



City of Cleveland
Frank G. Jackson, Mayor

Department of Public Health
Division of Air Quality
75 Erieview Plaza, Suite 200
Cleveland, Ohio 44114-1839
216/564-2297 • Fax: 216/420-8047
www.clevelandhealth.org

**SERVING OHIO EPA AS AGENCY 13
FOR CUYAHOGA COUNTY**

**CERTIFIED MAIL#70093410000219339964
RETURN RECEIPT REQUESTED**

September 7, 2010

Diab Saleh
West 130th Street Marathon
3935 West 130th
Cleveland, OH 44111

NON-HPV

FACILITY ID: 13-18-00-6881

**THIRD NOTICE OF VIOLATION : Operating an emission unit without permits
and failure to conduct Stage II testing**

Dear Mr. Saleh:

On May 25, 2010, the Cleveland Division of Air Quality (CDAQ) inspected West 130th Street Marathon (Marathon) located at 3935 West 130th in Cleveland. This letter serves as notification that you are still operating sources in violation of the following applicable air statutes, air regulations, or air permit conditions.

On June 7, 2010, CDAQ issued a Notice of Violation Letter and on August 3, 2010, CDAQ issued a Second Notice of Violation, both letters notified Marathon that they are in violation of Ohio Revised Code 3704.05(F) and (G), and Ohio Administrative Code (OAC) 3745-31-02(A)(1) for operating emission unit (EU) G001: Gas dispensing unit, without a proper state permit. A new permit is required due to a change of ownership.

Also, Marathon has failed to obtain City of Cleveland permits-to-operate for the years 2006, 2007, 2008 and 2009. This is a violation of City of Cleveland Codified Ordinances 259.01 and 263.01.

Furthermore, as of June 1, 2010, a 2010 City of Cleveland permit-to-operate is also required. As of July 30, 2010, you have failed to obtain the 2010 permit-to-operate. This is a violation of City of Cleveland Ordinances 259.01 and 263.01.

In addition, Marathon has failed to perform required Stage II testing, both static leak and air to liquid ratio tests, within twelve months of the previous successful test. The most current successful static leak test was performed on January 19,



2009, and the most current successful air to liquid ratio test was performed on March 20, 2009. This is a violation of Ohio Administrative Code (OAC) Rule 3745-21-09 (DDD)(1)(c) which states that no owner or operator of a gasoline dispensing facility (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 on OAC Rule 3745-21-09(DDD)(2).

Unless you undertake some type of corrective action with respect to the above noted violations, you will remain in non-compliance. CDAQ requests that Marathon submit either a permit-to-install/operate (PTIO) application or a permit-by-rule (PBR) notification within ten (10) days of receipt of this letter to the following address:

Permitting Section
Cleveland Division of Air Quality
75 Erieview Plaza 2nd Floor
Cleveland, Ohio 44114-1839

Also, CDAQ requests that Marathon submit city permit fees for 2006, 2007, 2008, 2009 and 2010 within ten (10) days of receipt of this letter, to the following address:

City Permit Fee Invoices
Cleveland Division of Air Quality
75 Erieview Plaza 2nd Floor
Cleveland, Ohio 44114-1839

In addition CDAQ requests that Marathon schedule and perform all required Stage II tests and submit test results within ten (10) days of receipt of this letter. Marathon must notify CDAQ of the test date.

Your written response to this letter must be received by CDAQ within ten (10) days of your receipt of this letter. If there is insufficient time to correct the alleged violations within this timeframe, your response must include a timeline for correcting the alleged violations.

City permits-to-operate invoices were included in the June 7, 2010, Notice of Violation letter. PBR notification forms for Gas Dispensing Facilities can be downloaded at <http://www.epa.state.oh.us/portals/27/pbr/GDFPBR.pdf> a PTIO application form can be downloaded at <http://epa.ohio.gov/dapc/fops/eac/eacforms.aspx>.

Please note that all permit applications or PBR notification forms submitted to CDAQ must include original signatures. Photocopied signatures are not valid; the application will not be accepted by CDAQ and will be returned to you if original



signatures are not provided.

Violations of Ohio air pollution laws and /or permit terms and conditions are subject to the penalties stipulated in Ohio Revised Code Section 3704.99(A), which allows fines of not more than twenty-five thousand dollars or imprisonment for not more than one year, or both, for each violation.

Free assistance with state and/or federal regulations, rules, laws or permit conditions can be provided at no charge through the Ohio EPA Office of Compliance Assistance and Pollution Prevention (OCAPP). OCAPP can be contacted at <http://www.epa.ohio.gov/ocapp> or (614) 644-3469 or (800) 329-7518.

CDAQ makes no guarantee that the facility will meet the qualifying guidelines established by OCAPP.

OCAPP can also provide assistance to facilities that want to investigate methods of pollution prevention to reduce raw material usage and waste production. Again, there is no charge for their services.

CDAQ issues this letter with Ohio EPA's concurrence. The failure to mention any specific violation does not excuse any violations of local, state and federal laws or regulations regarding air pollution control. Violations of air pollution control laws may be pursued in local court or referred to Ohio EPA or U.S. EPA for further enforcement action. Should you have any questions, please call Andrew Kenney at 216-420-7683. All correspondence with CDAQ must include the Ohio EPA facility identification number for West 130th Marathon: 13-18-00-6881.

Sincerely,

Linda Kimmy for G.B.

George Baker
Chief of Enforcement

GB/ak

cc: Michael J. Krzywicki, CDAQ
John Paulian, Ohio EPA Central Office
Lisa Holscher, U.S. EPA Region V
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