



OHIO BOARD OF MOTOR VEHICLE COLLISION REPAIR REGISTRATION BOARD MEETING AGENDA

May 16, 2012 10:00 AM

**Vern Riffe Tower
77 South High Street
19th Floor, Rm. 1932
Columbus, Ohio 43215**

1. MEETING WAS CALLED TO ORDER AT 10:05AM.

BOARD MEMBERS IN ATTENDANCE: Jennifer Justice-Haley, Russell Westfall, Brian Seibert Sr., William Ogg, Carmen "CJ" Paterniti, Joseph Sanfillipo, Janyce Katz (AAG), Michael Greene, Dan Gibson, Kimberly Sherfield

BOARD MEMBERS NOT IN ATTENDANCE: Ronald Nagy

GUESTS IN ATTENDANCE: Richard Carleski (OEPA), Chris Sterwerf (F.A.T.S.), Dennis Sterwerf, Joseph Sanfillipo III (USA Collision Centers), Thomas Kropfeld (USACP – The Carriage Shop Auto Body), John Kirkbridge (Nagy's Collision), Matt Walleck (CARA)

2. REVIEW OF FEBRUARY 15, 2012 MEETING MINUTES:

MOTION TO ACCEPT: WILLIAM OGG
SECOND: JOSEPH SANFILLIPO
VOTE: ACCEPTED

HALEY: I think, Mr. Sanfillipo, you might have to abstain, since you weren't here but you can "second" the motion.

4. BOARD REVIEW AND DETERMINATION RE: PENDING REGISTRATION APPLICATIONS:

A. Vote by Board on regular registrations pending from January 30, 2012 through April 30, 2012.

MOTION TO ACCEPT: WILLIAM OGG
SECOND: RUSSELL WESTFALL
VOTE: ACCEPTED



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5. OTHER BUSINESS:

A. Investigator's Report (Inv. Dan Gibson Year to Date Totals as of May 10, 2012)

Shop Visits	270
Renewals	10
NOV	77
New Shop App	54
Complaints Investigated	54 (Involving 54 Shops)
Shops LOB	21

B. **Status Report on Injunctions** (AAG Janyce Katz) - First let me update you on injunctions. And as you know in October we discussed the problem with, I believe, about 20 shops. After talking to Mike, there were a few that we left out and we sent out letters to all 20 shops telling them "please register, if you don't register, then there will be an injunction filed against you." I called almost all of the shops and enforced, "please don't make me file this injunction against you because you will have to close your business." Many of the shops came into compliance, then we discussed the ones that did not come into compliance whether or not to file something on them.

A few, such as Clear Creek Hookers, the decision was to leave them off at the moment because the evidence wasn't strong enough to go forward although there have been plenty of verbal evidence that say they were operating in violation of the chapter that created this board, Ohio Revised Code 4775 without complying with it. There is evidence out there but it's not enough to put it out there in front of the court. More on Mr. Bartram and Clear Creek Hookers in a minute. Anyway, so it narrowed down to about 4 that needed an injunction. I'm going to pass around, if you haven't seen what goes out, what was mailed out on January 3, 2012. It's an Injunction and it's a reason why it was some arguments and some case law why they should comply. Why the injunction should be imposed on the shops. My basic argument is based on your statute which says that if somebody is in violation, then then this board may file an injunction against them to preventing them acting and once the injunction is filed indicating with proof that there was a violation the court must issue the injunction. So that's what I wrote. And 3 out of the 4, got there copies of this document. This is one of them Mr. Jenkins, from Jenkins Auto Glass got his came in to compliance rather quickly. Shonk Collision & Frame and Collision Specialists, LLC before the court acted. Auto Surgeon Collision Center was hesitating, they said that they were going to pay, they didn't pay up, they didn't register. On January 5, 2012, the court issued an injunction against them. We were discussing following up on this action.



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Under the code what happens after an injunction, you should not be operating period. The injunction says “you are enjoying from continuing to operate your business” in other words you should stop operating your business until you are in compliance, until you are following all of the laws. So, there was information that Mr. Emerine, who owns Auto Surgeon Collision Center, was not following the injunction and had not come into compliance and we were looking at the next step.

The next step is.... sometimes the court will do it on its own, you can pick up the phone and say “hey, they’re not complying” and often, I say 99% of the time you can write a document and ask for and say that they are in violation, the sheriff comes out, it’s locked up, there is an extra fine and possibly there is a little visit to a facility for the owner with bars, you know those kinds of facilities, until this is cleared up. Mr. Emerine quickly decided to pay when I called him and informed him that that was the next step. He sent a document that.... we have a signed document showing that he will be in compliance, if he’s not in compliance it will come down. Now, what we’re missing is the hard copy to file with the court. He sent an e-mailed copy that was forwarded over to Mike Greene. If that doesn’t come soon, he’s been warned if that doesn’t come soon, he’s not in compliance with the court and he’s operating illegally even though he’s paid this part so it’s very problematic and hopefully he will come into compliance by next week. I can file the document that he.... he said that his wife put it in the mail the same day that it was sent by the internet... a copy to us. A copy was forwarded over to Mike to look at. It has not arrived, there is a chance that it might went to the wrong address. He has been called and was told to bring it up and he’s got until next week, if it’s not there by next week, I’ll talk to Mike about what we’ll do, the next step. The court has to lift the injunction, otherwise if he’s operating, he’s operating illegally. So that’s the problem with these injunctions, once you get one, you’re supposed to stop working and close the shop until you are in compliance with whatever. So that’s where we are with these injunctions.

Now, Clear Creek Hookers, there is a problem, even though there’s a lot of evidence that indicates that they are operating as a collision repair shop, it’s all verbal, it’s not sufficient, it doesn’t show that no more than four cars a year are being maintained there. They have been a little bit threatening and suggested that they were filing a cease and desist to keep people from investigating them. There are laws and regulations that have to be followed and nobody here have broken any law or regulation. They’ve been checking to make sure that the laws and regulations under which any auto, vehicle motor collision repair shop should be operating. So we’ll see what he says, he said he had an attorney and I said, “have your attorney call me” and nobody has called yet. So we’ll see, if he files, then we’ll have to deal with that. As it comes down, I’ll be in touch with Mike and Mike will be in touch with you. We’ll inform you with what happens with that.



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That's pretty much what's going on and is working for you. Since you're members of a board, what is very important to know is how a board, that is a government agency, should operate. Very different, how many of you are on private, non-profit boards or anything at home? Very different and for profit boards it's very different also because we're under something that is called the Sunshine Laws and Ethics Laws. The reason for that is there is a desire to have the government be open and transparent because you know as a voter, as a citizen you want to know what is going on. When and where is your money being spent. You want to know how decisions are being made. So, what we are trying to do with laws is to make sure that you know what is going on in the government, on the boards that vote and make decisions and with the paperwork that they keep so that nobody is sneaking around doing something that is harmful to the public citizens. There are two sets of these laws and, I did not and I apologize, I only made 5 copies of the ethics law so you're going to have to share that and we'll get some more copies.

So, again, you take the basic premise that we have to be open and transparent and everything going on has to be known by the public so they can find out why you're making these decisions. So then, out of that there're two different sets of laws that are..... and, and ethics laws...and again, all of this to make it transparent.

Open meetings: First of all, you have to have a meeting, you have to be a public body. You folks are a public body under the definition. And if you have a meeting, there are certain criteria for a meeting that has to be called in order to deliberate on business and there has to be public notice. It is very important that you have that criteria. If Mike decides that you need to be trained and he's going to give a bunch of information to you all, then it would be good for him to put out notices on that, but it's not going to be deliberation on an issue. Here you, today, are going to deliberate on an issue. What does it mean? What are the laws, how should we decide, what should we do, what should we do about these shops? This is your role and you have to make these decisions and it's very important Kim takes good notes so that anybody reading the notes can understand why you decided to take a certain position and they can say "well, I don't agree with that, but I understand." Then we have a democracy, otherwise we'll have like they had in Stalin's Russia. First someone makes a decision, and nobody knows why or whatever, it's just that you get in trouble for not following something that you might not know about. So this is trying to be as different from that as possible.

Once you have a meeting, now, here's the problem, you have to have a quorum which is basically the majority of you have to be here in order for you to have a meeting.

Executive Sessions Now there's another problem, now if the majority of you get together and go out and have a drink or something like that and it's organized, it



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might look like a meeting. So you want to be very careful about doing something like that, because you don't want people to think "hum, they're really conducting business over there and they don't want us to know about it," conducting business away from everybody. You want all of your business conducted here and you want to be careful. The other thing you have to be careful about is....did any of you play the game "Telephone" when you were in elementary school? Where you all sit in a line and one person whispers something to the person next to them and everyone does it all the way down the line. There is a violation that they call something similar to that where what you're doing isuh, say Jennifer calls and she says (inaudible) I'm a board member and this is what the policy should be and I want your opinion on this and let's pass it down and discuss it that way. And it goes all the way around all of you. That is avoiding public deliberation. Now, there are certain instances very, very, very narrow when you can go into what's called executive session and avoid this public discussion and that is first you have a meeting that's been called, you have minutes and you put on there "Executive Session" and the reason for going into Executive Session. Say we want to discuss a salary raise for Mike and it's a personnel matter. That's on the schedule and so someone will make a motion "I hereby move to go into Executive Session for the purpose of discussing the personnel issue of salary raise for one of the employees. You don't have to be specific as to name but you can't just say "I want to go in and discuss a personnel issue" or you can't just say the code number, which is Ohio Revised Code 121.22 G1. You can't just say "this is a G1 motion," which some boards do. You have to put it on the record what you're doing, again, so somebody looking at your record can say "Oh, I understand, they went in to discuss somebody's salary. Let's see, there're three employees, it's got to be one of the three. But you don't have to be, you know, specific on that.

Another reason that you might come up, across, say somebody sues us and it's bad and need to discuss strategy with you. I need your opinion and your consent because I as your attorney cannot act without your approval. That's how it works, I'm just your attorney, I'm not your policy maker or anything, I'm just your attorney. So, I need your consent and approval before I act. I can work through Mike because you've delegated that, I need to know. So we set and somebody moves to go into Executive Session for a discussion with the attorney for the board for pending or imminent litigation. So that's permissible. Another thing that's permissible is, you all don't have confidential documents, but if somebody...uhmm if, for some reason a confidential document....a document that is made confidential under state law or federal law or federal regulations, then you can go into Executive Session as it's a matter to be considered in Executive Session. So those are 3 of the main ones. There are a few others that won't apply like if you are, say city a hospital and you have trade secrets to discuss.

Records Retention: The next thing that comes with records, you must keep minutes of a meeting. The minutes of a meeting are public records. Now, when



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you are taking personal notes for yourself to keep yourself reminded of what's going on, or even just to keep yourself awake, these do not become public documents. Unless I write these notes and I give them to Jennifer and say "Hey, add to this" or I give them to Mike and say "Hey, Mike you know, use these for the minutes or add these to the minutes." Or something along that line. Or if they are a rough draft of the minutes, they're public. Then you've got to have something called a Record Retention Schedule, which says for rough drafts. After the rough draft becomes a final draft, the rough draft may be destroyed. If you don't have a Public Records Retention Schedule, any document that is a public record has to be kept forever. Because at any time someone can make a request for public records and you have to produce the public records, assuming the request is reasonable. You know if somebody is concerned about the minutes or want to see if there was something else, they can ask for the rough draft and the final draft of all the minutes. And, if there is no records retention schedule then that has to be produced. If not, then you produce a records retention schedule, you say "Hey, all we have left are these final ones." And this is what happens, this is the record of the meeting, this is what the board agreed to."

So that's basically the essence of the records and, and, anything that, that is recorded down that talks about the business of the organization, that's an e-mail, it's a hand written note, it's a disc, it's something along that line that can be a public record. What you have to do...if I say "Jennifer, hey let's have lunch" in an e-mail, that is not a public record because it has nothing, zero, zero, zero, to do with the business of this board. But, if I say to her "this particular shop needs to be shut down, however I cannot do this without authority." And uhm, I said that to her and to Mike, that is a public record. Anyone could come and ask for that record and within a reasonable amount of time, that has to be produced and if that's not produced, there's a penalty and it's not pleasant. So, you know, you want to be in compliance and you have a reasonable cost. You can't add in the "well, it cost me 5 hours of time to find this stupid thing and whatever" if it's kept in the ordinary course of business, and it's sitting there in a file and you don't have to create it, you have to produce it and you charge whatever, .05 for a copy, whatever it cost to copy it. You can't charge for your time finding it or doing anything, compiling it or redacting all of the social security numbers.

Then we come to another thing that is very important, and I'm sorry, I didn't make enough copies, impart because for some reason everything came out on Mike Dewine's stationary when I printed this and possibly, the computer sub-consciously want knew how important ethics and sunshine law are important to Mike Dewine who is the current Assembly General. Here's, again, there are certain things under the Ethics Commission and I'm sure Mike, do they get a special training from the ethics.....

DIRECTOR GREENE: Yes



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KATZ: Yes, a very thorough training from the Ethics Commission and you just have to make sure that you are following the ethic laws that you are making certain.....your disclosures, that you file the financial disclosure statement that you're supposed to file. That you are not making deals for purposes of enriching somebody based,... because you have a position, you have inside knowledge. Again, this is to protect the public, it gives the public the right to know what you're doing and to make sure that you have assumed an important role on this board and you deserve the public's trust because you are acting to deserve the public's trust.

Any questions?

Ok, thanks for your time!

DIRECTOR GREENE: Thank you Janyce.

HALEY: I do have a question back on the injunctions....

KATZ: Yeah.

HALEY: There were 20 shops, how many got....none have gotten locked down or.....

KATZ: None have gotten locked down. The only ones that didn't come into compliance are the ones we actually....you know, we worked it down to... There were several that we decided, for various reasons, not to push any harder. There were four that we sent injunctions out on, it was Shonk Collision and Frame, Jenkins' Auto Glass, Collision Specialist, LLC and Auto Surgeon Collision Center.

HALEY: Ok, so basically 16 came into compliance and paid.....

KATZ: Not, quite 16, but most of them that I think.....

GREENE: Actually, there were 22 that we started out with.....

KATZ: 20

GREENE: I don't remember how many, uhmm, voluntarily closed. All of them came into compliance, the only one that we dropped was that Clear Creek thing. We talked about it at the November Meeting and that investigation is not closed. We're holding off on the court action.



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KATZ: Before you go forward, if you look at the file that's going around, there are pictures that clear proof and evidence that are clear proof that showed violations and you don't want to go to a court and just say, you know "this is what happened and now have proof to back it up. I mean, I mean, you don't want that.

HALEY: Yeah, I just wanted to know what the numbers where. How they shook out.

KATZ: Basically the only injunction was on Mr. Emerine's, Auto Surgeon Collision Center. That's the only one, because the rest saw and said "Oh My Goodness!" and came into compliance. There was a lot of publicity that came out of this. I think the AG worked together with Mike to get some stuff out and one guy heard himself on the radio, I believe, and came running into Mike to pays.

GREENE: It was a three county area that we did there, Fairfield, Pickaway and Licking.

SANFILLIPO: So they all came into compliance or closed down voluntarily, is that what you're saying?

GREENE: Right, right.

KATZ: They were pretty understanding of, you know, injunctions coming and we're going to close you down and it's on your record and you're going to pay extra for the closing fees. I called them all after they got the letter.

HALEY: Does anyone have anything else for Ms. Katz? (PAUSE) Thank you!

C. Status Report on Legislation – () no updates

HALEY: Do we have any ASA updates? Possibly Joe?

SANFILLIPO: No

HALEY: Ok.

D. Director's Report (Dir. Greene) (PLEASE SEE ATTACHMENT)

6. **SPECIAL GUEST: OHIO EPA SUPERVISOR RICK CARLESKI**

Rick Carleski (Ohio EPA): Mike invited me here today. He wanted to bring me in to see if you had any EPA issues you wanted to discuss. I will be more than happy to answer as much as I can and that I'm able to at this time. If I don't have answers for you, I will be more than happy to follow up in the future and make myself available for any future board meetings where you want to discuss this type of



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issues. So I really don't have a set presentation or agenda for you today, I kind of want to solicit some of your comments and questions.

HALEY: Yeah, we do, Mr. Sterwerf has a little presentation.

STERWERF: I've talked to Rick to see if we could make a presentation to him from a repairer's stand point. We've put together a PowerPoint, I believe you've got it working now, Chris?

Chris has been into it, he's my son, he has listened to me deal with this issue 20 something years ago. He wrote my presentation and I testified about the EPA enforcement years ago. How it creates an un-level playing field of competition, so he wrote it for me back when he was still in high school and he has been dealing with this ever since. The rules have changed several times throughout the process. The Federal rules have changed also. We have been burdened with some of the inspections of some of the of the actual investigators that have come into our shop. We've been through it, we've lived it. Thought we had aced the 6h rule and obviously we didn't. I warn you forehand, anytime you have an investigation, they're going to find something. I've never aced one yet. Not that that's a big problem but we did (INAUDIBLE) So he got into it and looked at the laws because we had to comply with the Federal rules and we had to go back and check with the state rules that were in compliance. With today's computers and technology I didn't have 20 something years ago, he's able to dig all of this up. Rick you've been in front of us several times before, you know that I have work on the federal level before trying work with the Federal EPA and worked with the State EPA. You know when you go through all the proposals with what you like and don't like then it gets digested and goes back through the rules process or whatever process it goes through, it gets changed and it's pretty clouded what you're really supposed to have. So, Chris has a fresh head on it as far as, you know, putting his efforts towards it, he's got it all cleared up on it. I would like to turn it over to him if I could, Chair....

HALEY: Absolutely

STERWERF: Let him make this presentation

**Chris Sterwerf's PowerPoint Presentation EPA (33 Minute Presentation)
(COPIES OF POWERPOINT PRESENTATION AVAILABLE UPON REQUEST.)**

HALEY: Thank you Chris

GREENE: Thank you



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HALEY: I just want to preface before we open up for a discussion or questions to Mr. Carleski, you've got fortunate enough to be invited to hear, I guess, what he had to say because this board was founded under auspices of being a fair and level playing field. I think that shops now with this EPA 6h rule compliance that many shops aren't being treated fairly. Some people don't realize that they are skirting the law by being permit by rule or under De Minimis which I don't know how you can be in business, like you said, if you're falling or claiming De Minimis and actually having a payroll and maintain a shop. I guess that's why we're all here today and Chris put all of that together just to try to

CALESKI: I thought it was pretty detailed, a fair representation of the state of affairs of what's going on today. The collision repair industry is one industry sector that the EPA regulates. I don't have any figures for how much attention the State gives body shops. They have to go out and regulate just about all kinds of industries if you can imagine which is substantial in this state. We have a lot of different industry sectors, body shops do get inspected. I don't have numbers of how many and the way that you broke down the permitting exemption criteria, those were pretty accurate, pretty fair. There are some things that, for example, that may be worth mentioning Chris and others the De Minimis rule and the Permit by Rule and what is now the permits to install and operate, all of those were in place before this Federal 6h rule ever existed. There's a historical sequence to things, how things happen. The Permit by Rule didn't come about until 2005, so before that we had 1993 about where the De Minimis rule, before that, there was nothing like that. The operating permit to install was around since '74. So that goes way back, so that's probably the oldest of what we're talking about. The Federal 6h rule is the latest and that applies nationwide for all body shops. The Federal EPA does things and writes rules for things that really states kind of have to live with. Sometimes we and as well as industry, I know that the industry was involved in writing the 6h rule with the Federal EPA. There were some states that were involved in that, too. Which is typical of how US EPA writes something like this but, all of the stuff, what I can say is all of the state action, concern, air pollution, what air pollutants what are we controlling, why are controlling are all VOC related. And the 6h rule came out and it's not VOC related at all. It's heavy metals related in the paints that you are using. So it was an entirely different air pollutant focus to those two things. But what it did, was it put requirements on spray booths, HVLP, things like that that were so similar to what was already required on the VOC side of things. So I think that (INAUDIBLE) into a lot of confusion on, you know "are you doing this for the 6h rule or are you doing this for something on the state level and what have you." Another thing that may factor into some of this is states...the way that air pollution is done across the country, and it has been done like this for years, and years, and years, is where you have polluted areas of the country you tend to pass state and local regulations to control those polluted areas. If you're out in the middle of Wyoming and you have this pristine air, you don't really need those kinds of rules so Wyoming wouldn't have stuff like what we would have in Ohio, Pennsylvania and New York and you know places like Chicago and L. A. and



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things like that. So what you have over time is you have as the states develop some of this rules, mainly for VOC emissions to control ozone concentration in the ambient the air, they would look at the dirty areas of the state. They would write a rule that applies only in that dirty area of the state, and statewide wasn't subject to it. So, you get people in Cleveland, Dayton, Cincinnati and Akron, places like that that would have a rule apply to them, yet outlying areas outside of that wouldn't. So you would have shops talking amongst each other, saying "well, I have to do this for mine, why don't you have to do that for yours?" My personal experience was that created a lot of talk about uneven playing fields. From the fact that the policy said you didn't have to do it statewide, you have to do it in your dirty areas. On the flip side of that, when the 6h rule came out nationally, it didn't care about whether you were a polluted area or not, it applied to that industry type across the board, every state in the union. There are those that say that those types of policies are better than a piece (INAUDIBLE) state patchwork that only applies in certain areas. The way the Federal EPA does things on a state, like writes rules like that, at the state level and then you go into the future and you start investigating whether your air is clean enough, that you don't need those rules anymore, there is a big complicated process you have to go through to take those rules away. I don't know if the rules are ever going to go away for your particular industry, I certainly don't think the 6h rule is going to go away. But I wanted to just give you a little background on some of the reasons that maybe there's this confusing patchwork of stuff out there that we all have to deal with. It's not easy for my group to explain this stuff to shops. We certainly have our challenges and we certainly have our problems with understanding things like the 6h rule as well. Do you have any questions for me or

STERWERF: I do. I understand because I'm from Cincinnati have been (INAUDIBLE) where we get better, we get dirty, we get better and that's how this all came about. But a law is a law and the State needs to enforce this law all the way through because the impact it has on businesses since the Collision Repair Board has been created. This is why it was created because of the unequal enforcement of these regulations whether it be air pollution, hazardous waste, even taxes basically. I'm mean you see where even zoning isn't enforced, allowing businesses to have a more competitive edge than another business. That's why this agency was formed so that impact is closing like Chris explained in his program there, closing illegal shops. Illegal shops are falling off right and left. Jennifer, yours is basically one of those shops that can no longer stay alive. The person they sold to has no permits. (INAUDIBLE) is irresponsible. So we need a commitment out the Ohio EPA, we've got it out of the US EPA, that you're going to back up and enforce businesses to be compliant. As you see the process, I don't see how even a one man shop can make enough money and stay underneath the De Minimis category. I can see some shops being Permit by Rule but life would be much easier for that shop, just to obtain the PTIO. I can see shops not working on E150s, staying in double A class, it would be awfully difficult, awfully tempting to work on those big vehicles.



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Most of the dealerships now, they sell such a variety of vehicles from an Escalade at Cadillac dealership, that never used to sold a big SUV like that is now past that weight class. A Yukon or a Nissan even, they make Nissan vans, whether it be a passenger van or a cargo van and you see them sticking out there saying "I'm green", you get the best fuel mileage, we can put an electric motor in it, we can make it a hybrid, we're green but back in my body shop over here, we're not so green. We don't even have the paint booth size to even put that vehicle in, but we paint them here. That's what's killing us.

See, you've got the responsible people/businesses trying to be compliant going out of business. That's why this agency was created. So we need a commitment out of you, you know if you've got that authority to do it at the Ohio EPA or we need to know who to go see to help get those rules enforced whether they're supposed to be enforced; a law, is a law, is a law. I don't see them going away, (INAUDIBLE) one law is a bad law. When you park two pick-ups along side one another, the only difference you see on the outside is one got a 1500 emblem on and the other's got 2500 emblem and the 25 might sit two inches higher than the 1500. That's what I figured, the same amount of panels are being painted so why did they put that weight class there? The only reason that I can see your putting the weight class there is because I can go in there and order a 2500 Chevrolet as a (INAUDIBLE) chassis and I can put my own bed on the back. So then, you go to the body builder companies, where people are certified body builders. They've got to re-classify the weight class of that vehicle because (INAUDIBLE) of the utility bed or a man bucket bed on (INAUDIBLE). That's the only reason I can see maybe that's why the EPA, which isn't a bad decision, had stopped the weight class at 8500 gross vehicle weight. Because that is where the manufacturer said you can order that pick-up truck with a bumper, spare tire and no bed. We need to move forward here, we've got to do something to make the shops be competitively equal and a level playing field of competition. I've been battling it for the 32 years I've been in this business. Why would my next generation want to pick-up when we're just going to get the heck fined out of us because I am compliant, I've got the PTIO number and they are going to come and visit me.

C. STEWERF: And if I may, this isn't a Cincinnati issue, an Akron issue or a Cleveland Issue, all of these laws that are discussed or the state law. There are even further restrictive regulations for (INAUDIBLE) producing 30 counties. These are all laws that, across the state.....I'm sorry left Kentucky and Indiana as well. The laws are set pretty similar. Some...the laws mirror each other (INAUDIBLE) I was confused between 6h and state, but I was trying to make it clear, this is an all state issue here and it affects the whole state and not just major counties, it affects everybody.

CARLESKI: I appreciate your breakdown of, you know, the Permit by Rule shops, PTIO shops and what you have registered on the collision board. That's not



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something.....that's very good data to present to EPA to building a case. I'm not the person.....I work in a compliance assistance group, so I'm not over any of the air division, I'm not over any of the inspectors, I'm not over any of that. I help small shops and small businesses understand what they are supposed to do for EPA compliance. So that mean that any type of industry you can imagine can contact us. We do, do a lot of business with body shops and have been in to a lot of those all around the state in helping them do this. What I do want to mention that I don't remember Chris, you saying in your presentation, I think a limitation of the De Minimis rule in itself, when it was enacted in 1993, there was no notification process to EPA. There's no interaction required by the law. It's entirely on the business owner or operator to demonstrate what their emissions are and some people have a real problem with that as a policy decision. I don't know how that happen, I wasn't involved in the development of that rule. I do remember when it came out and for whatever reason that's the way it was passed. If there were, let's just say hypothetically, there were some type of notification requirement, then we would know a little bit more about what shops are here and which ones are claiming De Minimis and so forth. It's no different than any other type of industry type out there that's claiming De Minimis. Whether you're a foundry, whether you're a grain operator, whether you're a dry cleaner or something like that, if you claim De Minimis, you don't have to tell EPA about it at all. So unfortunately, that's built-in inherent limitation in the rule that EPA can't change that nor can they suddenly start requiring De Minimis notifications be sent in. The law would have to be changed, the legislature would have to do that and then we would follow through on that. But that's an inherent limitation in that claim.

STERWERF: But that facility still has to prove that they are under De Minimis by the record keeping that they provide.

CARLESKI: That's correct.

STERWERF: That they have to have that record keeping.

CARLESKI: That's correct and that's very clear under the De Minimis rule, that they have to be able to demonstrate that. You can have all of those industries out there and they can spring up and keep operating for years and years and EPA would never know that they are there based on the De Minimis exemption.

STERWERF: Right and that was one of those excuses we dealt with when this board was established. It goes back to that section of law, counselor, where you say we can't go back and ask for other information. We've got a battle going on with that, too. We're hoping to get that corrected here real soon. But I keep saying why can't the investigator go in when he goes past a place and say "Oh, a small shop, let's go in there because these sort of guys are killing the industry." He can say "let me see your record keeping." "Ok, I don't have any records to pull up, what do you want to



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see?” “Oh, well you’re in violation of the EPA coding even though you don’t have to register with the state, you’re in violation.” To report that to the EPA, we need that cleared up, we’ve got to address that issue.

SANFILLIPO: It also shows a lack of education on the EPA’s part, people answering the phones, people we’re talking to trying to get information from. I had five shops, three of the shops are Permit by Rule, to have (INAUDIBLE). Those three that were Permit by Rule, I was told, don’t need (INAUDIBLE) and it was based on the fact that no body shop needs that. With no information asked or (INAUDIBLE), so one of our shops probably fall (INAUDIBLE). When you try to seek advice and you’re getting miss information from them, but then they are going to have to do the inspection and it doesn’t count. It’s no excuse. You really got to have well educated people talk on the phone to our collision repair industry telling them what they need. I guarantee you, if you pick up the phone right now, call in to your agency and say “look, I need (INAUDIBLE)” and they tell you immediately you don’t need it, you’ll need a Permit by Rule. That will be the first words out of their mouth

CARLESKI: Ok, uummm, another point I want to make, I don’t know if this was obvious either in Chris’ presentation but the Permit by Rule is optional. Nobody has to file that. It is an option, we call it an Easy Permitting Option or an Easy Permitting Alternative relative to the PTIO. We have shops that basically can meet the PBR criteria on face and they chose to get the PTIO, just because their corporate officer say I want an actual permit, I want to be able to demonstrate to whomever, that I can comply with all those (INAUDIBLE) whatever, but they gave that choice. So, you’re right, I think district staff will probably ask you or say that, maybe, suggest that you Permit By Rule is a better option. I would have a hard time believing they would force you to go Permit by Rule because it is an option – that won’t force you.

SANFILLIPO: I didn’t say that forced me, I’m just telling you they told me that it wasn’t necessary. So, if I’m calling EPA asking for advice, they telling me it’s not necessary, I’ve been following the Permit by Rule, that’s what the average repair shop is going to do. Here is the easiest solution to our problem, we’re not going to complicate the matter, we’re going to abide in the law and move on. I hate to say, when it happens it leads to a false sense of security (INAUDIBLE) out there is mine and he is under the law, when technically he will not or could technically not be under the law.

STERWERF: So basically, you’re going to want to work 2500 (INAUDIBLE)?

SANFILLIPO: Yeah

STERWERF: (INAUDIBLE) if you have the capabilities of doing that?



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KATZ: May I just add a legal comment? There is this thing called Gestapo Against the State, there is no such thing, so if you call and talk to somebody on the phone and they give you incorrect legal advice and someone else comes in say "Aahaa, you have the wrong permit!" I'm assuming that there are these investigators. You can't say "Well, I talked to somebody...." That doesn't get you off. If you have something in writing and it's old and whatever, there is a possibility that that will count as Gestapo. There is a live case law on that. Chris, what you were talking about where you think you're following everything, and you're not, again, that's a problem. So you're going to have to be very careful of getting advice over the phone.

STERWERF: I have received phone calls, being a legislative (INAUDIBLE) of Automotive Services Association, I've received phone calls from all over the country about the 6h rule and the shops throughout the state. They are scared to death to call the EPA and get the wrong answers, you know, there's like no help yet. I had (INAUDIBLE) my facility years ago to get compliant and to receive the bond grant and so it all worked out well. But most of them are scared to death to do that. As we're seeing it but, Mike, tell me if I'm wrong and Dan you're out there seeing the shops, it's legitimate shops that cannot afford to stay in business anymore, they are closing. (INAUDIBLE)

CARLESKI: I don't know how to answer that, Dennis, because uhmm, ideally I think what you're getting at is EPA inspecting every business that's out there for compliance of the rules. I don't think that anybody at EPA is going to tell you that that is do-able. It's never been do-able and if you talk to managers of the local area agencies and things like that that would be on their wish list "that, I want to do, but I can't because of this and this." So, just like every other agency, just like every other larger business, you're juggling with what your priorities are and with what really needs to be done either by state law, things have to be done either by what the federal EPA is telling us what has to be done or state legislature, whatever, is telling us what has to be done. At least in my experience, I mean, this industry has never been highly prioritized for whatever reason. What I would recommend you do, I mean you could probably build a very good case by expanding some of your data searches, trying to compare PBR numbers to registered shops. I would be very cautious at trying to draw a one and one conclusion. To say that if a shop is on the registered shop list of the Collision Board and they are not on the PBR, PTIO list then they are automatically out of compliance. I would be very cautious in trying to make that connection. The data will speak for themselves. The data numbers will speak for themselves. But, blanketly stating that everybody who is not on this list are out of compliance, that would be speculation. You've got very good data, you had a breakdown of VOCs used and you added those up. That's very logical, that's very understandable to the amount of VOC a shop is emitted. I would be cautious to say that all shops are doing that across the board, unless you have something else that relates the usage of all shops. The EPA would be very interested in that data, just VOC usage data by shop, or average or something like that. If that holds true to your



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claim to say that there is no way those shops can be De Minimis. You see what I mean, De Minimis has to be tied to an emission number based on material usage. EPA typically doesn't do studies like that, ok, they typically get that information from the industry groups, ASA being one, any type of trade groups. They talk to EPA all the time and they are always coming to the agency and they're always pleading their case for "this is what our industry is emitting..." Interestingly enough, it's usually in the opposite direction. It's usually that EPA's assuming that they are emitting a lot more than they really are and they aren't coming to the table to say that look we're way down here. You know, you have this way up here and we're actually way down here, due to innovation, technology and improvements in the industry or what have you. So I think I know what your gist is, to get more inspections done, compliance with the law – there's nothing wrong with asking for that, uhmm however, that type of request should come, if the board wants to make that recommendation to do that, I can tell you that the people at the agency where those types of things should go to; I don't know where it's going to land on their priority list, I really can't tell you that, but it's not the first time. It won't be something they haven't heard before from a different type of industry that's claiming for more inspections. I'm sure our director would be happy to hear your concerns if they are framed in a point that "we have these types of options and we feel, as an industry, that they are not complying with the state requirements for this, this and this, and there are some numerical data to back it up. I think that they would be very interested in listening to your case. I don't know that they are going to do after that. If you feel that strongly about, you must present it to the agency.

STERWERF: It's going to come down to positioning one entity against the other, the way I see it. We have bang our heads for years that the automotive industry is the number one employer, the number one polluter from the time that that car is made to the time that it's serviced, the time that it's put back into the recycling yard done again one more time. So it was easy for them to pick on us because there were titles following those cars and they can control numbers, they can see the number of pollutants we were producing. At the same time, nobody is taking into consideration, I'm sure somebody has, but the effect it has on the businesses out here is overwhelming with the non-enforcement of compliance. That's what's killing us. So, somewhere we've got to get some kind of attention, if you can help us, hook us up with the people at the Ohio EPA. I understand that the US EPA, with the 6h rule, they've got some funds they can make available to the entities that they choose to allow to the funds. So, when the Collision Repair Board was mentioned by.....you know bringing funding to the Collision Repair Board, we have some resources to through more investigators out there in the field. But then it came back for a (INAUDIBLE) we can't do the investigating....

KATZ: You can too.....



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STERWERF: So, we've got to get things corrected back here before we can correct that one there. I am working on that one there, trying to get that corrected. I've still got legislators and people that we're, originally when we wrote the law, they think that it's broad enough just the way it is, but our AG's office....Mike DeWine I guess, your head leader says no.....

KATZ: Well, it's not me, frankly, and it's not Attorney General DeWine, I can read you what your statute says. Let me read you the rule for...under 4775.05 it's B6, this is what your executive director can do and he's allowed to gather evidence of violations of this chapter by any person or motor vehicle collision repair operator or any partner or officer of any motor vehicle collision repair operator and upon reasonable belief a violation has occurred; present the evidence to the board for its consideration. "Nothing in division B6 of this section shall be construed as authorizing the executive director or the board to enforce any provision of law other than this chapter." So there you go. The only power is that, "if you determine that there is a violation of something else, or you suspect it, then you shall notify the government entity that is responsible for enforcement of that provision of law." That means all you can do is, at best, pass the resolution that you would like to inform the EPA that this law, these laws are being violated that it's not being fairly enforced uniformly across the state. Maybe it's (INAUDIBLE) law suite wait to happen out there for the EPA, but you can't set up a crew of investigators to go in and look for this stuff. Not under that statute and then here is the board, all you can do is, you can do all acts and perform all functions as necessary for the administration and enforcement of this chapter. And that's in the duties and powers of the board, Ohio Revised Code 4475.04 A6.

STERWERF: That wasn't the intent to start with, you know, we did it with Representative Harris, Neftsker, Blessing, they were all on it, LSC approved what we could do. But once we got out here, we hit the wall with our own first AG that was assigned to us, Max, said we couldn't pass the law, it had to be (INAUDIBLE) so we had to correct it, that's quite obvious. But that's why we've got to keep going forward.

KATZ: Dennis, another small problem, because you have come up with very interesting and intelligent suggestions all of the time and you have just allowed your son to come up with an incredibly impressive whatever, neither of you are on the board. You are outside people, talking to the board, but the board's got to make its decision by motion, second and vote, whatever it's going to do within the confines of what it's allowed to under chapter 4775 of the Ohio Revised Code. I mean, that's just how it works around here.

STERWERF: So with that said, can I ask the board to make a recommendation.....
(INAUDIBLE)



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KATZ: Yeah, you are recommending to the board that they make a recommendation. Then it's up to the board and the board would need to have a vote, a motion to consider it, a second to consider it and then can deliberate or talk about whether or not they want to do something or put a motion forward that they inform the EPA.

STERWERF: Ok. Rick do you know who our contact would be? Because I'm assuming it's not you, then, at the Ohio EPA, because I think they would have to be involved on an ad hoc committee, a contact or a position (INAUDIBLE)....

