respondent has operated the vapor control system while it was malfunctioning and has failed to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and(c). Per GDF penalty policy, 30 days is given to fix the problems and retest. Any additional days beyond the initial 30 days are penalized \$25 per day. So 12/12/08 until 10/12/09 (304 days). 304 days x \$25 per day = \$7,600.
c.	\$7,750		For Uni-Mart #04767, from 12/3/07 until 11/10/08, Respondent operated the vapor control system while it was malfunctioning and failed to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline

times any augmentation percentage)			
4. Ability to pay: (any mitigation amount)	\$0		not known
5. Other unique factors: (total gravity component times any mitigation or augmentation percentage)	\$0		not applicable
D. Adjusted Gravity Component:		\$85,900	
E. Administrative Component:			not applicable
F. Initial Settlement Amount:		\$85,900	



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

DEC 11 2009

Certified Mail

Mr. James Duff
President
Duff Quarry, Inc.
9042 St. Rt. 117
Huntsville, Ohio 43324

RE: Findings and Orders for
Violations of Ohio's Air
Regulations

Dear Mr. Duff:

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 stamped on the first page of the Orders.

Sincerely,

James A. Orlemann, P.E.
Assistant Chief
SIP Development & Enforcement Section

JO/ey

Enclosure

xc: Carol Hester, PIC
Don Vanterpool, Legal Office
Brenda Case, Fiscal Office (Agency #05)
Priscilla Roberson, DAPC
Tom Kalman, DAPC
Eric Yates, DAPC
Tom Schneider, SWDO

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

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

DEC 11 2009

In the Matter of:

ENTERED DIRECTOR'S JOURNAL

Duff Quarry, Inc.
9042 St. Rt. 117
P.O. Box 305
Huntsville, Ohio 43324

: Director's Final Findings
:
:
:
:
:
:

and Orders

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

PREAMBLE

It is agreed by the parties hereto as follows:

By: Janeja Cassler Date: 12-11-09

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Duff Quarry, 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

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of 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 meanings 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 property located at the intersection of St. Rt. 33 and 274 in Huntsville in Logan County.
2. OAC Rule 3745-19-04(A) prohibits "open burning," as defined in OAC Rule

3745-19-01(H), in an unrestricted area except as otherwise provided in OAC Rule 3745-19-04(B) to (D) and ORC § 3704.11. The provisions of OAC Rule 3745-19-04(B) to (D) and ORC § 3704.11 do not provide for the open burning of demolition debris in an unrestricted area.

3. ORC § 3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. OAC Chapter 3745-19 was adopted by the Director pursuant to ORC Chapter 3704.

4. On July 13, 2009, Ohio EPA Southwest District Office ("SWDO") received a complaint that Respondent was conducting open burning of demolition debris at the above-mentioned property. Upon inspection of the property on July 15, 2009, SWDO discovered two large piles of smoldering waste that were approximately 10 to 15 feet wide and 50 to 70 feet long. Visible flame was observed at one location in the pile.

5. Open burning of such waste material is prohibited by rule, and the open burning was not otherwise exempted from the prohibition of OAC Rule 3745-19-04(A).

6. OAC Rule 3745-20-02(A) requires that the owner/operator of a demolition site conduct a survey of the structure prior to demolition to assess whether asbestos may be present in the structure.

7. OAC Rule 3745-20-03(A) requires that the owner/operator of a demolition project provide Ohio EPA with at least a ten day notice prior to beginning demolition activities.

8. During the open burning inspection, SWDO discovered that the demolition debris being burned resulted from the demolition of several mobile home trailers and a building formerly used as an office building by the previous property owner. SWDO did not receive a notification of demolition or an asbestos survey for the former office building located on the property.

9. Based on the above Findings, the Director of Ohio EPA finds that Respondent violated the following ORC law and OAC rule at some time on or before July 15, 2009:

- ORC § 3704.05(G), for violating a rule the Director adopted under ORC Chapter 3704;
- OAC Rule 3745-19-04(A) which prohibits the open burning of demolition debris;
- OAC Rule 3745-20-02(A) by failing to conduct a thorough inspection for

asbestos prior to beginning the demolition; and

- OAC Rule 3745-20-03(A) by failing to provide notification of demolition or renovation at least ten working days before the beginning of any demolition operation.

10. On July 20, 2009, a notice of violation ("NOV") letter was sent to Respondent by certified mail.

11. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their 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 five thousand dollars (\$5,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by official check made payable to "Treasurer, State of Ohio" within 30 days of the effective date of these Orders. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent to:

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

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

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

VI. TERMINATION

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

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the Respondent's activities at the 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. 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
Southwest District Office
401 E. Fifth Street
Dayton, Ohio 45402
Attn: Tom Schneider

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
50 West Town Street

Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: John Paulian

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:

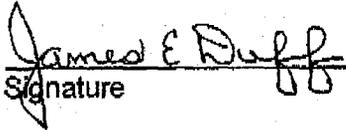
Ohio Environmental Protection Agency


Chris Korleski
Director

12/9/09
Date

AGREED:

Duff Quarry, Inc.


Signature

12/8/09
Date

JAMES E DUFF
Printed or Typed Name



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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

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

MAILING ADDRESS:

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

DEC 04 2009

CERTIFIED MAIL

Mr. Keith Lands
Executive Director
Tuscarawas County YMCA
600 Monroe Street
Dover, Ohio 44266

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

Dear Mr. Lands:

My staff has informed me of the violations of Ohio Administrative Code ("OAC") Chapter 3745-20 ("Asbestos Emission Control Standards") and ORC § 3704.05(G) associated with the renovation of the Tuscarawas County YMCA facility located at 600 Monroe Street, Dover, Ohio, in December 2007. At the time of the inspection by the Southeast District Office of Ohio EPA, all work on the renovation of the boiler room was completed, a complete notification was not submitted to Ohio EPA at least 10 days prior to beginning the renovation project, and an asbestos survey was not conducted prior to starting the renovation project. Also, several work practice violations occurred as a result of 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 civil penalties for the settlement of claims resulting from Tuscarawas County YMCA's violations of the State's air pollution control laws and rules. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Because this letter and the attached document summarize a proposed settlement, I consider them to be inadmissible for any purpose in any enforcement action the State may take if settlement cannot be reached.

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

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

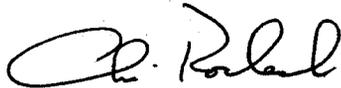
Mr. Keith Lands
Executive Director
Tuscarawas County YMCA
Page 2 of 2

Please review the attached documents carefully. If you have any questions concerning the proposed Findings and Orders, or if you would like to arrange a meeting or conference call to try to negotiate a settlement, please contact Bryan Zima, Ohio EPA Supervising Attorney, at (614) 644-3037. If he does not hear from the Tuscarawas County YMCA 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 the Tuscarawas County YMCA 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
Urvi Doshi, DAPC
Bryan Zima, Legal Office
Bruce Weinberg/Steve Lowry, Southeast District Office
Greg Clark, Canton City Health Department

enclosures

CK/UD/ud

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.

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

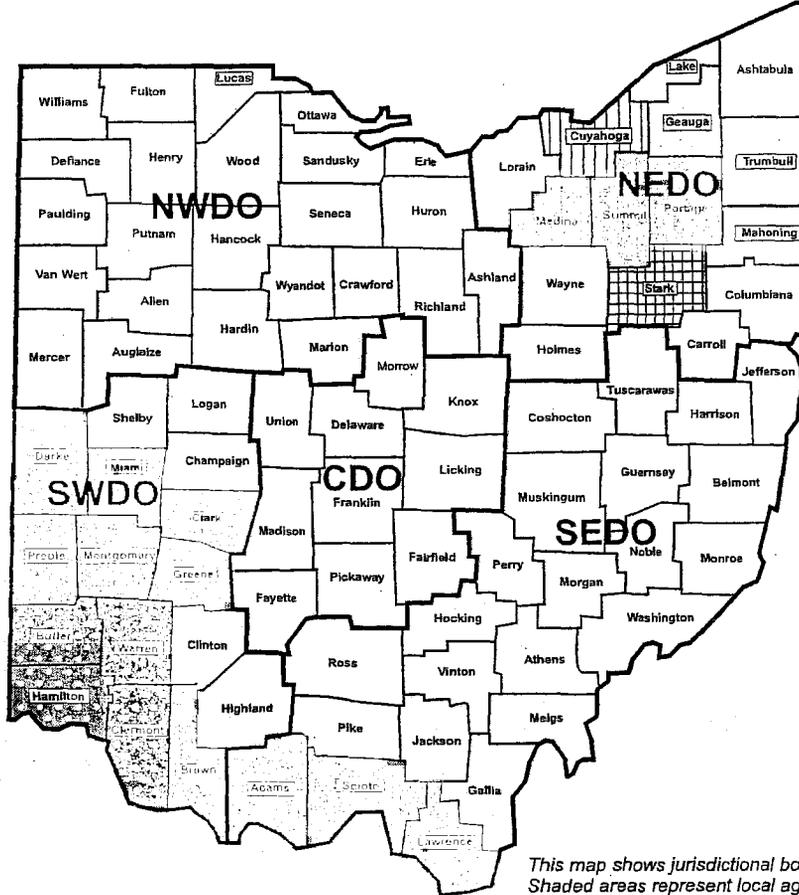
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about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

OhioEPA

District Offices

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



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



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



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



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



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



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



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

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Tuscarawas County YMCA	:	<u>Director's Final Findings</u>
600 Monroe Street	:	<u>and Orders</u>
Dover, Ohio 44266	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

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

II. PARTIES BOUND

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

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21. Prior to but at least beginning on December 13, 2007 and continuing until January 31, 2008, Respondent failed to use one of the methods specified in OAC Rule 3745-20-05(B) to control visible emissions, primarily the failure to keep asbestos-containing

waste material adequately wet at all times during and after demolition, and handling, transport, and disposal at an active waste disposal site, in violation of OAC Rule 3745-20-05(B).

Failure to keep waste shipment records:

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

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

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

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

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

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

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of sixty thousand dollars (\$60,000) 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-eight thousand dollars (\$48,000) 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 twelve thousand dollars (\$12,000) of civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$12,000 to Ohio EPA's Clean Diesel School Bus Program Fund (5CD0). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$12,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD, to the above-stated address.

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

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

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$12,000 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

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

VII. OTHER CLAIMS

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

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

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

X. NOTICE

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

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

and to:

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

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

XI. RESERVATION OF RIGHTS

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

XII. WAIVER

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

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

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date

AGREED:

Tuscarawas County YMCA

Signature

Date

Printed or Typed Name

Title

YMCA Air Civil Penalty Worksheet
Tuscarawas County YMCA
600 Monroe Street, Dover, Ohio 44266
(for settlement purposes only)

A. Benefit Component:		<u>\$0</u>	The costs associated with the cleanup of the facility and proper disposal of the asbestos-containing waste material is likely greater than any benefit gained from the improper removal of the material from inside the facility and the improper disposal; therefore, no economic benefit was calculated.
B. Gravity Component:			
1. Actual or possible harm			
a. Amount above standard:	<u>\$0</u>		not applicable
b. Toxicity of pollutant:	<u>\$0</u>		not applicable
c. Sensitivity of environment:	<u>\$0</u>		not applicable
d. Length of time of violation (first day):			The penalty policy gives \$5,000 per work practice violation as the penalty factor for asbestos units less than or equal to 10. The asbestos units (1.7) were determined by dividing 61 cu. ft. of RACM by 35 cu. ft.
i. Asbestos-containing material work practice violation:	<u>\$5,000</u>		Violation of OAC Rule 3745-20-04(A)(1).
ii. Asbestos-containing material work practice violation:	<u>\$5,000</u>		Violation of OAC Rule 3745-20-04(B)(1).
iii. Asbestos-containing material work practice violation:	<u>\$5,000</u>		Violation of OAC Rule 3745-20-05(A).
iv. Asbestos-containing material work practice violation:	<u>\$5,000</u>		Violation of OAC Rule 3745-20-05(B).
v. Asbestos-containing material work practice violation:	<u>\$5,000</u>		Violation of OAC Rule 3745-20-05(E).
e. Length of time of violation (additional days):	<u>\$27,000</u>		Violations of OAC Rules 3745-20-05(A) and , 3745-20-05 (B) apply here and continued from at least 12/27/07 to 1/23/08 when the asbestos-containing waste material was moved from Warrington Road Recycling Center to an approved asbestos waste disposal facility, 27 days. 27 days x \$500 per day x two rules.
2. Notifications:			
a. No notification submitted.	<u>\$15,000</u>		Violation of OAC Rule 3745-20-03(A).
b. No notification submitted but substantial compliance with work practice standards.	<u>\$0</u>		not applicable
c. Late, incomplete or inaccurate notification.	<u>\$0</u>		not applicable
d. No asbestos survey performed.	<u>\$0</u>		Included in B.2.a.
3. Importance to regulatory scheme:	<u>\$0</u>		not applicable
4. Size of violator:	<u>\$0</u>		Respondent is a non-profit organization, therefore, no penalty was applied.
Total Gravity Component:		<u>\$67,000</u>	
Preliminary Deterrence Amount: (sum of benefit and gravity components)		<u>\$67,000</u>	
C. Flexibility-Adjustment Factor:			
1. Degree of willfulness or negligence: (total gravity component times an augmentation percentage)	<u>\$0</u>		not applicable
2. Degree of cooperation: (total gravity component times any mitigation percentage)	<u>(\$6,700)</u>		Respondent has been responsive to the NOV's and submitted all information requested by the NOV's; therefore, a 10% mitigation of the gravity component has been assessed for cooperation (\$6,700).
3. History of noncompliance: (total gravity component times any augmentation percentage)	<u>\$0</u>		

4. Ability to pay: (any mitigation amount)	<u>\$0</u>		not known at this time
5. Other unique factors: (total gravity component times any mitigation or augmentation percentage)	<u>\$0</u>		not known at this time
All augmentation (+) and mitigation (-) amounts added: (if negative, cannot exceed total gravity component)	<u>(30,700)</u>		
E. Initial Minimum Settlement Amount: [preliminary deterrence amount + or - sum of flexibility adjustment factors plus administrative component (A+B+C+D)]		<u>\$60,300</u>	Round to \$60,000.



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

DEC 04 2009

CERTIFIED MAIL

Mr. Nathan Glick
Glick Real Estate Ltd.
4181 Manchester Avenue NW
North Lawrence, Ohio 44666

Re: Proposed Findings and Orders for the violations of the Asbestos Emission Control Standards (OAC Chapter 3745-20) by Glick Real Estate Ltd., for the partial demolition of the abandoned greenhouses located at 12777 Mogadore Avenue NW, Lake Township, Stark County, Ohio

Dear Mr. Glick:

My staff in Ohio EPA's Division of Air Pollution Control ("DAPC") informed me of the violations associated with the partial demolition of the buildings at the above-mentioned location, which was performed by Glick Real Estate Ltd. ("Glick"). Glick failed to comply with the pre-demolition inspection and notification requirements for building demolitions, in violation of OAC Rules 3745-20-02(A) and 3745-20-03(A), respectively, and ORC § 3704.05(G). Glick also violated work practice requirements in OAC Rules 3745-20-04(A)(1) and 3745-20-05(A), (B)(2), and (C). The partially demolished structures still require abatement of exposed asbestos-containing material and cleanup of asbestos-containing waste material.

In order to resolve this matter, I am proposing to issue the enclosed Findings and Orders prepared by Ohio EPA which include a provision for the settlement of the claims for civil penalties for the violations that occurred. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Because this letter and the accompanying document summarize a proposed settlement, I consider them to be inadmissible by Glick for any purpose in any enforcement action which may be taken by the State if we are unable to reach agreement on these Findings and Orders.

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

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

Ohio EPA is an Equal Opportunity Employer

Mr. Nathan Glick
Glick Real Estate Ltd.
Page 2 of 2

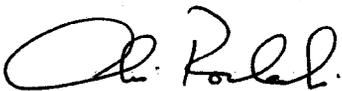
amount to go toward funding an Ohio EPA program for the retrofitting of school buses with control equipment to reduce diesel particulate emissions. This project has the primary benefits of reducing children's exposure to harmful diesel exhaust emissions and helping attain the National Ambient Air Quality Standards for fine particulates (i.e., particulates less than 2.5 microns in diameter). Information on this project is enclosed with this letter for your examination.

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

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

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

Sincerely,



Chris Korleski
Director

xc: Jim Orlemann, DAPC/CO
Tom Kalman, DAPC/CO
Felix Udeani, DAPC/CO
Bryan Zima, Legal Office
Gregory A. Clark, Canton APCD
Daniel A. Aleman, Canton APCD

Enclosures

CK:FU:fu

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

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

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

The exhaust gases from diesel, school bus engines contain significant amounts of organic compounds, carbon monoxide, nitrogen oxides (NO_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.

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

 **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: Malcolm@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

 **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@lchhd.org

 **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).

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter:

Glick Real Estate Ltd.	:	<u>Director's Final Findings</u>
4181 Manchester Avenue NW	:	<u>and Orders</u>
North Lawrence, Ohio 44666	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Glick Real Estate Ltd. ("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

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of 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 regulations promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent, whose principal place of business is in North Lawrence, Ohio, owns an abandoned greenhouse facility that includes several buildings, including glass greenhouses with transite tile along the outside low walls. The greenhouse facility is located at 12777 Mogadore Avenue NW, Lake Township of Stark County, Ohio. The greenhouse facility is a "facility" as that term is defined in OAC Rule 3745-20-01(B)(18).

2. In May of 2006, the Division of Air Pollution Control of the Canton City Health Department ("Canton Air"), who acts under contract as an authorized representative of the Director, received a call from the zoning administrator for Lake Township, Stark County. The zoning administrator said that the facility was being demolished.

3. At some time during Spring of 2006 and before May 19, 2006, Respondent began demolishing at least one of the greenhouses. During this time, Respondent was therefore conducting a "demolition" of the greenhouse facility, as that term is defined in OAC Rule 3745-20-01(B)(13). Respondent is an "owner or operator" as that term is defined in OAC Rule 3745-20-01(B)(39)(a).

4. As part of the demolition process, Respondent stripped or removed three types of materials from the greenhouse: transite tile, pipe insulation and surfacing material (e.g., drywall and/or plaster). Samples of the material show that all three types of material contained more than one percent of a regulated form of asbestos. The transite tile and surfacing material was "category II nonfriable asbestos-containing material," as that term is defined in OAC Rule 3745-20-01(B)(10) that had become crumbled and pulverized in the course of demolition and was therefore "regulated asbestos-containing material" or "RACM." See OAC Rule 3745-20-01(B)(42)(d). The pipe insulation was "friable asbestos material," as defined in OAC Rule 3745-20-01(B)(20) and so was also RACM. See OAC Rule 3745-20-01(B)(42)(a). The buildings contained at least 160 square feet of RACM and therefore the demolition, pursuant to OAC Rule 3745-20-02(B)(1), was subject to the notification and work practice requirements of OAC Rules 3745-20-03 through 3745-20-05.

5. On or about the following dates, an inspector from Canton Air visited the greenhouse facility site for routine inspections, to respond to complaints about the site, or to meet with potential abatement contractors: May 19 and August 15, 2006; August 30, September 19, and December 12, 2007; March 20, September 15, October 13, 23, 29, and December 4, 2008; and January 8, 2009. An inspector from Ohio Environmental Protection Agency ("Ohio EPA") also visited the site on October 23, 2008. At all inspections either one or both inspectors noted that demolition had taken place on the site and that several violations of Ohio's asbestos emission control rules of OAC Chapter 3745-20 had occurred, as set forth below.

6. Respondent started a partial demolition of the greenhouse facility without first having the facility thoroughly inspected by a certified asbestos hazard evaluation specialist, in violation of OAC Rule 3745-20-02(A). OAC Rule 3745-20-02(A) requires each owner or operator of any demolition operation have the affected facility or part of the facility where a demolition operation will occur thoroughly inspected by a certified asbestos hazard evaluation specialist, in accordance with paragraph (C) of Rule 3701-34-02 of the Administrative Code, prior to the commencement of the demolition for the presence of asbestos, including category I and category II nonfriable asbestos-containing material.

7. Respondent started the demolition without mailing to Ohio EPA notification of demolition, in violation of OAC Rule 3745-20-03(A). OAC Rule 3745-20-03(A) requires that each owner or operator mail to the Director a written notice of intention to demolish at least ten working days before the beginning of any demolition operation, asbestos stripping or removal work, or any other activity including salvage activities and preparations that break up, dislodge or similarly disturb asbestos material.

8. OAC Rule 3745-20-04(A)(1) requires each owner or operator of a demolition operation 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. Alternatively, the actions of an owner or operator can qualify for one of four exceptions to OAC Rule 3745-20-04(A)(1). The asbestos or activities of Respondent at the facility did not qualify for any of the exceptions to OAC Rule 3745-20-04(A)(1) and as part of the demolition Respondent failed to remove all RACM from the greenhouse facility being demolished before beginning activity that broke up, dislodged, or similarly disturbed the materials. Instead, Respondent's activities caused some RACM to be broken up into many small pieces, in violation of OAC Rule 3745-20-04(A)(1).

9. OAC Rule 3745-20-05(B)(2) requires that where a facility has been demolished, but asbestos was not removed prior to demolition, the owner or operator shall keep asbestos-containing waste material adequately wet at all times during and after the demolition. Further, the rule requires that asbestos-containing waste material shall either be sealed in leak-tight containers that comply with OAC Rule 3745-20-05(C) or be transported in bulk by leak-tight transport vehicles or containers that are securely covered or enclosed and cause no visible emissions. As part of the demolition, Respondent failed to keep asbestos-containing waste material adequately wet at all times during and after the demolition, in violation of OAC Rule 3745-20-05(B)(2). Also, Respondent failed to seal RACM in leak-tight containers that comply with OAC Rule 3745-20-05(C) or to transport the RACM in bulk by leak-tight transport vehicles or containers that are securely covered or enclosed and cause no visible emissions, in violation of OAC Rule 3745-20-05(B)(2).

10. OAC Rule 3745-20-05(A) requires all asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at:

- (a) A waste disposal site in Ohio operated in accordance with the provisions of OAC Rule 3745-20-06, or
- (b) A waste disposal site not in Ohio operated in accordance with the provisions of 40 CFR 61.154, or
- (c) A site that converts RACM and asbestos-containing waste material into nonasbestos (asbestos-free) material in accordance with the provisions of

OAC Rule 3745-20-13.

As part of the demolition, Respondent did not deposit asbestos-containing waste material as soon as practical into one of three types of places listed in OAC Rule 3745-20-05(A), in violation of OAC Rule 3745-20-05(A). Asbestos-containing waste material remains strewn across the greenhouse facility property.

11. OAC Rule 3745-20-05(C)(1) provides each waste generator shall ensure that all containers of asbestos-containing waste material and wrapped material shall be labeled, using permanent markings with letters of sufficient size and contrast so as to be readily visible and legible, as follows:

"DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD
R.Q., ASBESTOS
CLASS 9
NA 2212, III"

And that section further provides that, for wrapped material or material to be transported off the facility site, the waste generator shall label the containers or wrapped material with the name of the waste generator and the location at which the waste was generated.

As part of the demolition, Respondent generated asbestos-containing waste and placed asbestos-containing waste in unmarked containers, in violation of OAC Rule 3745-20-05(C)(1).

12. OAC Rule 3745-20-05(C)(2) to (C)(5) requires that:
- (a) Asbestos-containing waste materials shall be sealed in plastic bags having a thickness of at least 0.006 inch (six-mils). A second clean, leak-tight plastic bag having a thickness of at least 0.006 inch (six-mils) shall fully contain the first bag; or
 - (b) Asbestos-containing waste materials shall be sealed in a combination of a 0.006 inch (six-mils) plastic bag and a leak-tight steel, plastic, or fiber drum, or reinforced disposal box, leak-tight polypropylene woven fabric bag, or similar suitable and durable container. Drums shall be fitted with a matching

lid and lock-rims, and boxes shall be banded and sealed with reinforced tape or in accordance with manufacturer's recommendations; or

- (c) Facility components removed in units or sections, or materials that will not fit into containers without additional breaking, shall be sealed with at least 0.012 inch (twelve mils) of leak-tight plastic or at least 0.010 inch (ten mils) of leak-tight polypropylene woven fabric; or
- (d) Asbestos-containing waste materials, facility components, and contaminated debris may be disposed of using an alternative disposal system or may be processed into nonfriable forms using an alternative emission control and waste treatment system or method, which has received the prior written approval of the Director.

As part of the demolition, Respondent failed to seal asbestos-containing waste material in plastic bags or in other lawful container or to process the asbestos-containing waste material in another approved method, in violation of OAC Rule 3745-20-05(C).

13. The violations of the rules described in these Orders are also violations of ORC § 3704.05(G), which provides no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. These Orders and the rules cited in these Orders, are issued and adopted under ORC Chapter 3704.

14. The inspector from Canton Air contacted Respondent regarding the violations at the site. Although Respondent may have contacted some asbestos removal contractors to review the site in advance of making a removal and clean-up proposal, little or no clean-up work was done on the site. On December 3, 2007, a formal written notice of violation was sent to Respondent citing the above violations. As of the present, the site has not been cleaned up and RACM remains scattered about the site. Of the 9,500 square feet ("sq. ft") of ACM panel measured, approximately 8,000 sq. ft. was improperly removed.

15. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their 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 One Hundred and Twenty-Four Thousand Dollars (\$124,000) 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 Ninety-Nine Thousand and Two Hundred Dollars (\$99,200)

"Treasurer, State of Ohio" for Ninety-Nine Thousand and Two Hundred Dollars (\$99,200) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent, at:

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

2. In lieu of paying the remaining Twenty-Four Thousand and Eight Hundred Dollars (\$24,800) 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 of Twenty-Four Thousand and Eight Hundred Dollars (\$24,800) to 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 Twenty-Four Thousand and Eight Hundred Dollars (\$24,800). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent and Fund 5CD0, to the above-stated address.

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

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

4. If Respondent fails to fund the SEP within the required time set forth in Order 2, Respondent shall immediately pay to Ohio EPA Twenty-Four Thousand and Eight Hundred Dollars (\$24,800) of the civil penalty in accordance with the procedures set forth in Order 1.

5. Within fourteen (14) days of the effective date of these Orders, Respondent shall submit a plan and schedule for the collection and disposal of all disturbed asbestos on-site, including those fragments of asbestos-containing material in the graded portions of the facility. All waste handling shall be done in accordance with the rules contained in OAC Chapter 3745-20. Following review of the plan by Canton Air, and any adjustments to the plan needed to lawfully collect and remove the material, Respondent shall execute the plan and collect and lawfully dispose of the disturbed asbestos-containing material within thirty (30) days after approval of the plan by Ohio EPA.

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."

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

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 Respondent's activities at the 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:

Canton City Health Department
Air Pollution Control Division
420 Market Ave N.
Canton, Ohio 44702-1544
Attn: Dan Aleman

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
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 the 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 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:

Glick Real Estate Ltd.

Signature

Date

Printed or Typed Name

Title

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

ENTITY NAME:

Glick Real Estate Ltd.

LOCATION(S) OF VIOLATION(S):

12777 Mogadore Avenue NW
Lake Township, Stark County, Ohio

Enter "NA" in "Input" column if the requested data is not applicable.

Strictly no entries in both "Initial Output" and "Final Output" columns

	Input	Initial Output	Final Output	Comment
A. ECONOMIC BENEFIT COMPONENT:				
(1) For asbestos on pipes-				
Linear feet involved in project, ft:	0			There were three types of materials from the greenhouse: pipe insulation, transite tile, and surfacing material (e.g., dry wall and/or plaster). The amount of disturbed friable ACM on pipes could not be determined. Therefore, any economic benefit could not be determined.
Amount improperly removed:	0			
Dollar amount per linear foot:	\$0			
Percent improperly removed (auto-computed):		0.00%		
Penalty amount: (Do no enter; auto-computed)			\$0	
(2) For asbestos on other components				
(a) Square feet involved in project, ft:				
Amount improperly removed:	9500			Measurement of disturbed surface areas was from satellite image of the facility. Per USEPA's Average Cost Estimate for asbestos abatement in Region 5 (which includes Ohio), proper removal and disposal of transite tile would cost about \$3.00 per sq. ft. Of the 9,500 sq. ft. of ACM panels measured, it is estimated that 8,000 sq. ft. were improperly removed. The rest remains intact.
Dollar amount per Square foot :	8000			
Percent improperly removed (auto-computed):		84.21%		
Penalty amount: (Do no enter; auto-computed)	\$3.00			
	0		\$24,000	
(b) Cubic feet involved in project, ft:				
Amount improperly removed:	0			The economic benefit could not be determined for the same reason as A(1) above.
Dollar amount per cubic foot :	0			
Percent improperly removed (auto-computed):		0.00%		
Penalty amount: (Do no enter; auto-computed)	\$0			
			\$0	
TOTAL ECONOMIC BENEFIT:			\$24,000	
B. GRAVITY COMPONENT:				
<u>Note:</u> Complete appropriate sections only.				
1. No notice per section 3745-20-03				
Enter 1 for first, 2 for second, 3 for subsequent				
				Failed to notify the Director in writing of intention to demolish at least ten working days before the beginning of the demolition operation and asbestos stripping or removal work. Failure to perform inspection for presence of asbestos prior to beginning the demolition.

Must enter 1 or 2 or 3,4,5, ... or NA <i>Penalty amount: (Do not enter; auto-computed)</i>	1		\$15,000	operation and asbestos stripping or removal work.
2. No notice but substantive compliance First (1) Second (2) Subsequent (3) Must enter 1 or 2 or 3,4,5, ... or NA <i>Penalty amount: (Do not enter; auto-computed)</i>	NA		\$0	
3. Late/incomplete/inaccurate notice See B.9 below: <i>Penalty amount: (auto-computed in B.9)</i>				
4. Substantive violations: First (1) Second (2) Subsequent (3) Must enter 1 or 2 or 3,4,5, ... or NA	1			
5. Number of Asbestos Units: <i>(Do not enter units) auto-computed</i>		50.00		$[0 \text{ ft.}/(260 \text{ ft./unit})]+[8,000 \text{ sq. ft.}/(160 \text{ sq. ft./unit})]+ [0 \text{ cu. ft.}/(35 \text{ cu. ft./unit})]$
6. Additional day(s) of violation of 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] From Inspection(s): (i) OAC Rule 3745-20-05(B)(2) keep wet until disposal. <i>Penalty/additional day(auto-computed)</i> Enter additional days this rule was violated <i>Penalty amount: (Do not enter; auto-computed)</i>			\$1,000	Inspections conducted on the following days: 05/19/06, 08/15/06, 08/30/07, 09/19/07, 12/12/07, 09/15/08, 10/13/08, 10/23/08, 10/29/08, 12/04/08, 01/08/09 and 10/05/09 (i.e., 12 days or one initial day plus 11 additional days). Nothing changed between each inspection. For failure to keep asbestos-containing waste material adequately wet at all times during and after demolition, and during handling and either seal in leak-tight containers or transport in bulk by leak-tight transport vehicles or containers that are securely covered to prevent visible emissions since asbestos was not removed prior to demolition.
(ii) OAC Rule 3745-20-05(A)-improper disposal <i>Penalty/additional day(auto-computed)</i>			\$1,000	For failure to dispose asbestos-containing waste material as soon as was practical at a waste

