

OHIO E.P.A.
SEP -6 2012
ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Rite Stop, Inc., d.b.a. Gas USA : Director's Final Findings
12115 Euclid Avenue : and Orders
Cleveland, Ohio 44106 :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

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

II. PARTIES BOUND

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

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a gasoline dispensing facility ("GDF") located at 12115 Euclid Avenue, Cleveland, Cuyahoga County, Ohio (Facility ID # 1318008433). On April 7, 2007, and pursuant to Ohio Administrative Code ("OAC") Rule 3745-31-03(A)(4), Respondent submitted a permit-by-rule ("PBR") notification form to the Cleveland Division of Air Quality ("CDAQ") for this GDF. This GDF is subject to the requirements of OAC Rule 3745-21-09(DDD) concerning Stage II vapor control systems.

2. CDAQ is the contractual agent for Ohio EPA in Cuyahoga County for the administration of Ohio's air pollution rules and laws.

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. On March 29, 2010, Respondent conducted the Stage II compliance tests at this GDF. During the March 29, 2010 Stage II compliance tests, the static leak test passed while the A/L ratio test failed for dispensers 5, 6, 7, and 8. Respondent was transferring gasoline into motor vehicles prior to and after the failed 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 were violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(c). On September 18, 2010, Respondent conducted and passed an A/L ratio retest for dispensers 5, 6, 7, and 8.

7. On April 18, 2011, Respondent conducted the 2011 Stage II compliance tests at this GDF. During the April 18, 2011 Stage II compliance tests, the static leak test passed while the dynamic pressure performance test failed. The A/L ratio test was not conducted at this time. On May 24, 2011, Respondent conducted dynamic pressure performance, static leak, and A/L ratio tests at this GDF. During the May 24, 2011 Stage II compliance tests the static leak test initially failed but was able to be passed after several repairs were made. In addition, the dynamic pressure performance test passed but the A/L ratio test failed for dispensers 1, 5, 6, 7, and 8 due to non-functioning vacuum motors. Respondent was transferring gasoline into motor vehicles prior to and after the failed tests. 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 August 23, 2011, dispensers 5, 6, 7, and 8 passed an A/L ratio retest but dispenser 1 failed due to a non-functioning vacuum motor. By letters dated May 2, August 10, and September 9, 2011, CDAQ notified

Respondent of the aforementioned violations. On March 19, 2012, Respondent passed an A/L ratio retest for dispenser 1.

8. 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 five thousand dollars (\$5,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by official checks made payable to "Treasurer, State of Ohio" and which shall be paid in installments per the following schedule:

a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand dollars (\$1,000);

b. Within sixty (60) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand dollars (\$1,000);

c. Within ninety (90) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand dollars (\$1,000);

d. Within one hundred and twenty (120) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand dollars (\$1,000); and

e. Within one hundred and fifty (150) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand dollars (\$1,000).

The official checks shall be submitted to Akia Smith, 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 of the above checks shall be sent to Bruce Weinberg, Environmental Manager, Enforcement Section, or his successor, at the following address:

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

VI. TERMINATION

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

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation, not a party to these Orders, for any liability arising from, or related to, 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 Division of Air Quality
75 Erieview Plaza, Suite 200
Cleveland, Ohio 44114
Attn: Linda Kimmy

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: Bruce Weinberg

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

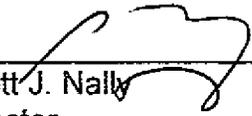
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



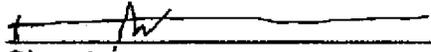
Scott J. Nally
Director

8/31/12

Date

AGREED:

Rite Stop, Inc., d.b.a. Gas USA



Signature

8/23/12

Date

Ibrahim Najjar

Printed or Typed Name

CEO

Title