

2. The Cleveland Division of Air Quality ("CDAQ") is the contractual agent for Ohio EPA in Cuyahoga County for the administration of Ohio's air pollution control 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. OAC Rule 3745-21-09(DDD)(2)(f) requires the owner or operator of a GDF to perform and comply with any vapor control system tests specified in the applicable CARB certification. As part of the required CARB testing for the above-mentioned GDFs, an air-to-liquid ("A/L") ratio test and a static leak test are required to be performed annually and any fueling point not capable of demonstrating compliance with the performance standards of the A/L ratio test is deemed to be defective and is required to be removed from service.

7. OAC Rule 3745-21-09(DDD)(3)(a)(iii), (3)(a)(vi) and (3)(b) states, in part, that any owner or operator of a GDF subject to the requirements of OAC Rule 3745-21-09(DDD)(1) shall, for a period not less than three years, maintain a log of the maintenance and repair work performed on the vapor control system and records demonstrating proof of attendance and completion of training required by Ohio EPA for the operator or local manager of the GDF.

AM/PM #2411

8. In or around May of 2009, Respondent purchased AM/PM #2411 and on May 25, 2009 submitted a permit-by-rule ("PBR") notification to Ohio EPA for this GDF.

9. On April 27, 2010, CDAQ conducted an inspection at this GDF and determined that Respondent failed to maintain a log of the maintenance and repair work performed on the vapor control system, failed to demonstrate proof of attendance and completion of training required by Ohio EPA for the operator or local manager of the GDF, and failed to maintain these records since purchasing the GDF in May of 2009, in

violation of OAC Rule 3745-21-09(DDD)(3)(a)(iii), (3)(a)(vi) and (3)(b) and ORC § 3704.05(G). By letter dated April 30, 2010, CDAQ notified Respondent of these violations.

10. On May 4, 2010, Respondent conducted the Stage II compliance tests at this GDF. During the May 4, 2010 Stage II compliance tests, the A/L ratio test passed while the static leak test failed. Respondent was transferring gasoline into motor vehicles prior to and after the failed static leak test. 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).

11. On June 24, 2010, Respondent conducted and failed a static leak retest at this GDF. 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). By letter dated July 15, 2010, CDAQ notified Respondent of the aforementioned violations.

12. On July 21, 2010, Respondent conducted and passed a static leak retest. By letter dated August 20, 2010, CDAQ notified Respondent that it had received the passing test results for the GDF and that Respondent still failed to demonstrate compliance with the rule referenced in Finding No. 9 of these Orders. By letter dated August 30, 2010, Respondent submitted the necessary documentation to abate the violations referenced in Finding No. 9 of these Orders.

13. On March 9, 2011, Respondent conducted the 2011 Stage II compliance tests at this GDF. During the March 9, 2011, Stage II compliance tests, the A/L ratio test passed while the static leak test failed due to a remote fill problem. On May 26, 2011, Respondent conducted and failed the static leak retest. Respondent was transferring gasoline into motor vehicles prior to and after the failed static leak 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 are violations of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(1)(b) and (c). By letter dated June 7, 2011, CDAQ notified Respondent of the aforementioned violations. On July 13, 2011, Respondent conducted and passed a static leak retest at this GDF.

EZ Energy #3665

14. On May 28, 2009, Respondent submitted a permit-by-rule ("PBR") notification to Ohio EPA for this GDF.

15. On December 16, 2009, Respondent conducted the 2009 Stage II compliance tests at this GDF. During the December 16, 2009 Stage II compliance tests, the static leak test passed while the A/L ratio test failed for dispensers 4, 8, and 13. Respondent was transferring gasoline into motor vehicles prior to and after the failed A/L ratio test. 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 January 12, 2010, Respondent conducted and passed an A/L ratio retest for dispensers 4, 8, and 13. By letter dated January 25, 2010, CDAQ notified Respondent of the aforementioned violations.

16. March 10, 2011, Respondent conducted the 2010 Stage II compliance tests three months late. During the March 10, 2011 Stage II compliance tests, the static leak test passed while the A/L ratio test failed for dispenser 13 due to no vacuum. Respondent was transferring gasoline into motor vehicles prior to and after the failed A/L ratio test. 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 (1)(c). The failure to timely perform an annual Stage II compliance test was a violation of ORC § 3704.05(G) and OAC Rule 3745-21-09(DDD)(2)(f). On March 29, 2011, Respondent conducted and passed an A/L ratio retest for dispenser 13. By letters dated March 21, April 18, and April 25, 2011, CDAQ notified Respondent of the aforementioned violations.

17. By letter dated May 4, 2011, Respondent submitted a response to the notice of violation letter sent by CDAQ on April 25, 2011.

18. 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. For the next two ozone seasons (April 1, 2012 – October 31, 2012 and April 1, 2013 – October 31, 2013), starting two weeks prior to the start of the ozone season, i.e., by March 15, 2012 and March 15, 2013, and continuing until October 31, 2012 and October 31, 2013, respectively, Respondent shall conduct weekly inspections of the Stage II vapor control systems at AM/PM #2411 and EZ Energy #3665, checking for leaks, malfunctions or other damage to the systems and shall keep records of these inspections and any repairs made. The inspections shall be recorded in an inspection log or checklist. Copies of the inspection logs or checklists shall be submitted to CDAQ during the middle and at the end of each ozone season. Specifically, copies of the weekly inspection records for the period from March 15 through July 31 shall be submitted by August 14 of that year. Copies of the weekly inspection records for August 1 through October 31 shall be submitted by November 14 of that year.

2. For the next two ozone-producing seasons (i.e., April 1, 2012 – October 31, 2012 and April 1, 2013 – October 31, 2013), Respondent shall perform static leak and A/L ratio tests at AM/PM #2411 and EZ Energy #3665 prior to the beginning (during March) of each ozone season and during August of each ozone season. Respondent shall notify CDAQ of such testing at least fourteen (14) days prior to any test. The results of these tests shall be submitted to CDAQ within fourteen (14) days after completion of the tests.

3. Respondent shall pay the amount of ten thousand dollars (\$10,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for eight thousand dollars (\$8,000) of the total amount. The official check shall be submitted to Brenda Case, 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

4. In lieu of paying the remaining two thousand dollars (\$2,000) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$2,000 to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$2,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

5. A copy of each of the above checks shall be sent to Thomas Kalman, Acting Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

6. Should Respondent fail to fund the SEP within the required time frame set forth in Order 4, Respondent shall immediately pay to Ohio EPA \$2,000 of the civil penalty in accordance with the procedures in Order 3.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For the purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice president or his duly authorized representative.

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 facilities.

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: Thomas Kalman

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

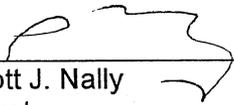
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

10/4/11

Date

AGREED:

EZ Energy USA, Inc.



Signature

9/14/11

Date

Damon Cranford

Printed or Typed Name

VP of Operations + Marketing

Title

Approved
SEP 13 2011
Brian Aiello 