Enter additional days this rule was violated	11			disposal site operated in accordance with the provisions of OAC Rule 3745-20-06.
<i>Penalty amount: (Do not enter; auto-computed)</i>			\$11,000	
(iii) OAC Rule 3745-20-05(C) failure to label ACM containers				For failure to adequately seal ACM waste and label ACM waste containers using permanent markings with letters of sufficient size and contrast so as to be readily visible and legible.
<i>Penalty/additional day(auto-computed)</i>		\$1,000		
Enter additional days this rule was violated	11			
<i>Penalty amount: (Do not enter; auto-computed)</i>			\$11,000	
7. Penalty per violation according to USEPA :				OAC Rule 3745-20-04(A)(1); OAC Rule 3745-20-05(A); OAC Rule 3745-20-05(B)(2); OAC Rule 3745-20-05(C)(1); and OAC Rule 3745-20-05(C)(2) through (C)(5).
		\$10,000		
Number of sections violated:	5			
<i>Penalty amount: (Do not enter; auto-computed)</i>			\$50,000	
8. Size of violator(SV):				Glick Real Estate Ltd. is duly registered with the Secretary of State to do business in the State of Ohio. However, Ohio EPA could not determine from Reference USA or Columbus Metropolitan Library, Glick Real Estate's annual revenues. Therefore, minimum penalty of \$2,000 was used.
Must enter entity's assets or X if 0;	\$10,000			
<i>Initial unadjusted SV penalty (auto-computed)</i>		\$2,000		
<i>ECOBEN + Gravity- unadjusted SV penalty: (auto-computed)</i>		\$98,000		
<i>Actual SV penalty amount: ([adjusted?]; auto-computed)</i>			\$2,000	
<u>9. Late, Incomplete or Inaccurate Notice</u>				
(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			
<i>Penalty amount: (Do not enter; auto-computed)</i>			\$0	
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			
<i>Penalty amount: (Do not enter; auto-computed)</i>			\$0	
(c) Notice submitted while asbestos removal was in progress.	NA			
<i>Penalty amount: (Do not enter; auto-computed)</i>			\$0	

(d) Notice lacks either job location or asbestos removal starting and completion dates	NA			
<i>Penalty amount: (Do not enter; auto-computed)</i>				\$0
(e) Failure to update notice when the amount of asbestos changes by at least 20%.	NA			
<i>Penalty amount: (Do not enter; auto-computed)</i>				\$0
(f) Failure to provide telephone and written notice when start date changes.	NA			
<i>Penalty amount: (Do not enter; auto-computed)</i>				\$0
(g) Notice lacks either asbestos removal starting or completion dates, but not both.	NA			
<i>Penalty amount: (Do not enter; auto-computed)</i>				\$0
(h) Amount of asbestos in notice missing, improperly dimensioned, or for multiple facilities.	NA			
<i>Penalty amount: (Do not enter; auto-computed)</i>				\$0
(i) Notice lacks any other required information.	NA			
<i>Penalty amount: (Do not enter; auto-computed)</i>				\$0
(j) Notice submitted late but prior to asbestos removal starting date.	NA			
<i>Penalty amount: (Do not enter; auto-computed)</i>				\$0
10. Waste Shipment Violations				
Below, enter "X" if applicable otherwise leave as "NA"				
(a) Failure to maintain records which precludes discovery of waste disposal activity.	NA			
<i>Penalty amount: (Do not enter; auto-computed)</i>				\$0
(b) Failure to maintain records but other information regarding waste disposal available.	NA			
<i>Penalty amount: (Do not enter; auto-computed)</i>				\$0
(c) Failure to mark waste transport vehicles during loading and unloading (assess for each day of shipment)	NA			
No. of shipment day(s) of shipment (enter 1,2,3... or NA)	NA			
<i>Penalty/day : (Do not enter; auto-computed)</i>				\$0

<i>Total penalty amount: (Do not enter; auto-computed)</i>			\$0
11. TOTAL GRAVITY COMPONENT (GC):			\$100,000
12. Preliminary deterrent amount (PDA): <i>(sum of benefit and gravity components)</i>		\$124,000	
C. FLEXIBILITY ADJUSTMENT FACTOR (GC only): All augmentation (+) and mitigation (-) in decimal:			
1. Degree of Willfulness or Negligence:			
Percentage augmentation of gravity component	0%		
<i>Penalty amount: (Do not enter; auto-computed)</i>			\$0
2. Degree of Cooperation:			
Percentage mitigation of gravity component	0%		
<i>Penalty amount: (Do not enter; auto-computed)</i>			\$0
3. History of noncompliance:			
Percentage augmentation of gravity component	0%		
<i>Penalty adjustment: (auto-computed)</i>			\$0
4. Ability to pay:			
Percentage mitigation of gravity component	0%		
<i>Penalty adjustment: (auto-computed)</i>			\$0
5. Other unique factors:			
Percentage mitigation or augmentation of gravity component	0%		
<i>Penalty adjustment: (auto-computed)</i>			\$0
6. Net Flexibility-Adjustment Factor (NAF):			\$0
Total minimum settlement amount: <i>(PDA+NAF+AC)</i>			\$124,000



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

DEC 03 2009

CERTIFIED MAIL

Mr. Nazir Imran
Pure Gas Incorporated
228 E. Erie Avenue
Lorain, Ohio 44052

Re: Proposed Director's Final Findings and Orders for Pure Gas Incorporated's Lorain, Ohio Facility

Dear Mr. Imran:

My staff has informed me of the violations of Ohio Administrative Code Rule 3745-21-09(DDD) and ORC § 3704.05(G) associated with Pure Gas Incorporated's gasoline dispensing facility ("GDF") located at 228 E. Erie Avenue, in Lorain, Ohio. I would like to express my concern regarding the violations of the Stage II vapor control system requirements at the above-mentioned GDF located in an area that is in nonattainment of the National Ambient Air Quality Standard for ozone. Compliance with Stage II vapor control system requirements is an important element in our State Implementation Plan and in avoiding continued nonattainment of the ambient air quality standard. In addition, it is my understanding that all violations have been corrected.

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

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

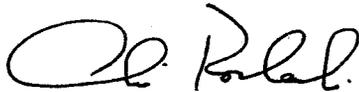
Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Mr. Nazir Imran
Pure Gas Incorporated
Page 2 of 2

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

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

Sincerely,



Chris Korleski
Director

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

Enclosures

CK:JK:jk

A guide to the . . .

Administrative Enforcement Process

Within the Division of Air Pollution Control

Introduction

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

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

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

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

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

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

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

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

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

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

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

What will happen at the meeting?

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

Why do I have to pay a civil penalty?

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

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

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

Who from Ohio EPA will be at the meeting?

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

Who should I bring to the meeting?

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

News releases

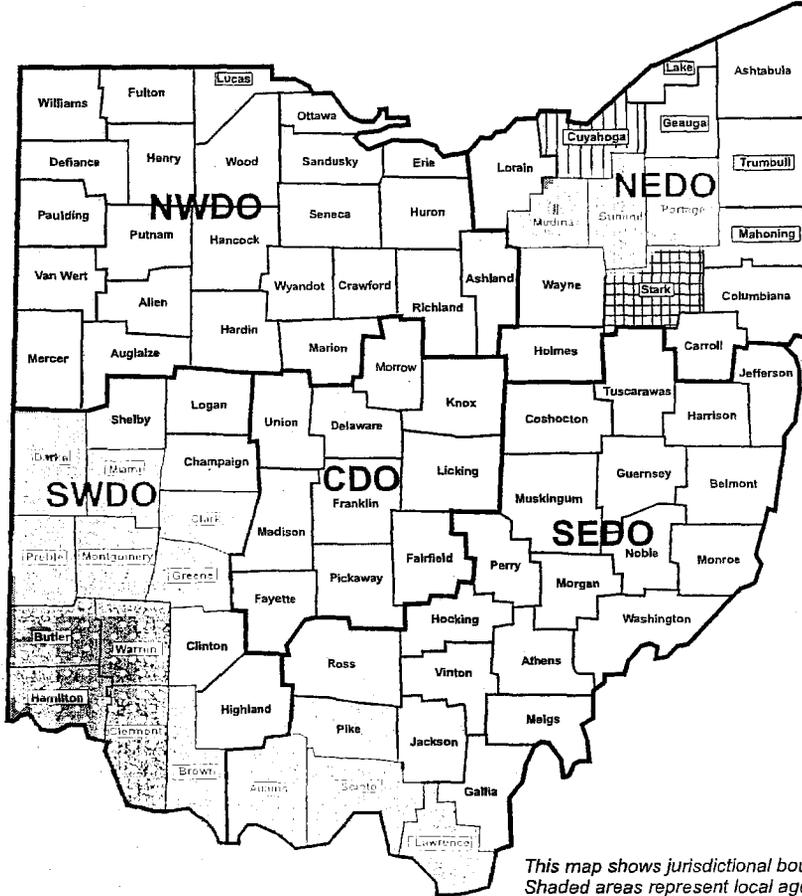
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about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

District Office and Local Air Agency Addresses and Phone Numbers

See the following pages.

Air Permit Review Agencies

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



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

OhioEPA

District Offices

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Pure Gas Incorporated	:	<u>Director's Final Findings</u>
228 E. Erie Avenue	:	<u>and Orders</u>
Lorain, Ohio 44052	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

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

II. PARTIES BOUND

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

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a gasoline dispensing facility ("GDF") located at 228 E. Erie Avenue, in Lorain (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.

2. On July 31, 2008, Respondent submitted and was issued a permit-by-rule ("PBR") by Ohio EPA, in accordance with OAC Rule 3745-31-03. The PBR required Respondent to comply with the requirements for Stage II vapor control systems as specified in OAC Rule 3745-21-09(DDD).

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

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

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

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

7. On January 2, 2008, Respondent attempted to conduct the annual Stage II compliance tests at this GDF. However, the static leak and A/L ratio tests were not performed due to leaking ATG caps. In addition, two hoses were crimped and flattened and needed to be replaced. Respondent was dispensing gasoline prior to and after the defects were identified. The failure to properly install, operate, and maintain the vapor control system and to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c).

8. On January 16, 2008, Respondent conducted a retest at this GDF. The static leak test passed but dispensers 3 and 4 failed the A/L ratio test due to the vacuum pump not working. Respondent was dispensing gasoline prior to and after the failed the A/L ratio test. The failure to properly install, operate, and maintain the vapor control system and to successfully pass the testing requirements in OAC Rule 3745-21-

09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On June 2, 2008, Respondent conducted and passed an A/L ratio retest for dispensers 3 and 4.

9. On March 12, 2009, Respondent attempted to conduct the annual Stage II compliance tests at this GDF. The static leak and A/L ratio tests were not performed due to the poor condition of several nozzles and because the wrong nozzles were being used on all the dispensers at this GDF. Respondent was dispensing gasoline prior to and after the defects were identified. The failure to properly install, operate, and maintain the vapor control system and to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c).

