



REGIONAL AIR POLLUTION CONTROL AGENCY

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December 6, 2010

Certified Mail

Charles LaPorte
Linden Depot
4412 Linden Avenue
Dayton, OH 45432

NOTICE OF VIOLATION (NON-HPV)

Summary

The gasoline dispensing facility (GDF) at Linden Depot, Ohio EPA Facility ID 0857771788, located at 4412 Linden Avenue in Dayton, Montgomery County, Ohio, is required to perform a static pressure decay test and an air-to-liquid ratio test at least once in each twelve month period on the Tokheim MaxVac stage II vapor control system. The last successful static pressure decay test and air-to-liquid ratio test performed on the Tokheim MaxVac stage II vapor control system at Linden Depot was completed on February 4, 2009. Pursuant to state and local air pollution control regulations, enforcement orders may be issued in the future to resolve these violations.

Dear Mr. LaPorte:

Pursuant to Ohio Administrative Code (OAC) rule and Montgomery County Combined General Health District Air Pollution Control Regulations (MCCGHDAPCR) section 3745-21-09 (DDD)(1), no owner or operator of a gasoline dispensing facility (GDF) may cause, allow or permit the transfer of gasoline from a stationary storage tank at a GDF into a motor vehicle unless the vapor control system has successfully passed the testing requirements contained in paragraph (DDD)(2) of this rule.

OAC rule and MCCGHDAPCR section 3745-21-09(DDD)(2) state that the owner or operator of a GDF shall perform leak testing in accordance with the testing procedures contained in OAC rule 3745-21-10, as well as, any vapor control system tests specified in the applicable CARB certification. The tests shall be performed at the frequency specified in such certification.

CARB Executive Order G-70-154-AA, for Tokheim MaxVac stage II vapor control systems, states that the owner or operator of a GDF shall conduct, and pass, a static pressure decay test and an

air-to-liquid ration (A/L) test no later than sixty (60) days after startup and at least once in each twelve month period thereafter.

The last successful static pressure decay test and A/L test performed on the Tokheim MaxVac stage II vapor control system at the GDF located at Linden Depot, Ohio EPA Facility ID 0857771788, 4412 Linden Avenue, Dayton, Montgomery County, Ohio, was on February 4, 2009. On March 10, 2010, a Health District Order was issued to Linden Depot, by the Regional Air Pollution Control Agency (RAPCA), for failing to perform the required annual stage II vapor control system compliance tests and required that testing be scheduled within thirty (30) days after the issuance of that Order. No testing was scheduled with RAPCA at this GDF within the 30 day timeframe given on that Order.

On May 4, 2010, RAPCA issued a warning letter to Linden Depot requiring that the annual stage II vapor control system compliance testing be scheduled within fourteen (14) days after receipt of that letter. To date, no annual stage II vapor control system compliance testing has been scheduled with RAPCA at Linden Depot. On September 28, 2010, RAPCA performed an inspection of this GDF and confirmed that Linden Depot continues to transfer gasoline from stationary storage tanks into motor vehicle without successfully conducting the testing requirements contained in OAC rule and MCCGHDAPCR section 3745-21-09(DDD)(2).

Failure to perform a static pressure decay test and A/L test at least once within each twelve month period is a violation of OAC rule and MCCGHDAPCR section 3745-21-09(DDD)(2), CARB Executive Order G-70-154-AA, and Ohio Revised Code (ORC) 3704.05. Transferring of gasoline from stationary storage tanks at the Linden Depot GDF into motor vehicles without successfully passing the testing requirements contained in OAC rule and MCCGHDAPCR section 3745-21-09(DDD)(2) is a violation of OAC rule and MCCGHDAPCR section 3745-21-09(DDD)(1) and ORC 3704.05.

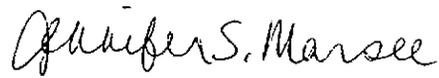
In order to resolve the above mentioned violations, RAPCA requires that Linden Depot submit a compliance plan and schedule to bring this facility into compliance with all applicable air pollution control regulations. At a minimum, Linden Depot shall submit a plan that has been or will be implemented to ensure that all required stage II vapor control system testing is performed at this GDF at the required intervals. RAPCA requires that the response include the intended static pressure decay and A/L test date for this GDF. Your testing company should contact Lynn Thompson at (937) 225-4437, to ensure a RAPCA representative is present at your scheduled testing. In addition, the owner/operator must provide documentation to RAPCA proving attendance and completion of training required by Ohio EPA for the operator or local manager of the GDF, per OAC rule and MCCGHDACPR section 3745-21-09(DDD)(3)(vi).

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The compliance plan and schedule shall be submitted expeditiously, but in no event later than 30 calendar days after receipt of this letter. Acceptance of the compliance plan and schedule by RAPCA does not constitute a waiver of the Ohio EPA's and RAPCA's authority to pursue civil penalties as provided in ORC sections 3704.06 and 3707.49. The determination whether or not to pursue such penalties will be made by Ohio EPA and RAPCA at a later date.

If you have any questions concerning this matter, please contact Brandie K. Lehman or me at (937) 225-4435.

Sincerely,



Jennifer S. Marsee
Supervisor, Abatement Unit
Regional Air Pollution Control Agency

cc: John Paul RAPCA
 Jefferis Canan RAPCA
 Michael Matis PHDMC
 William MacDowell U.S. EPA, Region V
 Tom Kalman Ohio EPA

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