KATZ: Wait, wait, I don't think you can do an ad hoc committee, that's the problem. If, if..... you don't have the power for an ad hoc committee, you can recommend and I'm sorry to have to tell you that Dennis.....

STERWERF: I can recommend to the board?

KATZ: You can recommend to the board that the board send something to EPA that they said, that they enforce this. But, they don't have the power to do an ad hoc committee.

STERWERF: The Board doesn't?

KATZ: No, to do what? They have.....

STERWERF: To form an ad hoc committee.

KATZ: They have....if you suspect that any person (person is broad – a company, and individual, whatever) has violated any other provision of law. You notify the government entity that is responsible for enforcement of that provision. That's all you can do, notify. You can't enforce....you can't you know.....

PATERNITI: So, counselor if I understand you correctly, what Dan can do when he's out in the field, if he's tracking this information, noticing this, he can bring it to the board at the next meeting and say "Hey, I visited 20 shops and here's what I noticed on those shops. These are potential violates that need to be reported to the Ohio EPA's office.

KATZ: Correct and the board can, by motion, you know, decide they're going to accept the report and forward it to the EPA for investigation.

PATERNITI: Ok.

SEIBERT: Wouldn't there be some type of speculation dangers in there. He speculates that a shop



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KATZ: Well, it's says, the word says "suspects" is in here. So that says he could in and it looks like he sees something that.....to me, I have to admit, a car looks like a car, a van looks like a van. I would not be able to tell if one's 9500 pounds and one's 8500 pounds, but he sees that in there and he sees that they don't have a permit, something along that line. He can bring it back here put it in his report, you can discuss, you can make a motion, you send it over to the EPA. And, then what happens to it is up to the EPA.

GREENE: If I can say something, here, we're already doing that. I mean, we've set up a really good rapport with Rick. Statewide, if we get a suspected violation, I'm sending the information to Rick. Rick's forwarding the to the field office, I don't know, whatever you call that.

CARLESKI: The appropriate field office inspector....

GREENE: Then, they are going out and then they are reporting back to us. I mean, it's working right now and we do the same thing with BWC, we do the same thing with taxation, we do the same thing with all the other entities. All the way down to the county auditor's office when we find a shop that doesn't have a vendor's license or the Department of Taxation, we're just doing it with all of them. I mean, that's an everyday occurrence. EPA is the only one that really gets back to me on what the results are, but we are reporting these things to the other entities already. We don't wait till we get a quarterly board meeting to say "Hey, we've built up a hundred shops in the past 3 months that we need to contact" we just do it.

KATZ: Maybe what you could do is just formalize this by motion, second and roll call vote that Mike has the authority, every time he hears of this, to report it immediately to EPA, Tax or whatever and he doesn't have to wait for the board to affirm it by vote. I would suggest that. Because that is what's going on and he formally has the power because it does say.....uumm it also says that either the executive director or the board. You don't even really need to do that motion, but if you would feel more comfortable with that, you can do that or you can ask him to make reports on what he's doing. But you're limited, you can't form an ad hoc committee to go and investigate this, you know search it out. You can't have poor Dennis (Dan), one Dennis (Dan) for the whole state. Go around and look at every shop. Not only investigate the registration or whatever but see what their EPA registrations are and check the VOC emissions. He doesn't have the authority. I'm sorry to say that, it would be nice, it would make it more fun to be out enforcing stuff.

STERWERF: So, can I make the comment to ask the board to make the resolution?



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HALEY: Absolutely. I can't make the motion, but if you want to present what you want to present then someone can make a motion based on what your motion would be or what you would want their motion to be.

STERWERF: Janyce, would you rephrase that for me, please?

HALEY: Me?

STERWERF: No, Janyce. I'm sorry, how do you say

KATZ: What, exactly do you want.....

STERWERF: You were saying that the board can pass the report to EPA or the entities.....

KATZ: Ok, just to confirm a motion to affirm the executive director's ability to report to any government entity any violation that is found when Dan Gibson is out looking for violations, or that any other way it comes to his attention.

OGG: Would we be given power if it's not in the law?

KATZ: Well, that is his power and his necessity. It says clearly that the executive director or the Board, should notify. It doesn't say that the executive director with permission of the board. So that gives him the power, he does have the power but that just reinforces it.

SANFILLIPO: I guess, I have a question is, Mike, didn't you just state the fact that you were doing that presently?

GREENE: I've been doing that all along ...it's in the law, we've been doing it

SANFILLIPO: Ok, if it's already in place, then there may not be a need for that. Can we motion the fact that we get a quarterly report on that.

GREENE: Sure

SANFILLIPO: Here's what's been turned in and the results of what they found?
(INAUDIBLE)

KATZ: That's true, you can do that.

CARLESKI: Let me clarify what Mike and I have worked out, over the years, Ok? I've dealt with Mike on compliance issues, we have a good working relationship there. The Ohio EPA is a big place with a lot of little compartments, with a lot of little



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people working in a lot of little field offices and local agencies. So, it's tough to find the right person to contact at times. Mike sends that stuff to me, because we worked out, I will find the proper contact to investigate those things. I don't do it and my group doesn't do it. What I do, I'm the messenger. So, that helps Mike because he knows that I'm sending it to the right people. So, he send me something and it's up in Wyandot County, for example, that's our NW District Office, which is up in Bowling Green, it's no were near Wyandot County, but it's in Bowling Green. Those are where the EAP people are. So, I will pin point, I know a lot of people up there. I will pin point which inspectors are in charge of that area. I typically send it to the inspector for hazardous waste and the inspector for air pollution in that area. Those are the two people I target and sometimes copy their supervisor if I know that's their arrangement. That's where it goes and my instructions to them is, because I'm in a compliance assistant's role, we have a confidentiality policy, we don't go telling everybody there in the agency, who's calling us. So, I am essentially the router of Mike's message, his message we treat as a complaint. The complaint goes to the appropriate field office. That's the EPA policy, I just pass it along. If investigations are done by that field office, I ask them to contact Mike directly or if they need more information from Mike, they contact Mike and from that point, I have nothing to do with it. I usually don't hear back from them directly because I tell them I don't want to hear about it. I'm just the messenger I'm not really in a compliance assistant's role at that point. Does that make sense?

YES

SANFILLIPO: So, at some point you get a response back....So, I guess, all I'm asking for is some sort of report on a quarterly basis

GREENE: Well, actually, I can put it right in the Director's Report....

SANFILLIPO: Ok! Sure!

GREENE: That would be simple I can just add it to the Director's Report. That'll be alright?

SANFILLIPO: There's been a complaint filed and a reaction to the complaint. (INAUDIBLE) doesn't make any difference as long as there is an action on it. If that's already in place, then I don't think we need a motion to change that, then.

NO

GREENE: Well, I can definitely add that to the Director's Report, it would be easier. I'm the one that's keeping track of it.

HALEY: Dennis?



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STERWERF: Would it be wrong for me, Rick, to just submit you that list or submit it to Mike? Starting out with Hamilton County, all of the ones that are not compliant, have no PTIOs, no Permit by Rules, no De Minimis. Just hand that over and check on those, can we start there?

GREENE: You're talking to me?

STERWERF: Yes, that (INAUDIBLE) I mean Rick. Can we pull that off? That list that Chris presented for Hamilton County. We see who has the PTIOs and who has the Permit by Rule and who's filed De Minimis. That 6 page list (INAUDIBLE) submit that and say follow-up on it?

CARLESKI: It wouldn't go to me. You're talking compliance, you're talking inspection and that's not the office I work in. The office that it would go to would be the appropriate.....if you want to concentrate air pollution rules, which is what I'm hearing you say, you're not dealing with waste or water issues. Then it would go to the appropriate district who does the air pollution control work in that county, that would be

STERWERF: Right. So,

CARLESKI: Southwest Ohio Air Pollution Control, down in Cincinnati. It would be....