10. On April 7, 2009, Respondent conducted a retest at this GDF. The static leak test passed but dispenser 4 failed the A/L ratio test due to the vacuum pump not working. Respondent was dispensing gasoline prior to and after the failed the A/L ratio test. The failure to properly install, operate, and maintain the vapor control system and to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On June 8, 2009, Respondent conducted and passed an A/L ratio retest for dispenser 4.

11. By letter dated September 9, 2009, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 7, 8, 9, and 10 of these Orders.

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

V. ORDERS

The Director hereby issues the following Orders:

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

from March 15 through July 31 shall be submitted by August 14 of that year. Copies of the weekly inspection records for August 1 through October 31 shall be submitted by November 14 of that year.

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

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

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

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

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

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

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

VI. TERMINATION

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

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

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

VII. OTHER CLAIMS

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

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

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

X. NOTICE

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

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

and to:

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

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

XI. RESERVATION OF RIGHTS

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

XII. WAIVER

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

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

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date

AGREED:

Pure Gas Incorporated

Signature

Date

Printed or Typed Name

Title

GDF PENALTY WORK SHEET

Pure Gas Incorporated
228 E. Erie Avenue, Lorain, Ohio
(for settlement purposes only)

A. Benefit Component:		\$0	Economic benefit is negligible (i.e., less than \$5,000).
B. Gravity Component:			
1. Testing violations- a. Consecutive test failures:	\$5,000		On 1/2/08, Respondent failed the 2008 annual static leak and A/L ratio tests due to leaking ATG caps. On 1/16/08, a retest was conducted and the static leak test passed but the A/L ratio test failed for dispensers 3 and 4. By 6/2/08, Respondent conducted the necessary repairs and the A/L ratio test passed. On 3/12/09, Respondent failed the 2009 annual static leak and A/L ratio tests due to the poor condition of several nozzles and because the wrong nozzles were being used on all the dispensers at this GDF. On 4/7/09, a retest was conducted and the static leak test passed but the A/L ratio test failed for dispenser 4. By 6/8/09, Respondent conducted the necessary repairs and the A/L ratio test passed. Respondent was operating the dispensers prior to and after each failed test. Operating the vapor control system with malfunctions and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle are violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). Per the GDF penalty policy, when a facility fails any test in two consecutive years or fails two consecutive tests the penalty is \$5,000.
2. Length of violation: a.	\$3,025		From 1/2/08 until 6/2/08, Respondent operated the vapor control system while it was malfunctioning and failed to successfully pass the testing requirements in OAC Rule 3745-21-

			09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and(c). Per GDF penalty policy, 30 days is given to fix the problems and retest. Any additional days beyond the initial 30 days are penalized \$25 per day. So 2/2/08 until 6/2/08 (121 days). 121 days x \$25 per day = \$3,025.
b.	\$1,450		From 3/12/09 until 6/8/09, Respondent operated the vapor control system while it was malfunctioning and failed to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and(c). Per GDF penalty policy, 30 days is given to fix the problems and retest. Any additional days beyond the initial 30 days are penalized \$25 per day. So 4/12/09 until 6/8/09 (58 days). 58 days x \$25 per day = \$1,450.
4. Size of violator:	\$5,000		Net worth (~\$278,000) is estimated at 20% of annual sales (annual sales are ~ \$1,392,000 from Reference USA database). Penalty associated with this amount is \$5,000.
Preliminary Deterrence Amount:		\$14,475	
Initial Gravity Component:		\$14,475	
C. Adjustment Factors:	\$0		Not applicable
1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)			
2. Degree of cooperation: (total gravity component times any mitigation percentage)	\$0		Not applicable
3. History of noncompliance: (total gravity component times any augmentation percentage)	\$0		Not applicable

4. Ability to pay: (any mitigation amount)	\$0		Not known
5. Other unique factors: (total gravity component times any mitigation or augmentation percentage)	\$0		Not applicable
D. Adjusted Gravity Component:		\$14,475	
E. Administrative Component:		\$0	Not applicable
F. Initial Settlement Amount:		\$14,475	Rounded to \$14,400



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

DEC 04 2009

CERTIFIED MAIL

Mr. Joseph Clark
Corporate Director - Environmental Safety and Health
Bridgestone APM Company
1800 Industrial Drive
Findlay, Ohio 45839

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

Dear Mr. Clark:

My staff has informed me of the violations of the Ohio Administrative Code ("OAC") that occurred at your facility located at the 245 Commerce Way in Upper Sandusky.

Specifically, the facility exceeded the short term emissions limits for emissions units P005 and P006 from February 2008 through February 2009. Additionally, the facility modified emissions units P005 and P006 in 2004 without first applying for and receiving a modification to its permit to install for the units.

Enclosed is a copy of the proposed Findings and Orders prepared by my staff which includes a provision for the settlement of the claim 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 if a settlement cannot be reached.

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 to discuss a mutually acceptable settlement, please contact Donald L. Vanterpool, Ohio EPA Staff Attorney, at (614) 644-3037. If he does not hear from you within fourteen (14) days of the receipt of this letter concerning your willingness to accept the Findings and Orders as currently written, or with mutually agreed upon modifications, I will consider alternative enforcement mechanisms including referral of the violations to the Ohio Attorney General's Office for legal action.

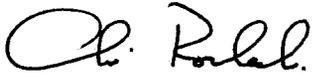
Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Bridgestone APM
Page 2 of 2

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

I hope that Bridgestone APM Company 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
Eric Yates, DAPC
Donald L. Vanterpool, Legal Office
Jennifer Joliff, NWDO

Enclosures

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>.

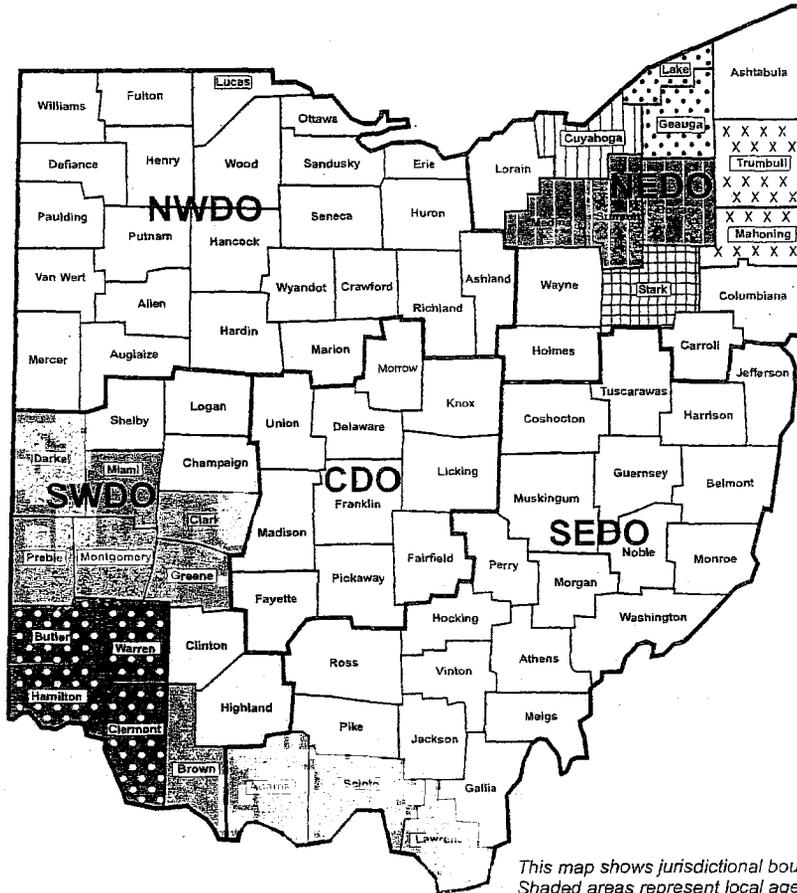
District Office and Local Air Agency Addresses and Phone Numbers

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

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

 **Richard L. Nemeth, Commissioner**
Cleveland Dept. of Public Health
Division of Air Quality
75 Erieview Plaza, 2nd Floor
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us

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

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

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

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

 **Cory R. Chadwick, Director**
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

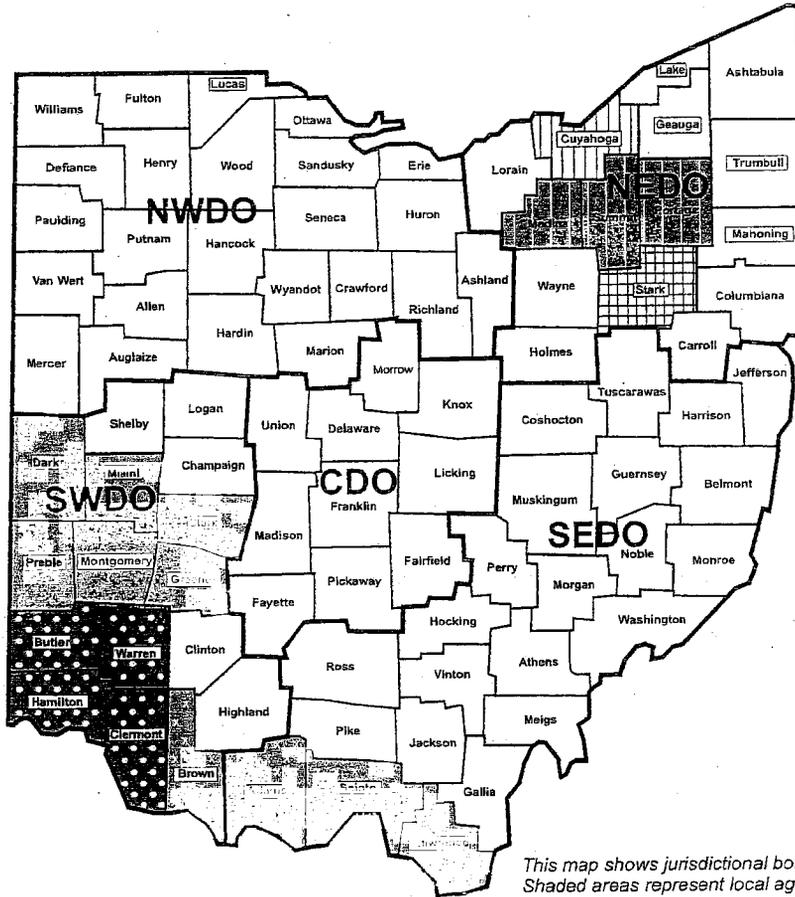
 **Bert Mechenbier, Supervisor ***
Lake County General Health District
Air Pollution Control
33 Mill Street
Painesville, Ohio 44077
(440) 350-2543 FAX (440) 350-2548
e-mail: BMechenbier@lcghd.org

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. The school bus must be equipped with a diesel engine.
- b. The school bus must have a gross vehicle rating of 19,500 pounds or more (Types C & D).
- c. The school bus must be in operation at least 4 days per week during the school year and travel at least 10,000 miles per year.
- d. The school bus model year must be 1994 or newer.

