



State of Ohio Environmental Protection Agency

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Central District Office

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Columbus, OH 43216-1049

CERTIFIED MAIL # 91 7108 2133 3932 4450 4407

May 19, 2008

Mr. James Wilson
Performance Paving
1040 Brentnell Avenue
Columbus, OH 43219

Re: Notice of Violation: Installation and operation of Bagela Asphalt Recycler with significant visible emissions.

Dear Mr. Wilson:

Ohio EPA, Central District Office (CDO) has learned that Performance Paving has installed and has been operating an air contaminant source emitting substantial fugitive dust. Additionally, Performance Paving has installed and has operated the source prior to applying for and obtaining an air permit-to-install (PTI) and air permit-to-operate (PTO) from Ohio Environmental Protection Agency (Ohio EPA).

On September 13, 2007 and May 6, 2008, Ohio EPA witnessed the operation of the Bagela asphalt recycler. This unit was observed to be operating with excessive visible emissions.

1. Finding: The Bagela Asphalt Recycler was observed operating with excessive visible emissions (41.3% as a 3 minute average and 24.6% average over 1 hour (5/6/08)).

Violation: Allowing visible particulate emissions, from a fugitive source, in excess of 20% opacity as a 3 minute average is a violation of Ohio Administrative Code (OAC) rule 3745-17-07(B).

OAC rule 3745-17-07(B)(1) states "...visible particulate emissions from any fugitive dust source shall not exceed twenty per cent opacity as a three-minute average."

Action: Performance Paving should install equipment to control the source to reduce or eliminate fugitive emissions, or provide a plan to modify operations in order to prevent fugitive emissions.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

2. Finding: The Bagela Asphalt Recycler was observed operating without reasonably available control measures including a stack or collection point.

Violation: Operating a fugitive source without taking reasonably available control measures to prevent fugitive dust from becoming airborne is a violation of OAC rule 3745-17-08(B).

OAC rule 3745-17-08(B) states "*No person shall cause or permit any fugitive dust source to be operated; or any materials to be handled, transported, or stored; or a building or its appurtenances or a road to be used, constructed, altered, repaired, or demolished without taking or installing reasonably available control measures to prevent fugitive dust from becoming airborne.*"

Action: Performance Paving should install equipment to enclose, contain, capture, vent and control the fugitive dust.

3. Finding: Performance Paving is operating an emissions source without applying for, and obtaining air permits to operate.

Violation: Installation of an air pollution source without first applying for and obtaining a PTI and PTO is a violation of OAC rule 3745-31-02.

OAC rule 3745-31-02 (A) states that "*...no person shall cause, permit, or allow the installation of a new source of air pollutants...without first obtaining a PTI from the director.*"

Action: Please submit all necessary permit applications within 30 days of receipt of this letter. A PTI/PTIO permit application is enclosed. Please note that any PTI/PTIO permit application should include accurate emission factors for the emission unit. If the facility believes that a permit is not necessary, the facility shall provide documentation from the manufacturer, including documented applicable emission factors that clearly demonstrate that the source is exempt from Ohio EPA permit requirements.

Compliance Plan and Schedule

Ohio EPA requests that Performance Paving submit PTI/PTIO permit application within 30 days of receipt of this letter. In addition, Ohio EPA requests that all operations or activities that result in violation of the fugitive emission standard be halted immediately until corrective actions can be taken.

Mr. James Wilson
Performance Paving
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Please note that Ohio Environmental Protection Agency has the authority to seek civil penalties as provided in section 3704.06 of the Ohio Revised Code (ORC). This letter or information submitted pursuant to this letter does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in the ORC. The decision on whether or not to seek such penalties will be made by Ohio Environmental Protection Agency at a later date.

Ohio EPA will endeavor to process all applications in an expeditious manner. If you have any questions, please do not hesitate to contact Bryon J. Marusek of my staff at (614) 728-3803 or Small Business Assistance (brochure enclosed) at 1-800-329-7518.

Sincerely,



Kelly Toth
Permits and Compliance Team Supervisor
Division of Air Pollution Control
Central District Office

Attachments: PTI/PTIO permit application, EAC form(s), Small Business Assistance brochure

c: Adam Ward, DAPC/CDO
John Paulian, DAPC/CO
Bryon J. Marusek, DAPC/CDO

