

STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT )
VS. )
J&A GAS AND GO, LLC )

Order No. 2248

CONSENT ORDER

- A. With the agreement of J&A Gas and Go, LLC ("Respondent"), the Commissioner of Environmental Protection ("Commissioner") finds the following:
1. Respondent owns, leases, operates, or controls a gasoline dispensing facility ("facility") at 196 Spencer Street in Manchester, Connecticut.
2. At the facility, gasoline is dispensed from the stationary storage tank(s) into the fuel tanks of motor vehicles. Such gasoline is transferred using a Stage II vapor recovery system ("Stage II system"). A properly operating Stage II system is required by Section 22a-174-30(b)(5) of the Regulations of Connecticut State Agencies ("Regulations").
3. Pursuant to Section 22a-174-30(e)(2) of the Regulations, a Stage II test is required to be conducted and approved to verify that the Stage II system is properly operating.
4. Pursuant to Section 22a-174-30(e)(4) of the Regulations, a station that has not passed the Stage II test is not considered to be properly operating.
5. The Respondent was required to conduct and pass such testing requirements by January 15, 2011.
6. The Respondent has failed to pass such testing requirements and, therefore does not have a properly operating Stage II system.
7. By virtue of the above, the Respondent is in violation of Section 22a-174-30(e)(2), Section 22a-174-30(b)(5) and Section 22a-174-30(e)(4) of the Regulations.

Date Issued: 3/21/11

- B. With the agreement of the Respondent, the Commissioner, pursuant to Sections 22a-6, 22a-171, 22a-174, 22a-177, and 22a-178 of the Connecticut General Statutes, orders as follows:
1. Within sixty (60) days of the issuance of this Consent Order, the Respondent shall perform the required Stage II testing in accordance with the testing methods specified under Section 22a-174-30(e) to verify the facility has a properly operating Stage II system.
  2. At least seven (7) business days prior to conducting such testing, the Respondent shall notify the Commissioner in writing of the date and time of such testing, and shall allow representatives of the Commissioner to be present during such testing.
  3. Within seven (7) days after completing such testing, the Respondent shall submit to the Commissioner for his review and written approval, a report including the results of such testing and all documentation necessary to verify said results.
  4. If a Stage II system fails the test required by Paragraph B.1. of this Consent Order as determined by the Commissioner, such system shall be deemed not properly operating. Within fifteen (15) days of such failure, the Respondent shall submit in writing the reasons for system failure and the means by which the problem will be corrected. Within forty-five (45) days of such failure, the Respondent shall correct the problem and perform a retest of the Stage II system in accordance with the testing methods specified under Section 22a-174-30(e) of the Regulations to verify the facility has a properly operating Stage II system. The facility shall demonstrate compliance with Section 22a-174-30 of the Regulations or the facility shall cease dispensing gasoline until the Commissioner determines that such Stage II system is properly operating at the facility.
  5. Full compliance. The Respondent shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed as approved by and to the Commissioner's satisfaction.
  6. Civil penalty. On or before thirty (30) days after issuance of this Consent Order, the Respondent shall pay a penalty of \$1200.00 as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in Paragraph A.7. of this Consent Order.
  7. In lieu of the penalty set forth in Paragraph B.6 of this Consent Order, the Respondent may participate in a study commissioned by the Department to evaluate gasoline dispensing facility vapor control systems. In order to mitigate the entire penalty specified in Paragraph B.6 of the Consent Order the Respondent shall:
    - a) Submit to all Stage II System tests specified by the study contractor,
    - b) Provide any and all data requested by the study contractor within the deadlines specified by the contractor,
    - c) Operate and maintain the Stage II System as specified by the study contractor during the study,

- d) If the Stage II system fails the final test required under the study, as determined by the Commissioner, such system shall be deemed not properly operating. Within fifteen (15) days of such failure, the Respondent shall submit in writing the reasons for system failure and the means by which the problem will be corrected. Within forty-five (45) days of such failure, the Respondent shall correct the problem and perform a retest of the Stage II system in accordance with the testing methods specified under Section 22a-174-30(e) of the Regulations to verify the facility has a properly operating Stage II system. The facility shall demonstrate compliance with Section 22a-174-30 of the Regulations or cause such facility to cease dispensing gasoline until the Commissioner determines that such Stage II system is properly operating at the facility.

If the Respondent fails to comply with the requirements set forth in Subparagraphs B.7.a through B.7.d of this Consent Order, then the civil penalty set forth in Paragraph B.6 shall become due and payable within thirty (30) days of the Respondent's receipt of the Commissioner's written notice of the failure to comply.

8. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to Bureau of Financial and Support Services--Accounts Receivable Office ["F&SS"]. Department of Environmental Protection, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the Treasurer, State of Connecticut. The check shall state on its face, "Bureau of Air Management Civil Penalty, Air Engineering & Enforcement Division, Consent Order #2248".
9. Approvals. The Respondent shall use best efforts to submit to the Commissioner all documents required by this Order in a complete and approvable form. If the Commissioner notifies the Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this Consent Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.
10. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
11. Dates. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this consent order, the word "day" as used in this consent order means calendar day. Any document or action which is required by this consent order to be submitted or performed by a date which falls on a Saturday, Sunday or a

Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.

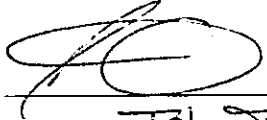
12. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Consent Order shall be signed by the Respondent or, if the Respondent is not an individual, by the Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and the Respondent or the Respondent's chief executive officer and each such individual shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under Section §53a-157b of the Connecticut General Statutes and any other applicable law."
13. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this Consent Order may subject the Respondent to an injunction and penalties.
14. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
15. Notice of transfer; liability of Respondent. Until the Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this Consent Order or after obtaining a new mailing or location address. The Respondent's obligations under this Consent Order shall not be affected by the passage of title to any property to any other person or municipality.
16. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondents pursuant to this Consent Order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require the Respondents to undertake further investigation or further action to prevent or abate violations or pollution.
17. Respondent's obligations under law. Nothing in this Consent Order shall relieve the Respondent of other obligations under applicable federal, state and local law.

18. No assurance by Commissioner. No provision of this Consent Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by the Respondent pursuant to this Consent Order will result in compliance.
19. Access to site. Any representative of the Department of Environmental Protection may enter the facility without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
20. No effect on rights of other persons. This Consent Order neither creates nor affects any rights of persons or municipalities that are not parties to this Consent Order.
21. Notice to Commissioner of changes. Within 15 days of the date the Respondent becomes aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, the Respondent shall submit the correct or omitted information to the Commissioner.
22. Notification of noncompliance. In the event that the Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Consent Order or of any document required hereunder, the Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, the Respondent shall submit in writing the date, time and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and the Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by the Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
23. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order, unless otherwise specified in this Consent Order or in writing by the Commissioner, shall be directed to:

Ms. Kathryn Shinkiewicz  
Department of Environmental Protection  
Bureau of Air Management  
Engineering & Enforcement Division  
79 Elm Street  
Hartford, Connecticut 06106-5127

Respondent consents to the issuance of this Consent Order without further notice. The undersigned certifies that he/she is fully authorized to enter into this Consent Order and to legally bind Respondent to the terms and conditions of the Consent Order.

J&A Gas and Go, LLC

Signature: 

Type Name: John T. Schindler  
owner/member

Type Title: \_\_\_\_\_

Date: 3/14/11

Issued as a final order of the Commissioner of Environmental Protection.

Gary S. Rose  
Gary S. Rose  
Director

03-18-2011  
Date

MAILED CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED