Ohio | Environmental Protection Agency

Ted Strickland, Governor
Lee Fisher, Lt. Governor
Chris Korleski, Director

Re: Erie County
Erie Materials, Inc.
Premise #0322020256
Premise #0322020211
Notice of Violation
HPV-GC6 (0322020211)

August 18, 2010

CERTIFIED MAIL

Mr. Robert Boehk, General Counsel
Erie Materials, Inc.
P.O. Box 2308
4507 Tiffin Avenue
Sandusky, Ohio 44871

Dear Mr. Boehk,

This letter shall serve as a follow-up to the site visit on July 13, 2010, at the Erie Materials, Inc. (EMI) facility located at 9220 Portland Road, Castalia, by this writer. The purpose of the partial compliance evaluation (no records review) was to determine the compliance status of all air contaminant sources at this location. Based on my discussions with the plant operator, Dave Misinec, and my observations during the visit, my findings are as follows:

1. EMI currently operates a 400 ton/hour drum mix asphalt plant, along with associated operations (i.e. roadways, storage piles, storage tanks, etc.) at the Portland Road location (premise #0322020256). During the site visit, a crushing/grinding unit with an associated engine (company description is "MaxiGrind") was witnessed in operation. The purpose of this unit is to process reclaimed asphalt pavement (RAP) or shingles, when necessary. It has since been determined that the emissions unit is currently unpermitted by Ohio EPA, Division of Air Pollution Control (DAPC). EMI has also indicated that operation of this emissions unit began in 1995, while alternating locations with another EMI facility located at 4507 Tiffin Avenue, Sandusky (premise #0322020211) since initial startup. The company has since recently submitted a Permit to Install and Operate (PTIO) application for this emissions source with the intentions of having it permitted as a portable source. Regardless, failure to obtain a PTIO prior to commencing operation of an air contaminant source is a violation of Ohio Administrative Code (OAC) rule 3745-31-02 and Ohio Revised Code (ORC) Section 3704.05.

2. EMI currently operates aggregate processing operations (i.e. roadways, storage piles, mineral extraction, generators, etc.) at the Tiffin Avenue location (premise #0322020211). This facility is also permitted for the operation of a 110 ton/hour rotary thermal recycling system (RTRS, emissions unit P901) with associated storage tanks. The RTRS is designed to process a material mix design consisting of 100% RAP or a mixture of RAP and shingles. EMI has run this system periodically since permit issuance and the emissions unit has yet to produce a viable asphalt product.

   Although the company believes that operation of the RTRS has not begun since the maximum process weight rate and a desired asphalt product has not been reached, Northwest District Office (NWDO) interprets that the unit has begun initial startup. Emissions unit P901 is applicable to the *Standards of Performance for Stationary Sources, Subpart I – Standards of Performance for Hot Mix Asphalt Facilities* and the startup date of an affected facility, as defined in 40 CFR Part 60.2, is the first day that the unit was set in operation for any purpose. NWDO also recognizes that this unit has run sparingly and inconsistent since permit issuance due to several mechanical failures and the use of a new, prototype design. However, despite failing to produce a viable material or achieve maximum process weight rates, the date of initial startup and timeframe for conducting emissions testing does not change. Ultimately, the company began operation in an effort to produce a quality material. PTIO #03-17399, issued October 27, 2008, (administratively modified in PTIO #P0104292, issued August 11, 2009), contains the requirement that EMI shall conduct emissions testing within 60 days after achieving the maximum production rate, but no later than 120 days after initial startup. To this date, the compliance demonstration has not been performed. Failure to conduct emissions testing within the required timeframe specified in PTI #03-17399 is a violation of the testing requirements of the permit, 40 Code of Federal Regulations (CFR) Part 60.92 and ORC Section 3704.05

   The company is required to submit information indicating each day the RTRS operated since issuance of the permit and how long the equipment ran on those dates. In addition, the company is required to submit a timeframe to have this emissions unit tested.

3. Through correspondence with the company since the date of the site visit, EMI has indicated that an additional crushing/grinding unit with an associated 600 hp diesel engine (company description is "Large Beast") is currently being operated at the Tiffin Avenue location. The purpose of this air contaminant source is for processing materials such as RAP and shingles.

Once again, this emissions unit is unpermitted by DAPC. EMI has indicated that operation of this equipment began in April 2009, and it has remained at this location since beginning operation. The company has since recently submitted a PTIO application for this emissions source with the intentions of having it permitted as a portable source. Regardless, operating an air contaminant source prior to obtaining a PTIO is a violation of OAC rule 3745-31-02 and ORC Section 3704.05.

At this point, NWDO questions the intentions of this source truly being a portable emissions unit given the length of time this unit has already been in operation at this site. Although the piece of equipment is designed to be a portable unit, it appears that the company does not intend on using the equipment in a portable manner. NWDO feels that this issue will need to be discussed further with the company.

4. Given the emissions units that are presently permitted at the Tiffin Avenue location, the current facility-wide potential to emit for nitrogen oxide (NO_x) emissions for these sources is greater than 90 tons/year. With the addition of the "Large Beast" in April 2009, as an unpermitted source and no federally enforceable restrictions, potential NO_x emissions for the entire facility would far exceed major source thresholds for Title V applicability. Installation and operation of an emissions unit that results in the creation of a major source, as defined in Ohio Administrative Code (OAC) rule 3745-77-01, must also meet all applicable requirements under the Title V program contained in OAC rule 3745-77, which include the requirement to apply for a Title V permit. Failure to submit a Title V application is a violation of OAC rule 3745-77-02 and ORC Section 3704.05. Once again, the company has submitted a PTIO application for this source to be permitted as a portable source.

   As mentioned previously, EMI has indicated that the "MaxiGrind" unit has also operated at this site periodically since 1995, but NWDO is unaware of how often and the duration of each occasion when it was relocated to this site. In addition, NWDO is not aware if the "Maxigrind" operated while the "Large Beast" was installed and in operation. The company is required to submit a summary, if possible, of when and the duration of each time the "Maxigrind" unit was operated at the Tiffin Avenue location since beginning operation.

EMI is required to submit a written response to this letter by September 10, 2010. Following the review of the company's response, NWDO will make the determination if further violations exist at either location.

Please be advised that the submission of information to respond to this letter does not constitute waiver of the Ohio EPA's authority to seek civil penalties pursuant to ORC Section 3704.06. The Ohio EPA will make a decision whether to pursue such penalties regarding this matter at a later date.

At this time, I would like to thank Dave Misinec for the courtesy that was extended during the site visit. If you have any questions and/or comments about this letter, please feel free to contact me electronically at brian.riedmaier@epa.state.oh.us or by phone at (419) 373-3110.

Sincerely,

Brian Riedmaier
Division of Air Pollution Control

/llr

pc: Jim Orlemann, DAPC-CO
Tom Kalman, DAPC-CO
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Gary Pasheilich, AG's Office
DAPC-NWDO Asphalt Facility File (#0322020256)
~~DAPC-NWDO Facility File (#0322020211)~~
Certified Receipt Number 7009 1680 0002 4297 3350

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