GREENE: I think, though, we lose our credibility when we assume everybody's illegal. If I send them a list of two hundred shops and it's the Collision Board saying "Here's a list of 200 shops that are illegal, you need to investigate them" I mean, and they go through 200 and they find 5 of them that are illegal. What are they going to do with the next e-mail they get from me? They'll through it in the trash.

STERWERF: I've got to scrutinize that list of 6 pages of shops, I've got to scrutinize that, but once I scrutinize that, forward the names to you. I'm just trying to see this picture and how it flows....

GREENE: Ok, but who's going to scrutinize it?

STERWERF: I guess I will, before I submit it.

GREENE: So, you're going to submit them to me, that, you know, that are not in compliance....

STERWERF: The ones that I can find that are not in compliance.



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GREENE: How do you know they are not in compliance? That's what he said earlier. You don't know that.

STERWERF: I understand that, I'm not going to know. That's why we're sending that out. So I give you the list, then you forward it to Rick, then Rick forwards it to the Hamilton County Air Authority, is that the way that would flow.

GREENE: But, what I'm saying is, we're losing credibility by submitting a list of people we don't know are in compliance or not. Are we not?

STERWERF: Right, you know my neighborhood and they

GREENE: I know, but I'm saying You're asking me to send to the EPA "Here's a hundred shops or two hundred shops, or however, that we don't know if they are in compliance or not" we're asking them to take their resources to inspect these two hundred shops, what I'm saying is we're losing credibility if we can't say "this shop is definitely not in compliance." This shop we're not sure about, or this shop has.....you know, I think

STERWERF: It's, it's no different than.....

GREENE: I can send them a statewide list, you know, I can send them a statewide list of all 3000 we have in the system and then let them pick and choose. We did that in Cuyahoga County. The Cuyahoga County Air Authority or whoever is in charge up there, they actually sent me a public notice request and wanted a list of everything we had up in Cuyahoga County and I sent it to them. They told me they were gonna, their intention or their wish or their goal was to go to every one of those within a year and do an inspection. Now that's a lot better than me sending them the whole list of Cuyahoga County and saying "Here's 500 shops, 200 hundred of them are illegal", I don't know that.

STERWERF: Right, well just using my neighborhood as an example, the Port Union, 747 area (INAUDIBLE) there must be six new facilities down there. I'm not willing to submit names, I would just try to check out the website to see if they are legal or not legal if I get time to that. I don't even submit names, I just let Dan do his job. You know, I just sit back and watch. So, but (INAUDIBLE) that they are registered or even need to be registered or if they are a used car dealer or a new car dealer and on that list obviously I would think, Chris, that that list is put together with a lot of used car dealers on that list? And which would be exempt from our agency's rules, but at the same time they're not exempt from the EPA rules. So, let's say I take 10 at a time and submit to you. So the flow of those 10 a time, I can credibly say don't have pollution permits nor do they have Collision Repair Board Registrations, they might have new or used car dealer and you turn around and



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submit that to Rick and Rick, I'm assuming you turn around hand that off to Hamilton County Air Authority. Let the local people check that out.

CARLESKI: If Mike sends me something, I treat it as a complaint. Complaints go to the district office. If that's a complaint, Dennis, you could submit that to the Hamilton County District Office and not even involve the board at all. I'm not sure that the board would be comfortable submitting something for a shop that they've never went into to investigated. That's.....

STERWERF: I was just trying to kill two birds with one stone, get them to comply with their shop registration and

GREENE: Well, but you also said that a lot of them are compliant with us and they're not compliant with EPA. There's a lot of them on that list that's going to be compliant with us and not compliant with EPA. But I don't know if they're even painting a car or not.

STERWERF: We know there're a lot of shops, right in this room, there are shops that are not compliant with the EPA. They are registered with the Collision Repair Board, but not compliant with the EPA.

GREENE: Right, but what I'm saying is, for me to send that to them, I would need...or what if they send somebody down there.....

STERWERF: He's compliant

GREENE: Or he's not even doing it. Hasn't done collision repair in 10 years. Now we've sent them on a wild goose chase and what do we look like? We lose our credibility totally. So what I try to do is I send....when I send something to EPA or I send something to Taxation or I send something to Worker's Comp, I send a sure thing. Or I try to send a sure thing. We've been there, we know this is going on, we know what they have and we know what they don't have. Here is something you might want to look at. And that way, before they ever go there, we already know they are in violation of something. And at least, you know, even and I have had them send me back "we've check this place out, they were ok with us" you know they didn't a permit, but they didn't need a permit. You know, I have had that come back several times. The same thing with Taxation and Worker's Comp. I don't want to just send them a blanket.....unless that's what they want. I would be more than willing...if EPA wants a list of every shop we have, I'll do it, I'll give it to them. That's not a problem, whatever they need.

STERWERF: That's one of our problems like Joe expressed earlier, Mr. Sanfillipo, about when you called the EPA, our local air authority, because that county down



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there covers Hamilton, Warren, Butler and Clarmont counties. You can tell them (INAUDIBLE) which really does.

GREENE: So, what do I do about that?

STERWERF: I don't know. That's what we're trying to discuss, how do we rectify the problem? That's our discussion here.

KATZ: But he's not a board member

INAUDIBLE DISCUSSION

OGG: Dan does the inspections and everything and you have all of your ducks in a roll before we go to do anything if it's with Taxation or whatever; my question would be then, does the EPA do any inspections that are not complaint initiated?

CARLESKI: I don't know.

OGG: I think that's where the problem's at.

CARLESKI: What I can say is there are a lot of complaint driven inspections done, whether it's a body shop or not doesn't matter, people call, they complain. Typically the caller keeps their name anonymous, whatever. They can be ex-employees, they can be (inaudible) they can be We've even had family members who call on other family members. The point is, is that it's a complaint typically it's investigated. Sometimes there's no problem noted, sometimes there are. What I think you're eluding to is, are there regular inspections done scheduled by body shops, I can say "no". But, I can't say "no" in certainty across all air divisions, all the authorities across the state.

OGG: They don't initiate that complaint

CARLESKI: It's standard, uh, I know in the past I'm bringing up the Cincinnati agency in particular, I know at one point they did go out and try and inspect every single one that was like in the mid-90's or something. It was a project based initiative it wasn't something that was a permanent, continual commitment by them. So, the local air agencies do or can have the authority to do things like that if they have a reason to do that. Ok? Their management makes that decision, the Ohio EPA doesn't typically make that decision, may not even be involved it, they may see the results of it on the back end, but the local area agency took the initiative to do that because of something (INAUDIBLE) . Either they had a big air pollution problem, their elected officials demanded it, all kinds of things like that can cause something like that to happen. Statewide, at the EPA offices, there're five district offices statewide that are just the Ohio EPA, they don't have annual commitment to do any



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auto body inspections per se. It doesn't say that you have to do 100 of these a year. They do have inspection commitments for other things. Basically, big industries that have title 5 permits, those get priority, they get inspected a lot. And a lot of those inspection resources go into those companies, that's just the way they prioritizes things. I can't say with confidence that you won't get any inspection commitment if you ask problem body shops, I can't give you any assurance that they will ever build in something permanent. Like I said before, if you ask any of the air managers in any of these district offices, I guarantee you that they will say "We will love to inspect everybody, we just don't have the people to do it, and I have go...I have to put my beans where they count the most and frankly, just...the auto body industry has never been big, big, big polluters. There's a lot of the out there, but they're not big, big, big polluters according to EPA scale of who's a big polluter." That's part of the reason why there's not...(INAUDIBLE) Plus there's a lot, there's thousands of them.

