

Oct. 22,



State of Ohio Environmental Protection Agency

Northwest District Office

347 North Dunbridge Road  
Bowling Green, OH 43402-9398

TELE: (419) 352-8461 FAX: (419) 352-8468  
www.epa.state.oh.us

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

Re: Erie Materials  
Erie County  
0322020256  
Stack Test/Inspection Letter  
**Notice of Violation**  
**HPV-GC8**

October 8, 2009

CERTIFIED MAIL  
7009 0820 0000 0591 9822

Mr. Bob Boehk  
Erie Materials, Inc.  
P.O. Box 2308  
Sandusky, Ohio 44870

Dear Mr. Boehk:

This letter shall serve as a follow-up to the stack test conducted on August 11, 2009, on Ohio EPA emissions unit No. P901, and the inspection conducted on September 2, 2009 by Jon Budge and this writer. The testing was conducted in conformance with Ohio EPA methods and procedures. Our review confirms the following reported data is accurate:

**Critical Test Data**  
**(In Three Run Averages)**

Pollutant	Actual Emission Rate	Allowable Emission Rate	Source Operating Rate	Maximum Source Operating Rate
PM	0.0116 gr/dscf	0.04 gr/dscf	369 TPH	400 TPH
SO <sub>2</sub>	0.00045 lb/ton asphalt	0.001 lb/ton asphalt	369 TPH	400 TPH
NO <sub>x</sub>	0.027 lb/ton asphalt	0.019 lb/ton asphalt	369 TPH	400 TPH
CO	0.23 lb/ton asphalt	0.15 lb/ton asphalt	369 TPH	400 TPH
VOC	0.17 lb/ton asphalt	0.10 lb/ton asphalt	369 TPH	400 TPH

(The average pressure drop across the baghouse during the test was 3.5-4.0 psig).

The emissions unit was being operated in violation of its allowable emissions rates specified above for NO<sub>x</sub>, CO, and VOC. These allowable emission rates are referenced in Paragraph 9 of the Consent Order (Case NO. 2006-CV-1028) filed on 09/24/08. These limitations are the agreed upon rates. CO and VOC limitations are based on the BACT analysis conducted pursuant to USEPA's "Appropriate Injunctive Relief Policy" to remedy past permitting violations.



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Each of these exceedances triggers the requirement to pay a stipulated penalty in accordance with Section VIII, Paragraphs 16 and 17 of the Consent Order.

Permit to Install and Operate (PTIO) #03-14045 for this emissions unit was issued as a "Draft Permit" on 03/04/09. During the draft permit's public comment period, Erie Materials requested that the permit also allow for the use of slag. Since the use of slag in an asphalt plant results in increased emissions of SO<sub>2</sub>, this request constituted a "modification" under OAC rules 3745-31 and additional restrictions/requirements needed to be incorporated into the permit. The additional synthetic minor restrictions that were necessary would also require the permit be reissued as a draft.

Based on discussions with our Central Office Permitting Section, they agreed to accommodate the company's request for a modification and delay issuing the "Final Permit" while NWDO worked on incorporating the additional slag terms and conditions into the draft document. Unfortunately, once the slag terms and conditions were incorporated into the permit, the permit was mistakenly issued as a "Final Permit" on 8/18/09. The permit was immediately revoked and will be reissued as a draft under permit number P0105371. Please note that there continues to be public opposition/concerns about the emissions from this plant and we have received several requests for a public meeting during the initial comment period.

This office is requesting that the company submit a written response to this letter which includes, at a minimum, the following:

1. A detailed compliance plan and schedule that includes retesting of the emissions unit; (Please indicate all steps the company has already implemented to reduce the emissions of NO<sub>x</sub>, CO, and VOC.)
2. Daily records of all production from the plant since the failed test; and
3. The date stipulated penalties were submitted.

We request this information be submitted by no later than October 22, 2009.

Based on our discussions and observations during the inspection, this office does not have any record of the company ever submitting operating permit applications for the roadways (emissions unit F001), storage piles (F002), or any of the storage tanks (T001 – T004) that are in operation at the site. These are violations of the standard terms and conditions of Permit to Install (PTI) #03-8713, issued 08/09/95, Ohio Administrative Code (OAC) rule 3745-35-02 (recently rescinded and incorporated into OAC rules 3745-31) and Ohio Revised Code (ORC) 3704.05. This office is requesting that the company submit PTIO applications for these emissions units by November 6, 2009.

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.

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Please contact me as soon as possible regarding this matter at (419) 373-3110. Thank you.

Sincerely,



Brian Riedmaier  
Division of Air Pollution Control

/csl

pc: Gary Pasheilich, AG's Office  
Tom Kalman, DAPC-CO  
Lisa Holscher, US EPA  
DAPC-NWDO file  
Stack File  
Follow-up File

ec: Wendy Licht, DAPC-NWDO  
Don Waltermeyer, DAPC-NWDO  
Brian Riedmaier, DAPC-NWDO  
Robert Teer, DAPC-NWDO  
Tom Sattler, DAPC-NWDO