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

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

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

Only the particulate filters and crankcase filters on this list may be purchased and installed. As additional technologies are found to be acceptable by the USEPA,

they will be added to the list. Field experience indicates it takes six to eight hours to install one of these diesel particulate filters. Crankcase filters are relatively simple to install and are easily serviced.

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

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

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

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

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

The estimated cost to retrofit each bus with a diesel particulate filter ranges from \$6,500 to \$7,500. On an annual basis, or about every 100,000 miles, these filters must be disassembled and cleaned either with compressed air or by heating the filter in a filter cleaning device. (The cost of such a device ranges from \$300 to \$350.) The cost for the annual maintenance for each filter, which normally takes less than 3 hours to complete, will depend upon whether the work is performed by school district personnel, the engine dealer, or the filter vendor. Also, until ULSD fuel becomes available nationwide in June of 2006, there will be an increased cost for the diesel fuel burned in each retrofitted bus. The current price differential between ULSD fuel and regular diesel fuel varies between 8 and 25 cents per gallon. Crankcase filters are fairly inexpensive (a replacement element typically costs less than \$50.00). Crankcase filters must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first.

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

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

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

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

10. What oversight will be provided by the Ohio EPA to ensure that the diesel particulate filters are installed and maintained properly?

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

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Bridgestone APM Company	:	<u>Director's Final Findings</u>
245 Commerce Drive	:	<u>and Orders</u>
Upper Sandusky, Ohio 43351	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Bridgestone APM Company ("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

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of 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 meanings as defined in ORC Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent operates a manufacturing facility located at 245 Commerce Drive in Upper Sandusky (OEPA facility ID# 0388010051). At the facility Respondent manufactures polyurethane foam seats and energy absorbing pads for the automotive industry.

2. ORC Section 3704.05(G) states that no person shall violate any order, rule, or determination of the Director.
3. ORC Section 3704.05(C) states that no person who is the holder of a permit issued under section (F) or (G) of section 3704.03 of the Revised Code shall violate any of its terms.
4. On April 6, 2004, permit to install ("PTI") 03-13782 was issued to Respondent for emissions units P005 and P006 (polyurethane foam seat lines).
5. On August 6, 2006, a Title V permit to operate was issued to Respondent.
6. From at least February 2, 2008 until February 20, 2009, Respondent exceeded the short term volatile organic compound ("VOC") emissions limit of 13.15 pounds per hour ("lbs/hr") for emissions units P005 and P006. During the period of violation, emissions unit P005 was operating at 20.00 lbs/hr and emissions unit P006 was operating at 14.91 lbs/hr, in violation of the terms and condition of PTI 03-13782 and ORC 3704.05(C).
7. Ohio Administrative Code ("OAC") rule 3745-31-02 states, in part, that no air contaminant source is permitted to be installed or modified without first applying for and receiving a PTI.
8. Beginning in at least October 2004 and continuing until February 20, 2009, when Respondent submitted a PTI modification application, Respondent modified and operated emissions units P005 and P006 without applying for and receiving a PTI modification, in violation of OAC rule 3745-31-02. Respondent modified the above emissions units by increasing line speeds and using larger mold sizes, which caused an increase in use of mold release agent. The PTI modification was issued final on October 13, 2009.
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 benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of one hundred sixty thousand six hundred and eighty-eight dollars (\$160,688) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an

official check made payable to "Treasurer, State of Ohio" for one hundred twenty-eight thousand five hundred and fifty dollars (\$128,550) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

2. In lieu of paying the remaining thirty-two thousand one hundred and thirty-eight dollars (\$32,138) of civil penalty, Respondent shall within 30 days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$32,138. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

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

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

4. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$32,138 of the civil penalty in accordance with the procedures in Order 2.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's

receipt of the valid official check required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the Respondent's activities at the 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. 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
Lazarus Government Center
Division of Air Pollution Control
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Don Vanterpool

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
50 West Town Street

Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: John Paulian

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:

Bridgestone, APM

Signature

Date

Printed or Typed Name

Air Civil Penalty Worksheet Bridgestone APM

A. Benefit Component: (enter from attached computer calculation)		\$44,777	Because of modifications to the line speed and mold size on emissions units P005 and P006 in 2004, Respondent would have been required to install best available technology ("BAT"). BAT was determined to be the installation of electrostatic spray guns. The permit to install modification that required the installation of BAT was not received by Ohio EPA until February 20, 2009. From approximately October 2004 until February 2009, Respondent operated emissions units P005 and P006 without the electrostatic spray guns, thus establishing an economic advantage over its competitors. Respondent received a benefit by delaying the expenditure of the estimated \$150,000 to upgrade the lines and install the electrostatic spray guns.
B. Gravity Component: 1. Actual or possible harm			
a. Amount above standard:			
b. Toxicity of pollutant:			
c. Sensitivity of environment:			
d. Length of time of violation:	\$55,000		Respondent modified emissions units P005 and P006 in October 2004 by increasing the mold size and increasing the line speed along with employing both robot spray and manual spray without applying for and receiving a PTI modification, in violation of OAC rule 3745-31-02. Respondent did not apply for a PTI modification until February 2009. (52 months)
2. Importance to regulatory scheme:	\$15,000		Respondent modified emissions units P005 and P006 in October 2004 by increasing the mold size and increasing the line speed along with employing both robot spray and manual spray without applying for and receiving a PTI modification, in violation of OAC rule 3745-31-02.
3. Size of violator:	\$114,777		Respondent is a multinational billion dollar company. Respondent's facility in Upper Sandusky is a wholly owned subsidiary of the parent corporation. Calculating a true size of violator penalty yields a penalty amount much larger than the preliminary deterrence amount. As per the U.S. EPA civil penalty policy, the size of violator penalty is then set at an amount equal to 50% of the preliminary deterrence amount.
Total Gravity Component:		\$184,777	
Preliminary Deterrence Amount: (sum of benefit and gravity components)		\$229,554	
C. Flexibility-Adjustment Factor:			
1. Degree of willfulness or negligence: (total gravity component times an augmentation percentage)			
2. Degree of cooperation: (total gravity component times any mitigation percentage)			
3. History of noncompliance: (total gravity component times any augmentation percentage)			
4. Ability to pay: (any mitigation amount)			
5. Other unique factors: (total gravity component times any mitigation or augmentation percentage)	(\$68,866)		30% mitigation since it does not appear that Respondent exceeded its annual ton-per-year VOC emission limit. However, by exceeding the short-term VOC emission limit, Respondent caused more VOC emissions from the facility than would have been emitted if the short-term limit were met.

Run Name =		Bridgestone - 1
Present Values as of Noncompliance Date (NCD),		31-Oct-2004
A) On-Time Capital & One-Time Costs		\$104,172
B) Delay Capital & One-Time Costs		\$73,658
C) Avoided Annually Recurring Costs		\$0
D) Initial Economic Benefit (A-B+C)		\$30,514
E) Final Econ. Ben. at Penalty Payment Date,		
	31-Dec-2009	\$44,777
<i>C-Corporation w/ OH tax rates</i>		
Discount/Compound Rate		7.7%
Discount/Compound Rate Calculated By:		BEN
Compliance Date		20-Feb-2009
Capital Investment:		
Cost Estimate		\$150,000
Cost Estimate Date		15-Jan-2009
Cost Index for Inflation		PCI
Consider Future Replacement (Useful Life)		y (15)
One-Time, Nondepreciable Expenditure:		
Cost Estimate		\$0
Cost Estimate Date		N/A
Cost Index for Inflation		N/A
Tax Deductible?		N/A
Annually Recurring Costs:		
Cost Estimate		\$0
Cost Estimate Date		N/A
Cost Index for Inflation		N/A
User-Customized Specific Cost Estimates:		
		N/A
On-Time Capital Investment		
Delay Capital Investment		
On-Time Nondepreciable Expenditure		
Delay Nondepreciable Expenditure		



State of Ohio Environmental Protection Agency

STREET ADDRESS:

MAILING 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

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

DEC 03 2009

CERTIFIED MAIL

Mr. Ali Mohammad
D.b.a. Marathon Oil 2992
960 North Levitt Road
Amherst, Ohio 44001

Re: Proposed Director's Final Findings and Orders for Ali Mohammad, d.b.a.
Marathon Oil 2992's Amherst, Ohio Facility

Dear Mr. Mohammad:

My staff has informed me of the violations of Ohio Administrative Code Rule 3745-21-09(DDD) and ORC § 3704.05(G) associated with your gasoline dispensing facility ("GDF") located at 960 North Levitt Road, in Amherst, Ohio. I would like to express my concern regarding the violations of the Stage II vapor control system requirements at the above-mentioned GDF located in an area that is in nonattainment of the National Ambient Air Quality Standard for ozone. Compliance with Stage II vapor control system requirements is an important element in our State Implementation Plan and in avoiding continued nonattainment of the ambient air quality standard. In addition, it is my understanding that all violations have been corrected.

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

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

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



Mr. Ali Mohammad
D.b.a. Marathon Oil 2992
Page 2 of 2

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

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

Sincerely,



Chris Korleski
Director

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

Enclosures

CK:JK:jk

A guide to the . . .

Administrative Enforcement Process

Within the Division of Air Pollution Control

Introduction

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

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

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

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

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

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

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

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

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

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

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

What will happen at the meeting?

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

Why do I have to pay a civil penalty?

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

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

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

Who from Ohio EPA will be at the meeting?

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

Who should I bring to the meeting?

