

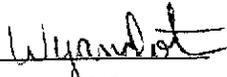


State of Ohio Environmental Protection Agency

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 Korfeski, Director

July 19, 2010

Mr. Gene Kirby
Kirby Sand & Gravel
4876 County Highway 43
Upper Sandusky, OH 43351

RE: Notice of Violation (NOV/non-HPF) based on inspection of Kirby Sand & Gravel (0388010069) on June 15, 2010 with response due by August 12, 2010.

Dear Mr. Kirby:

This letter shall serve as a follow-up to the inspection conducted on June 15, 2010, of the above referenced facility by this writer. The purpose of this inspection was to determine the compliance status of all air contaminant sources located at the facility.

Based on our discussions, my observations during the inspection and a review of the company's files, my findings are as follows:

1. Emission unit F001, 650 tph aggregate processing plant, was permitted under permit-to-install (PTI) 03-16172, issued September 23, 2004. During the inspection, I requested to see Kirby Sand & Gravel's (Kirby) daily visible emission inspection logs and monthly throughput records for F001. I was told that the facility didn't have any of these records. Additionally, Kirby failed to submit quarterly deviation reports regarding inspections and control measure implementation. Failure to maintain records and submit reports is a violation of the terms and conditions of PTI 03-16172, OAC rule 3745-31-02, 3745-31-05 and ORC 3704.05.

The PTI also requires the permittee to conduct emissions testing in accordance with the provisions of 40 CFR, Part 60, Subpart A, Section 60.8 and 40 CFR, Part 60, Subpart OOO, Section 60.675. The emission testing was to be conducted within 60 days after achieving maximum production, but not later than 180 days after initial startup. To date, the Northwest District Office (NWDO) has not received any written reports of performance test results or other information indicating the required tests were performed. Failure to perform the required emissions testing is a violation of the terms and conditions of the PTI, 40 CFR, Part 60, Subpart OOO and Ohio Revised Code (ORC) 3704.05.

2. Prior to the June 30, 2008, launch of Air Services, Kirby submitted permit to operate (PTO) applications for unpaved roadways (F002) and storage piles (F003). At the time, NWDO did not act on the facility's operating permit applications due to other priorities, such as processing Title V and synthetic minor permits. Recently, NWDO began processing more operating permit applications for non-Title V facilities.

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A review of the facility's applications indicated that the emission units were installed in 1973. During the inspection we discussed the installation dates of the units and it was stated that they were actually modified by increasing their size, and thus their emissions, in the mid-1980's. Installation or modification of an emission unit without first obtaining a permit to install or permit to operate prior to installation is a violation of OAC rules 3745-31-02(A), 3745-35-02 (recently rescinded), and ORC 3704.05.

3. While observing the aggregate processing operation, I questioned the source of power for the process. Kirby stated that there is a diesel-fired generator on the scalping plant, along with a diesel engine. F001 is powered by a diesel-fired generator and engine on the primary crusher and a diesel-fired engine on the secondary screening plant. Installation of these emission units without first obtaining a permit to install or permit to operate prior to installation is a violation of OAC rules 3745-31-02(A), 3745-35-02 (recently rescinded), and ORC 3704.05.
4. At the time of the inspection, it was also stated that Kirby has a jaw crusher with a diesel engine on-site that the facility would like to use in the future. Prior to the start of operation, Kirby needs to submit a PTIO application and receive a final permit.

In order to correct these violations, NWDO is requesting that Kirby submit all past due reports and PTIO applications for items 2 through 4, no later than **August 12, 2010**. In addition, a written report of the results of all performance tests conducted to demonstrate compliance with 40 CFR, Part 60, Subpart OOO for F001 shall be submitted no later than **30 days** after receipt of this letter. If the required tests have not been conducted, the company must submit a schedule as to when the appropriate tests will be performed by August 12, 2010.

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.

I would like to take this opportunity to thank you for speaking with me during my visit. Should you have any questions or comments concerning this letter, please feel free to contact me at the above referenced address, by email at jennifer.jolliff@epa.state.oh.us or call (419) 373-4112.

Sincerely,



Jennifer L. Jolliff

Division of Air Pollution Control

/lb

pc: Sam Araj, NWDO, DAPC
Don Waltermeyer, NWDO, DAPC
Tom Kalman, CO, DAPC
Lisa Holscher, US EPA

~~NWDO, DAPC, File~~

ec: Jennifer Jolliff, NWDO, DAPC