STERWERF: The drawback they have in my facility is they will tell you if you've been turned in or not. They're not going to tell you who stimulated the inspection, but they have been to my facility several times. The 6h rule guy from Region 5, the Chicago office, told us that we were picked at random when they came in this last stopped in to check either paint booth permit numbers, to make sure that we've got our permits. They've stopped in to that we have our Freon recovered machines, they've wanted to see the technicians credentials who's evacuating the air emissions and Freon out of the vehicles, they walk around the shop and say "that system's open, who's working on it? Let's see his credentials."

GREENE: How do we know that the other shops aren't getting the same thing?

STERWERF: We ask them

GREENE: I mean, I don't know

STERWERF: (INAUDIBLE) I belong to the Trade Association, I've visited....

GREENE: I, I, I don't know....I'm just asking

STERWERF: I've been to Trade Association meetings and very seldom I have heard Blue Ash, I know, have been visited before by them...I mean, you have the Trade Association sitting right here, have you or anybody else been visited?

GREENE: I mean not by the Feds, per se, but I mean, you know, just a random ...somebody that's from EPA stopped in or Air Authority. I realize the Feds are probably few and far between.

STERWERF: But it happens to the most of us that are compliant.



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GREENE: Right

STERWERF: And the only thing that we can assume from that, Rick, is because we've got number that they can follow-up, if you get a list, they can come on a website if.....any person out there can go on their website and get a number, you know to see who's compliant and see who's not compliant. See who's has PTIOs and who doesn't. So to make their job, the way I see, easiest, they're going to come visit me because if I'm painting cars, I'm probably doing something with air conditioning.

CARLESKI: Well, this I can say with confidence, EPA investigates any company that's complained against whether we know about them or not. Whether they're under the radar or not and that's how a lot of companies get in trouble for not having permits. It's complaint driven. We have the same companies that have been committed for 30 years get in trouble routinely for installing new stuff without getting a permit for it. So, in some instances I see your point of "yeah, you're already known in the data base, that's why you're going to get inspected" but really you can't (INAUDIBLE) on a complaint basis. They will inspect anybody whether they're in our system or not.

STERWERF: Nagy's was inspected up in Cuyahoga County, weren't they (INAUDIBLE)

HALEY: Did you have something Brian?

GREENE: We kind of get the same complaint at the office. We'll have shops tell us "you know, the only reason you know about me is because I registered once, now you're after me to renew or you're after me to catch up or whatever and the ones you don't know about are getting by with it." We get the same thing there, you know, because we have them in the system. They know where they're going to get letters from us, phone calls or whatever. They think that they're, they're ones we don't have in the system or we don't know about will never get caught.

STERWERF: That's why Paul Duncan got involved years ago because he facility was being inspected up in ...what part of Ohio?

HALEY: Boardman

STERWERF: Boardman and that's how this agency got formed.

CARLESKI: And that's another thing here, that's just the reality of the State. This is just the reality. You have both our agencies like (INAUDIBLE) and Dennis'. You have one in Dayton, you have one in Toledo, one in Cleveland, on in Akron, one in Canton and one down in Portsmouth and then you have these EPA offices that cover



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all the gaps. Ok? And there are air inspectors in all of those offices, but it's not the same density or the same ratio at every one. So, you'll find down in maybe Cincinnati they have four counties and if they have, you know, 10,000 businesses, they'll have 20 inspectors to cover 10,000 businesses where up in their northwest district they have 50,000 business and 12 inspectors to cover that. You get a vast difference in the amount of resources at district around the state. Let me say that to play into the fact that this is part of the underlying issue why all body shops aren't inspected, but no other industry is inspected across the board either. No other industry sector is inspected. It's done based on complaint, annual commitment to the Federal EPA or something like that is how they investigate their or put together inspection priorities.

If you want to delve in to that a little bit more on how the agency does that, especially for air pollution, I would be more than happy to I won't be speaking to that, I can't, but there arewe answer to the Federal EPA in Chicago, our Region 5 office and they tell us that we have to, based on pollution levels, we have to inspect certain tiers of so many industries per year and the top tier are the biggest polluters, the second biggest polluters...well there's basically three tiers. There're the big ones, like power plants, paper plants and foundries and Ford and GM and Honda, that's tier 1. Tier 2 is the smaller industries that don't emit as much but they still can do a lot of significant pollution. The third category is the biggest by far it has the most industry in it and that's where all the body shops are. That's the category, across the board of all industry that gets the least amount of regular inspections done and it's been that way for decades.

If you want more information on how EPA chooses their inspections priorities, this is something that might help you in trying to focus them more on your industry. I don't set those priorities, I have a hard time enough trying to figure out what they are (INAUDIBLE) and it's the same at the federal level. I believe they come up with every two years, I think? Region 5 will release an enforcement (INAUDIBLE) plan and put it right there on the website and say "this is what we're going to look at" and auto body shops, I'm sorry to say, just never come up on the web. There's too much stuff in the six state Region 5 area that they consider a higher priority. That doesn't mean they don't care about the body shop industry, they care about all the industry out there, they're just...they have to concentrate their inspectors in a certain area.

They have a finite number, they have a finite budget and they have to get done what they get done. Sometimes they have to answer to Washington on what they get done. It all comes in the mix, if you understand at the federal level on how it's done, it trickles down to the state level on and how it's done but at least some of you live in these areas with local air agencies that can pull off something like an auto body initiative that they go out and do that. I wouldn't say the state would do it, I would say that it's more likely to happen at a local area agency but you would still have to beg



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them to do it. That's possible but that may not satisfy you because you want something more statewide which I agree with you there.

STERWERF: Well, it's very hard to stay alive out there in our industry, being compliant.

CARLESKI: I can't emphasize enough, if you have some numbers like you started to do in Hamilton County, if you want to build on that and create a case, that, it appears that these people are probably out of compliance (INAUDIBLE) and things like that, you can introduce to them the numbers. Take as much speculation out of it as you can, present the numbers and say "we see this as an inequity in our industry" and you come as an industry rep, ok, representing the industry and not an individual person or individual company say "This is...we think this is a widespread problem in our industry" that's how I recommend you present that. That'll get something done.

HALEY: Ok

C. STERWERF: I can say that the Hamilton County numbers that I presented, Cincinnati's ASA has always been diligent in trying to educate its members. Those where actually the better numbers, that has a better representation of people who have permits. There are some (INAUDIBLE) around Cleveland, there are nobody on the PBR list, nobody on the PTIO list. That look better for shops that have permits, if the division go out throughout the rest of the state, it's the worst, it gets worse. It's a ramped problem.

CARLESKI: My experience with the Hamilton County Area that agency down there has always been that they're trying to do more outreach than other air agencies do, I think that's, to me my personal impression of that is that it's always been driven by the personalities of the people who are in charge down there. I have known (INAUDIBLE) for a long time, I have known John Paul at the Dayton area agency for a long time and I believe a lot of that is what they want to do, whether they're directed by some other board or county elected officials or whatever, they get on certain issues and they do things like that, they always have. That's not the same environment all around the state, so you do see those kind of disparages like that. I totally agree with you.

HALEY: Is there anything else to come before the board? Anything else?
Ok, We can entertain a motion to adjourn.



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8. ADJOURNMENT

MOTION TO ADJOURN: RUSSELL WESTFALL
SECOND: WILLIAM OGG

NEXT BOARD MTG. – AUGUST 15, 2012, LOCATION:
Vern Riffe Tower, 77 South High Street, 19th Floor, Room 1932, Columbus.