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

News releases

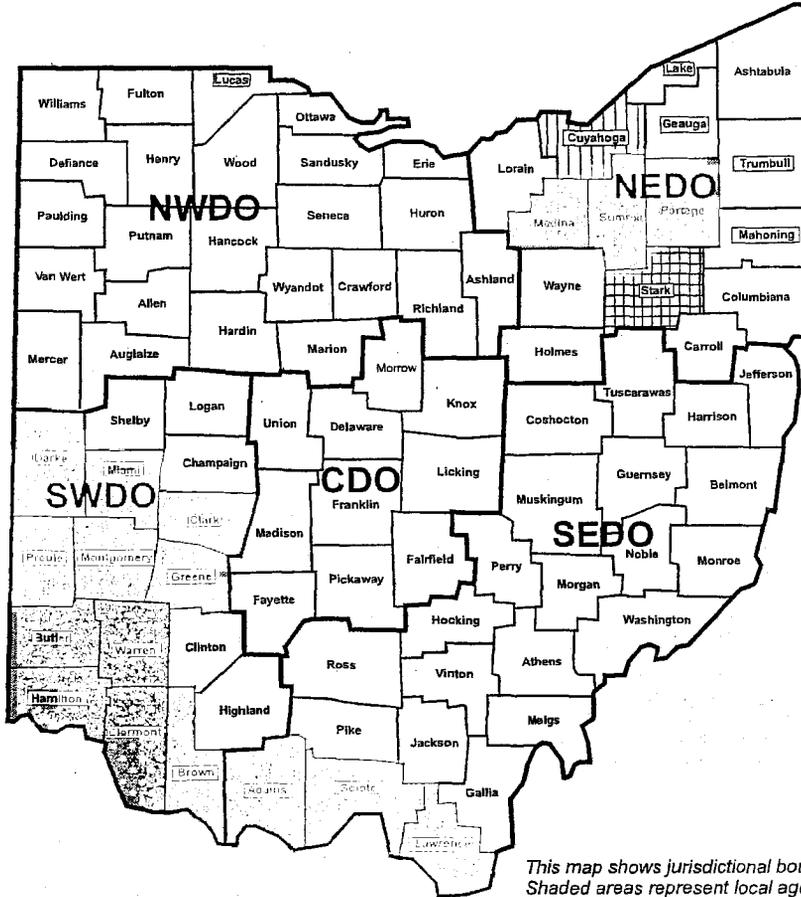
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about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

District Office and Local Air Agency Addresses and Phone Numbers

See the following pages.

Air Permit Review Agencies

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



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@c1.akron.oh.us



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



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



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



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



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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Ali Mohammad	:	<u>Director's Final Findings</u>
D.b.a. Marathon Oil 2992	:	<u>and Orders</u>
960 North Levitt Road	:	
Amherst, Ohio 44052	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Ali Mohammad, d.b.a. Marathon Oil 2992 ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

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

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a gasoline dispensing facility ("GDF") located 960 North Levitt Road, in Amherst (Lorain County), Ohio. This GDF is subject to the requirements of Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD) concerning Stage II vapor control systems.

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

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

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

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

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

7. On May 12, 2008, Respondent attempted to conduct the annual Stage II compliance tests at this GDF. The static leak test passed but the A/L ratio test failed for dispensers 1 and 2 due to a malfunctioning vacuum pump. Respondent was dispensing gasoline prior to and after the failed A/L ratio test. The failure to properly operate and maintain the vapor control system and the failure to successfully pass the testing requirements contained in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On September 5, 2008, Respondent passed an A/L ratio retest for dispensers 1 and 2.

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

control system and the failure to successfully pass the testing requirements contained in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On June 24, 2009, Respondent passed an A/L ratio retest for dispensers 2, 3, 5, 6, 7, 8, 9 and 10.

9. By letter dated August 27, 2009, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 7 and 8 of these Orders.

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

V. ORDERS

The Director hereby issues the following Orders:

1. For the next two ozone seasons (April 1, 2010 – October 31, 2010 and April 1, 2011 – October 31, 2011), starting two weeks prior to the start of the ozone season, i.e., by March 15, 2010 and March 15, 2011, and continuing until October 31, 2010 and October 31, 2011, respectively, Respondent shall conduct weekly inspections of the Stage II vapor control system, checking for leaks, malfunctions or other damage to the system and shall keep records of these inspections and any repairs made. The inspections shall be recorded in an inspection log or checklist. Copies of the inspection logs or checklists shall be submitted to Ohio EPA during the middle and at the end of each ozone season. Specifically, copies of the weekly inspection records for the period from March 15 through July 31 shall be submitted by August 14 of that year. Copies of the weekly inspection records for August 1 through October 31 shall be submitted by November 14 of that year.
2. For the next two ozone-producing seasons (i.e., April 1, 2010 – October 31, 2010 and April 1, 2011 – October 31, 2011), Respondent shall perform static leak and A/L ratio tests prior to the beginning (during March) of each ozone season and during August of each ozone season. Respondent shall notify Ohio EPA of such testing at least fourteen (14) days prior to any test. The results of these tests shall be submitted to Ohio EPA within fourteen (14) days after completion of the tests.
3. Respondent shall pay the amount of twelve thousand four hundred and twenty-five dollars (\$12,425) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for nine thousand nine hundred and forty dollars (\$9,940) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

4. In lieu of paying the remaining two thousand four hundred and eighty-five dollars (\$2,485) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$2,485 to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$2,485. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

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

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

6. Should Respondent fail to fund the SEP within the required time frame set forth in Order 4, Respondent shall immediately pay to Ohio EPA \$2,485 of the civil penalty in accordance with the procedures in Order 3.

VI. TERMINATION

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

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

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

VII. OTHER CLAIMS

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

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

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

X. NOTICE

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

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

and to:

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

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

XI. RESERVATION OF RIGHTS

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

XII. WAIVER

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

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

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date

AGREED:

Ali Mohammad, d.b.a. Marathon Oil 2992

Signature

Date

Printed or Typed Name

Title

GDF PENALTY WORK SHEET

Ali Mohammad, d.b.a. Marathon Oil 2992
 960 N. Levitt Road, Amherst, Ohio
 (for settlement purposes only)

A. Benefit Component:		\$0	Economic benefit is negligible (i.e., less than \$5,000).
B. Gravity Component:			
1. Testing violations- Consecutive test failures:	\$5,000		On 5/12/08, Respondent failed the 2008 annual A/L ratio test for dispensers 1 and 2. On 9/5/08, a retest was conducted and the A/L ratio test passed for dispensers 1 and 2. On 5/12/09, Respondent failed the 2009 annual A/L ratio test for dispensers 2, 3, 5, 6, 7, 8, 9 and 10. On 6/24/09, a retest was conducted and the A/L ratio test passed for all dispensers. Respondent was operating the dispensers prior to and after each failed test. Operating the vapor control system with malfunctions and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). Per the GDF penalty policy, when a facility fails any test in two consecutive years or fails two consecutive tests the penalty is \$5,000.
2. Length of violation: a.	\$2,125		From 5/12/08 until 9/5/08, Respondent operated the vapor control system while it was malfunctioning and failed to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and(c). Per GDF penalty policy, 30 days is given to fix the problems and retest. Any additional days beyond the initial 30 days are penalized \$25 per day. So 6/12/08 until 9/5/08 (85 days).

			85 days x \$25 per day = \$2,125.
b.	\$300		From 5/12/09 until 6/24/09, Respondent operated the vapor control system while it was malfunctioning and failed to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and(c). Per GDF penalty policy, 30 days is given to fix the problems and retest. Any additional days beyond the initial 30 days are penalized \$25 per day. So 6/12/09 until 6/24/09 (12 days). 12 days x \$25 per day = \$300.
4. Size of violator:	\$5,000		Net worth (~\$278,000) is estimated at 20% of annual sales (annual sales are ~ \$1,392,000 from Reference USA database). Penalty associated with this amount is \$5,000.
Preliminary Deterrence Amount:		\$12,425	
Initial Gravity Component:		\$12,425	
C. Adjustment Factors:	\$0		Not applicable
1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)			
2. Degree of cooperation: (total gravity component times any mitigation percentage)	\$0		Not applicable
3. History of noncompliance: (total gravity component times any augmentation percentage)	\$0		Not applicable
4. Ability to pay: (any mitigation amount)	\$0		Not known
5. Other unique factors: (total gravity component times any mitigation or augmentation percentage)	\$0		Not applicable
D. Adjusted Gravity Component:		\$12,425	
E. Administrative Component:		\$0	Not applicable
F. Initial Settlement Amount:		\$12,425	



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

DEC 03 2009

CERTIFIED MAIL

Mr. Mark Mustafa
Hanini Properties, d.b.a. Hanini Marathon
5300 Superior Avenue
Cleveland, Ohio 44103

Re: Proposed Director's Final Findings and Orders for Hanini Properties, d.b.a.
Hanini Marathon

Dear Mr. Mustafa:

My staff has informed me of the violations of Ohio Administrative Code Rule 3745-21-09(DDD) and ORC § 3704.05(G) associated with your gasoline dispensing facility ("GDF") located at 5300 Superior Avenue, in Cleveland, Ohio. I would like to express my concern regarding the violations of the Stage II vapor control system requirements at the above-mentioned GDF located in an area that has been in nonattainment of the National Ambient Air Quality Standard for ozone. Compliance with Stage II vapor control system requirements is an important element in our State Implementation Plan and in avoiding nonattainment of the ambient air quality standard. In addition, it is my understanding that all violations have been corrected.

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

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

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

Mr. Mark Mustafa
Hanini Marathon
Page 2 of 2

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

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

Sincerely,



Chris Korleski
Director

xc: Jim Orlemann, DAPC
Eric Yates, DAPC
Marc Glasgow, Legal Office
Andrew Marantides, CDAQ

Enclosures

CK:EY:eyq

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>.

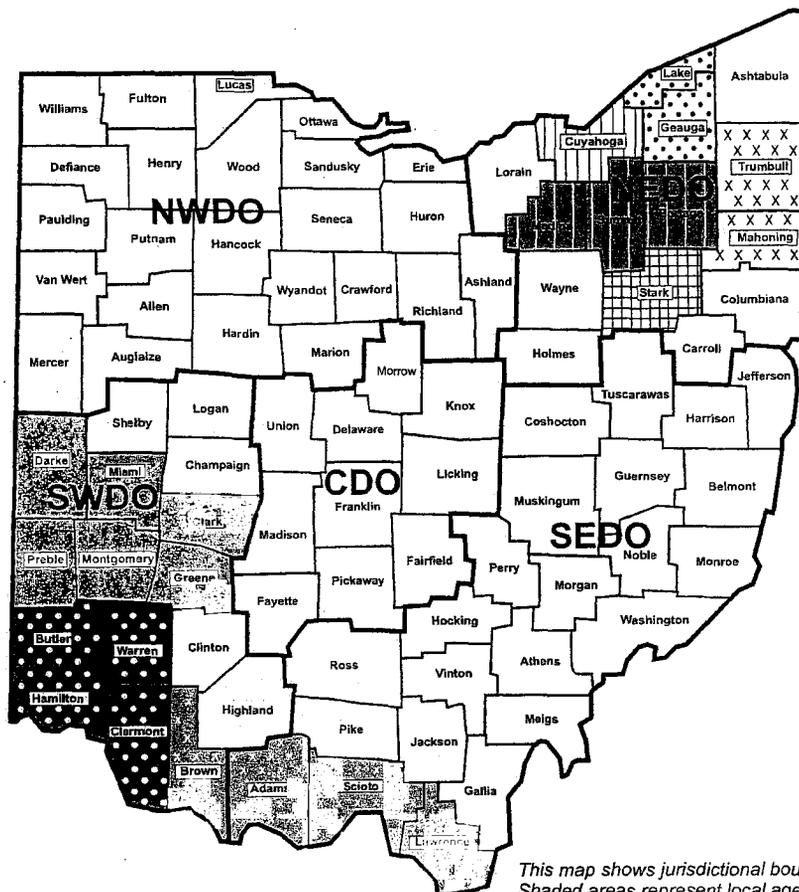
District Office and Local Air Agency Addresses and Phone Numbers

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.

