

# CITY OF TOLEDO



## DEPARTMENT OF PUBLIC UTILITIES

August 11, 2009

### CERTIFIED MAIL



Mr. Ray Wuertz  
Barney's #1  
305 Clayton  
Toledo, Ohio 43604

### **RE: Notice of Violation**

Dear Mr. Wuertz:

Enclosed is a **Notice of Violation** for Barney's #1 – 305 Clayton, OEPA Premise # 0448011726, which is in non-compliance with the Ohio Administrative Code (OAC).

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 419-936-3770.

From Toledo – an International Award Winning City!

A handwritten signature in black ink, appearing to read "Sarah Williams".

Sarah Williams  
Senior Chemist

SW  
enclosure

cc: Timothy D. Murphy, Commissioner, Environmental Services  
Karen Granata, Air Chief, Environmental Services  
Pam Barnhart, 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**

August 11, 2009

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

Barney's #1  
305 Clayton  
Toledo, OH 43604

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

**Date of violation(s):**

June 4, 2009 to present

**Description of violation(s):**

During an inspection, City of Toledo officials found that the vapor recovery system was not fully in working order. Management was informed that it must be repaired within 15 days. As of 8/11/09, the repair has not been made.

**Regulation(s) violated:**

Permit to Operate Term: Part II.B.1.a.,  
OAC Rule 3745-21-09 ( R ) ( 2 ) ( a )  
"The vapor balance system shall be kept in good working order..."

The poppet valve on the vapor recovery riser for the regular unleaded tank is broken and not sealing.

Permit to Operate term: Part II.B.1.f.  
OAC Rule 3745-21-09 ( R ) ( 3 )  
"Any owner or operator of a gasoline dispensing facility shall repair within 15 days any leak from the vapor balance system..."

Repair has not been made.

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).

### **Recommended Remedial Actions**

It is recommended that you consider the following suggestions:

1. Order a new poppet valve to replace the one that is broken.
2. Have management and/or maintenance regularly check the vapor balance system to ensure that it is in good working order.

Your written response to this Notice of Violation shall be directed to Sarah Williams, Division of Environmental Services, 348 S. Erie Street, Toledo, Ohio 43604. Please call (419) 936-3770 with any questions or concerns that you may have regarding this notice.