



City of Cleveland
Frank G. Jackson, Mayor

Department of Public Health
Division of Air Quality
75 Erieview Plaza, Suite 200
Cleveland, Ohio 44114-1838
216/664-2297 • Fax: 216/420-8047
www.clevelandhealth.org

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

**CERTIFIED MAIL 7009 3410 0002 1933 8127
RETURN RECEIPT REQUESTED**

September 23, 2010

Jack Hirsch
Hirsch's Marathon
455 W. Bagley Road
Berea, Ohio 44017

NON-HPV

FACILITY ID: 13-18-06-6723

**NOTICE OF VIOLATION: Failing Annual Stage II air-to-liquid testing on 9/22/2010;
Failure to conspicuously post "No Topping Off" instructions**

Dear Mr. Hirsch:

On September 22, 2010, the Cleveland Division of Air Quality (CDAQ) inspected Hirsch's Marathon located at 455 W. Bagley Road in Berea. This letter serves as notification that you are operating sources in violation of the following applicable air statutes, air regulations, or air permit conditions.

Hirsch's Marathon conducted annual Stage II testing on September 22, 2010. The Static Leak and Dynamic Pressure tests passed at this time. However, the Air-to-Liquid (A/L) Ratio was tested and failed for regular and mid-grade on all dispensers, #1 - #8. The failure to successfully pass the testing requirements in Ohio Administrative Code (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 are violations of Ohio Revised Code (ORC) Section 3704.05(G) and OAC Rule 3745-21-09 (DDD)(1)(b) and (c).

Additionally, Hirsch's Marathon's operation of its gasoline dispensing facility is in violation of OAC Rule 3745-21-09(DDD)(1)(d), OAC Rule 3745-31-03(A)(4)(i)(iii), and ORC Chapter 3704.05(G), in that instructions for the vapor control system in each gasoline dispensing area were not conspicuously posted. The operating instructions shall specifically prohibit the "topping off" of the motor vehicle fuel tank.

Unless you undertake some type of corrective action with respect to the above noted violations, you will remain in non-compliance. CDAQ requests that Hirsch's Marathon make the necessary repairs, then conduct a re-test of the A/L Ratio test on all dispensers, and submit all test results within thirty (30) days of receipt of this letter, to the following enforcement representative:



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

Furthermore, appropriate operating instructions for your gasoline dispensers, including the prohibition of "topping off" of the motor vehicle tank, shall be posted on each gasoline dispenser at your facility within thirty (30) days of 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 within thirty (30) days of receipt of this letter.

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.

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 Valerie Shaffer at (216) 664-6292. All correspondence with CDAQ must include the Ohio EPA facility identification number for Hirsch's Marathon: 13-18-06-6723.

Sincerely,

Linda Kimmy for G.B.
George Baker
Chief of Enforcement

GB/vls

cc: Michael J. Krzywicki, CDAQ
John Paulian, Ohio EPA Central Office
Lisa Holscher, U.S. EPA Region V
Facility File and L:\Data\Facilities\1318066723\2010-09-22 NOV.doc

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jack Hirsch
Hirsch's Marathon
455 W. Bopley Rd
Berea, Ohio 44017

2. Article Number
(Transfer from service label)

7009 3410 0002 1933 8127

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *[Signature]* Agent Addressee

B. Received by (Printed Name) C. Date of Delivery
BRAD MASCH 9/18/10

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes