



State of Ohio Environmental Protection Agency

**Northwest District Office**

347 North Dunbridge Rd.  
Bowling Green, OH 43402-9398

TELE: (419) 352-8461 FAX: (419) 352-8468  
www.epa.ohio.gov

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

Re: Allen County  
Gerken Materials, Inc. – Plant #3  
Premise #0302000002  
**Notice of Violation**

January 12, 2010

~~CERTIFIED MAIL~~

Mr. Jim Scheub, Regulatory Compliance Manager  
Gerken Materials, Inc – Plant #3  
9-051 U.S. Route 24  
P.O. Box 607  
Napoleon, Ohio 43545

Dear Mr. Scheub:

This letter shall serve as a Notice of Violation (NOV) at the above mentioned facility regarding the company's failure to conduct compliance testing on emissions unit P901 by the specified deadline in Permit to Install (PTI) #03-17404, issued 06/05/08. The testing requirements of this permit indicate that the company must conduct emissions testing within 60 days after achieving the maximum production rate, but no later than 120 days after initial start up of the emissions unit.

The purpose of the permit modification (PTI #03-17404) was to allow for the use of alternative fuels and to incorporate shingles into the aggregate mix. However, it should be noted that the company did not complete the modification of emissions unit P901 until 06/24/09, when it began operations while burning an alternative fuel. In addition, from our discussions and a review of the production records, it is clear that the 2009 production season lasted into the final week of October and there were numerous days where significant amounts of asphalt were produced. Therefore, the company operated emissions unit P901 beyond the 120-day deadline without a compliance demonstration which is a violation of the testing requirements of the permit and Ohio Revised Code 3704.05.

NWDO requests that the company conduct compliance testing within 30 days of the initial operation of the asphalt plant for the 2010 production season, with the understanding that if no projects of significant production volume occur within that time, the deadline will be extended. The company is required to notify this office if an extension to the deadline is necessary and provide reasonable supporting documentation.

Mr. Jim Scheub  
January 11, 2010  
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Please note that the submission of the requested information to respond to this letter does not constitute a waiver of the Ohio EPA's authority to seek civil penalties pursuant to ORC section 3704.06. The Ohio EPA will make the decision on whether to pursue or decline to pursue such penalties regarding this matter at a later date.

If you have any questions or comments about this letter, please feel free to contact me at (419) 373-3110.

Sincerely,



Brian Riedmaier  
Division of Air Pollution Control

/lb

pc: Tom Kalman, CO-DAPC  
Lisa Holscher, USEPA-Region 5  
~~NWDO-File~~  
7007 2560 0000 4485 7199

ec: Don Waltermeyer, NWDO-DAPC  
Tom Sattler, NWDO-DAPC  
Wendy Licht, NWDO-DAPC