

CITY OF TOLEDO



DEPARTMENT OF PUBLIC UTILITIES

September 2, 2009

CERTIFIED MAIL

Lillie Teeters
Kroger Company - Fuel Merchandising Dept
4111 Executive Pkwy
Westerville, Ohio 43081



RE: Notice of Violation for three Kroger GDF's in Lucas County

Dear Ms. Teeters:

Enclosed is a **Notice of Violation** for Kroger gasoline dispensing facilities (GDF) in Lucas County, OEPA Premise numbers: 0448011662, 0448041049 and 0448041060, which are in non-compliance with the permit-by-rule (PBR) regulations in the Ohio Administrative Code (OAC). The effective date of the permit-by-rule exemptions for the Kroger GDF's are as follows:

Premise Number	Store	PBR Effective Date
0448011662	Kroger #511	4/5/07
0448041049	Kroger #895	4/5/07
0448041060	Kroger #940	2/28/07

Please review this document carefully, as some action is required on your part. If you have any questions, please feel free to contact me at 419-936-3955.

From Toledo – an International Award Winning City!

Pamela Barnhart

Pamela Barnhart
Environmental Engineer

enclosure

cc: Timothy D. Murphy, Commissioner, Environmental Services
Karen Granata, Air Chief, Environmental Services
Robert Lopez, Environmental Services
Joyce Anagnos, Senior Attorney, Law Department
John Paulian, Ohio EPA
Lisa Holscher, U.S. EPA

Timothy D. Murphy, Commissioner
DIVISION OF ENVIRONMENTAL SERVICES
Quilter Environmental Center

348 South Erie Street, Toledo, Ohio 43604-8633 USA

Telephone: 419-936-3015 Fax: 419-936-3959 E-mail: tim.murphy@toledo.oh.gov

Notice of Violation

September 2, 2009

The City of Toledo, Division of Environmental Services hereby serves notice that:

Kroger #511 [0448011662], 4925 Jackman Rd, Toledo, OH 43613

Kroger #895 [0448041049], 7545 Sylvania Ave, Sylvania, OH 43560

Kroger #940 [0448041060], 6235 Monroe St., Sylvania, OH 43560

has violated the following environmental laws, orders, rules, or regulations on the indicated date at the above location:

Date of violation(s):

Description of violation(s):

Calendar year 2007 and 2008	During an inspection to a Kroger GDF on August 12, 2009, a City of Toledo official (Robert Lopez) requested annual throughput information for all of the Kroger gasoline dispensing facilities in Lucas County. An August 13, 2009, email correspondence from Robert Lopez was sent to Kenan Haonga requesting the above information. A response was received from Kenan Haonga on August 19, 2009. The response indicated the following violations:
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Regulation(s) violated:

Permit-By-Rule Exemption: OAC rule 3745-31-03(A)(4)(h)(i)(d) The permit-by-rule qualification for gasoline dispensing facilities in Lucas County must have gasoline throughput of less than three million eight hundred thousand gallons per year	The submitted records for average annual gasoline throughput of gasoline indicated the following: 0448011662 – 6,800,000 gallons 0448041049 – 4,200,000 gallons 0448041060 – 4,500,000 gallons
Permit-By-Rule Exemption: OAC rule 3745-31-03(A)(4)(h)(ii)(a) Organic compound (OC) emissions from the facility shall not exceed 25 tons per year.	The submitted records for average annual gasoline throughput of gasoline indicated the following OC average annual emissions: 0448011662 – 44.2 tons per year 0448041049 – 27.3 tons per year 0448041060 – 29.3 tons per year

The above violations may subject the violator to penalties of up to \$25,000. It is possible that a penalty maybe assessed in this case. If a penalty is to be assessed, the amount will be determined after your response is reviewed.

Required Actions

Upon receipt of this notice, you are required to:

1. Abate the violation(s) or provide acceptable remedies.
2. Reply in writing to this Notice of Violation within fourteen (14) calendar days. The reply shall include:
 - a. Description(s) and date(s) of action(s) taken to abate the violation(s).
 - b. Description(s) and expeditious time schedules of action(s) yet to be taken to abate the violation(s).
 - c. Description(s) of action(s) taken or to be taken to prevent recurrence of the violation(s).
3. The above facilities no longer qualify for the permit-by-rule exemption. An application for a permit to install/operate (PTIO) are to be submitted for the above stated facilities and received in our office within three weeks of date of receipt of this letter.

Recommended Remedial Actions

It is recommended that you consider the following suggestions:

1. Have management regularly verify the annual gasoline throughput for each Kroger GDF with Permit-by-Rule exemptions in Lucas County and elsewhere in the state of Ohio to ensure compliance with the regulations.

Your written response to this Notice of Violation shall be directed to Pamela Barnhart, Division of Environmental Services, 348 S. Erie Street, Toledo, Ohio 43604. Please call (419)936-3955 with any questions or concerns that you may have regarding this notice.