OhioEPA

District Offices

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

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

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

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

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

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

13 Richard L. Nemeth, Commissioner
Cleveland Dept. of Public Health
Division of Air Quality
75 Erieview Plaza, 2nd Floor
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us

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

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

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

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

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

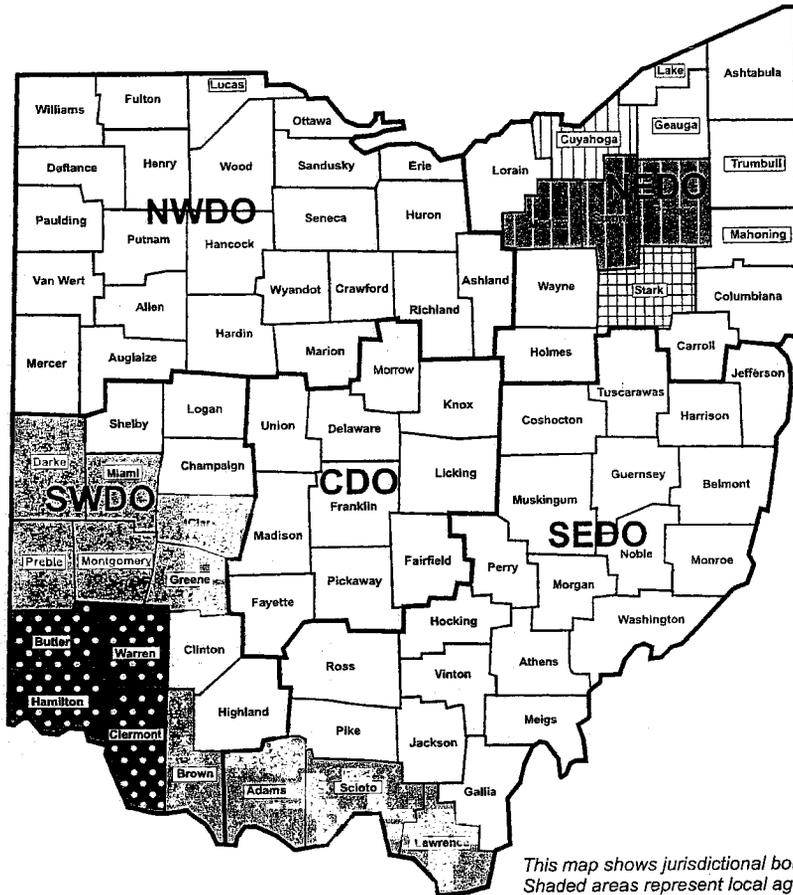
20 Bert Mechenbier, Supervisor *
Lake County General Health District
Air Pollution Control
33 Mill Street
Painesville, Ohio 44077
(440) 350-2543 FAX (440) 350-2548
e-mail: BMechenbier@lcghd.org

21 Misty Koletich, Administrator *
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).

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.



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e-mail: adam.ward@epa.state.oh.us

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2195 Front St.
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2110 E. Aurora Rd.
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(330) 425-9171 FAX (330) 487-0769
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347 North Dunbridge Rd.
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Dayton, OH 45402-2911
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 **Frank Markunas, Interim Administrator**
Akron Regional Air Quality
Management District
146 South High St, Room 904
Akron, Ohio 44308
(330) 375-2480 FAX (330) 375-2402
e-mail: markufr@ci.akron.oh.us

 **Richard L. Nemeth, Commissioner**
Cleveland Dept. of Public Health
Division of Air Quality
75 Erieview Plaza, 2nd Floor
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us

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

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

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

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

 **Cory R. Chadwick, Director**
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 diesel particulate filters and crankcase filters and provide the general guidelines that must be followed by any school system that participates in the program.

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

The exhaust gases from diesel, school bus engines contain significant amounts of organic compounds, carbon monoxide, nitrogen oxides (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 crankcase filter must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first. Crankcase filters are inexpensive (a replacement element typically costs less than \$50.00) and are best used in conjunction with some type of filtration system in the exhaust stream.
- c. **Diesel oxidation catalysts** are devices that use a chemical process to break down pollutants in the exhaust stream into less harmful components. Diesel oxidation catalysts can reduce emissions of particulates by 20 percent, hydrocarbons by 50 percent, and carbon monoxide by 40 percent. Oxidation catalysts cost \$600 to \$2,000 and can be used with regular diesel fuel.

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

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

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

- a. The school bus must be equipped with a diesel engine.
- b. The school bus must have a gross vehicle rating of 19,500 pounds or more (Types C & D).
- c. The school bus must be in operation at least 4 days per week during the school year and travel at least 10,000 miles per year.
- d. The school bus model year must be 1994 or newer.

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

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

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

Only the particulate filters and crankcase filters on this list may be purchased and installed. As additional technologies are found to be acceptable by the USEPA,

they will be added to the list. Field experience indicates it takes six to eight hours to install one of these diesel particulate filters. Crankcase filters are relatively simple to install and are easily serviced.

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

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

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

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

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

The estimated cost to retrofit each bus with a diesel particulate filter ranges from \$6,500 to \$7,500. On an annual basis, or about every 100,000 miles, these filters must be disassembled and cleaned either with compressed air or by heating the filter in a filter cleaning device. (The cost of such a device ranges from \$300 to \$350.) The cost for the annual maintenance for each filter, which normally takes less than 3 hours to complete, will depend upon whether the work is performed by school district personnel, the engine dealer, or the filter vendor. Also, until ULSD fuel becomes available nationwide in June of 2006, there will be an increased cost for the diesel fuel burned in each retrofitted bus. The current price differential between ULSD fuel and regular diesel fuel varies between 8 and 25 cents per gallon. Crankcase filters are fairly inexpensive (a replacement element typically costs less than \$50.00). Crankcase filters must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first.

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

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

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

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

10. What oversight will be provided by the Ohio EPA to ensure that the diesel particulate filters are installed and maintained properly?

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

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Hanini Properties, LLC	:	<u>Director's Final Findings</u>
d.b.a. Hanini Marathon	:	<u>and Orders</u>
5300 Superior Avenue	:	
Cleveland, Ohio 44103	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Hanini Properties, LLC, d.b.a. Hanini Marathon ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

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

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a gasoline dispensing facility ("GDF") located 5300 Superior Avenue, in Cleveland (Cuyahoga County), Ohio. This GDF is subject to the requirements of Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD) concerning Stage II vapor control systems.

2. On January 7, 2009, Respondent was issued a permit-by-rule ("PBR") by Ohio EPA, in accordance with OAC Rule 3745-31-03. The PBR required Respondent to comply with the requirements for Stage II vapor control systems as specified in OAC Rule 3745-21-09(DDD).

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

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

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

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

7. On August 21, 2008, Respondent attempted to conduct the annual Stage II compliance tests at this GDF. The static leak test passed but the A/L ratio test failed for dispensers 1, 2, 5, and 6. Respondent was dispensing gasoline prior to and after the failed A/L ratio test. The failure to properly operate and maintain the vapor control system and the failure to successfully pass the testing requirements contained in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On September 18, 2008, Respondent passed an A/L ratio retest for dispensers 1, 2, 5, and 6.

8. On August 25, 2009, Respondent attempted to conduct the annual Stage II compliance tests at this GDF. The static leak test passed but the A/L ratio test failed for dispensers 1, 2, 5, and 6. Respondent was dispensing gasoline prior to and after the failed A/L ratio test. The failure to properly operate and maintain the vapor control system and the failure to successfully pass the testing requirements contained in OAC

Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). On September 3, 2009 Respondent passed an A/L ratio retest for dispensers 1, 2, 5, and 6.

9. By letter dated October 30, 2009, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 7 and 8 of these Orders.

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

V. ORDERS

The Director hereby issues the following Orders:

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

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

3. Respondent shall pay the amount of ten thousand dollars (\$10,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for eight thousand dollars (\$8,000) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

4. In lieu of paying the remaining two thousand dollars (\$2,000) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$2,000 to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$2,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

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

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

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

VI. TERMINATION

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

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

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

VII. OTHER CLAIMS

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

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

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

X. NOTICE

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

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

and to:

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

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

Ohio EPA.

XI. RESERVATION OF RIGHTS

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

XII. WAIVER

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

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

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date

AGREED:

Hanini Properties, LLC

Signature

Date

Printed or Typed Name

Title

GDF PENALTY WORK SHEET
 Hanini Properties, LLC, d.b.a. Hanini Marathon
 5300 Superior Avenue, Cleveland, Ohio
 (for settlement purposes only)

A. Benefit Component:		\$0	Economic benefit is negligible (i.e., less than \$5,000).
B. Gravity Component:			
1. Testing violations- Consecutive test failures:	\$5,000		On 8/21/08, Respondent failed the 2008 annual A/L ratio tests for dispensers 1, 2, 5, and 6. On 9/18/08, a retest was conducted and the A/L ratio test passed for dispensers 1, 2, 5, and 6. On 8/25/09, Respondent failed the 2009 annual A/L ratio test for dispensers 1, 2, 5, and 6. On 9/03/09, a retest was conducted and the A/L ratio test passed for all dispensers. Respondent was operating the dispensers prior to and after each failed test. Operating the vapor control system with malfunctions and the failure to successfully pass the testing requirements in OAC Rule 3745-21-09(DDD)(2) while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle are violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). Per the GDF penalty policy, when a facility fails any test in two consecutive years or fails two consecutive tests the penalty is \$5,000.
2. Length of violation:			
a.			
b.			
4. Size of violator:	\$5,000		Net worth (~\$464,000) is estimated at 20% of annual sales (annual sales are ~ \$2,320,000 from Reference USA database). Penalty associated with this amount is \$5,000.
Preliminary Deterrence Amount:		\$10,000	
Initial Gravity Component:		\$10,000	
C. Adjustment Factors:	\$0		Not applicable

1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)			
2. Degree of cooperation: (total gravity component times any mitigation percentage)	\$0		Not applicable
3. History of noncompliance: (total gravity component times any augmentation percentage)	\$0		Not applicable
4. Ability to pay: (any mitigation amount)	\$0		Not known
5. Other unique factors: (total gravity component times any mitigation or augmentation percentage)	\$0		Not applicable
D. Adjusted Gravity Component:		\$10,000	
E. Administrative Component:		\$0	Not applicable
F. Initial Settlement Amount:		\$10,000	

