



State of Ohio Environmental Protection Agency

Northwest District Office

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

Re: Richland County
Tube City IMS Corp.
Premise # 03.70.01.0294
Notice of Violation (NOV)

February 6, 2009

CERTIFIED MAIL

Mr. Tim Carmack, General Manager
Tube City IMS Corporation
1344 Bowman Street
Mansfield, Ohio 44903

Dear Mr. Carmack:

This letter shall serve as follow-up to the observation conducted on February 27, 2009, of the Tube City IMS (TCIMS) facility, referenced above, by this writer and Ms. E. Jay Murphy. The purpose of this inspection was to conduct visible emissions observations on the Caldo torching operations conducted at that facility and to further determine a proper course of action regarding permitting of this unit.

Based on our discussions and observations during the inspection, our findings are as follows:

1. Based on USEPA method 9 visible emissions (VE) readings conducted while on site, this unit does not comply with the requirements of Ohio Administrative Code (OAC) 3745-17-07(B)(1), which states "visible particulate emissions from any fugitive dust source shall not exceed twenty per cent opacity as a three-minute average." Failure to comply with this limit is a violation of OAC 3745-17-07(B)(1) and Ohio Revised Code (ORC) 3704.05.
2. Mansfield, Ohio is listed in OAC 3745-17-08, Appendix A, and is, therefore, subject to the requirements of OAC 3745-17-08(B), which states "No person shall cause or permit any fugitive dust source to be operated... without taking or installing reasonable available control measures (RACM) to prevent fugitive dust from becoming airborne." TCIMS has not installed RACM for these Caldo torching operations. Failure to install RACM is a violation of OAC 3745-17-08(B) and ORC 3704.05.
3. Based on our observations of the operation, communication with the staff of the TCIMS - Mansfield yard and the manufacturer of the oxygen lance equipment used on site, it is our determination that this unit does not qualify as a "de minimis" emissions unit. Furthermore, it is still Ohio EPA's opinion that none of the calculations previously submitted to this office by TCIMS accurately reflect the emissions from the Caldo torching operations and are not acceptable for emissions calculations purposes.

4. In correspondence dated October 1, 2008, the terms "jet torch" and "oxyfuel torch" were used by Ohio EPA to describe what has now been identified as the Caldo torching operations. The violations and determinations made by Ohio EPA in the past related to this matter were disputed by TCIMS and various arguments were made as to why. After the observations conducted on February 27, 2009, Ohio EPA believes that the violations initially cited in the NOV dated October 1, 2008, were correct. For purposes of clarity, those violations are repeated below:

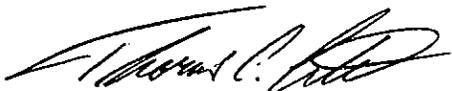
Installing and operating air contaminant sources without first obtaining the appropriate permits to install (PTI) and permits to operate (PTO) is a violation of Ohio Administrative Code (OAC) rule 3745-31-02(A). The company also failed to control emissions through the use of best available technology (BAT) which is a violation of OAC rule 3745-31-05(A)(3). BAT for similar units has been identified as a partial enclosure equipped with a baghouse and limiting the visible fugitive emissions escaping the enclosure to 20% opacity as a 3-minute average. Failure to obtain these permits and install BAT are also violations of Ohio Revised Code (ORC) 3704.05.

To remedy the situation above, TCIMS must submit a written response to this notice including a compliance plan and time line for installing proper control equipment and a date by which complete PTIO applications for the oxygen lancing operations will have been received. Please note that a complete PTIO application includes the application forms, all applicable emissions activity category (EAC) forms, revised calculations and process flow diagrams. This information is required to be submitted to this office by March 9, 2009.

Please note that the submission of information to respond to this letter does not constitute a waiver of 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 the company has any questions and/or comments concerning this letter, please contact me at the above address, by calling (419) 373-3137 or via e-mail at thomas.cikotte@epa.state.oh.us.

Sincerely,



Thomas C. Cikotte
Division of Air Pollution Control

/llr

pc: Lisa Holscher, U.S. EPA Region V
Tom Kalman, DAPC - CO
Don Waltermeyer, DAPC - NWDO
Thomas C. Cikotte, DAPC - NWDO