

**HAMILTON COUNTY
ENVIRONMENTAL
SERVICES**

May 21, 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Scott Ivy
Penquin Painters
6516 Madison Road
Cincinnati, OH 45227

RE: NOTICE OF VIOLATION OF FUGITIVE DUST RULE - OAC 3745-17-08(B)
AND 3745-17-07

Dear Mr. Ivy:

The Hamilton County Department of Environmental Services (HCDOES) has received complaints regarding dust from the swimming pool restoration at the Madisonville Recreation Center. An agency compliance specialist visited the site on two occasions following citizens' complaints, and in both cases, no containment or dust control measures were employed.

Violations of the fugitive dust rules found in Ohio Administrative Code (OAC) § 3745-17-08(B) and 3745-17-07 were identified during the site visit on May 21. No dust control measures were being used and fugitive dust was visible at an opacity greater than 20% as a three-minute average.

HCDOES finds that you are in violation of OAC § 3745-17-08(B), *Restriction of Emissions of Fugitive Dust*. **HCDOES requests that you submit a compliance plan, with details of a control strategy to minimize dust emissions from current and future sites. An acceptable plan will include specifics of the dust control strategy and a timeline for implementation. This plan should be received not later than seven days following receipt of this correspondence.**

Mr. Scott Ivy
Penguin Painters

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The violations identified above also constitute a violation of Title X, City of Cincinnati Municipal Code and the City of Cincinnati Health Department rules. Title X is enforced by the City Solicitor's Office and the City of Cincinnati Health Department rules are enforced by Hamilton County Environmental Services. The City Solicitor's Office has requested that this agency notify them of all Title X violations identified by this agency. Consequently, a copy of this Notice of Violation has been sent to the City Solicitor's Office. The City Solicitor's Office has requested that a copy of all compliance plans be forwarded to their office. Therefore, please send a copy of the compliance plan to the City Solicitor's Office, attn: Paula Boggs, City Hall Room 214, 801 Plum Street, Cincinnati, Ohio, 45202.

Be advised that failure to comply with the requirements of this letter may result in additional enforcement action, including possible referral of this case to the Office of the Ohio Attorney General. Acceptance by the Ohio EPA of a compliance plan does not constitute a waiver of the EPA's authority to seek civil penalties as provided in Section 3704.06 of the Ohio Revised Code. The determination to pursue or to decline to pursue such penalties in this case will be made by the Ohio EPA at a later date.

If you have any questions regarding this letter, please do not hesitate to contact me at 946-7711.

Sincerely,



Michael Fair
Environmental Compliance Specialist

cc: Kerri Castlen, DOES
Brad Miller, DOES
Paula Boggs, City of Cincinnati, Dept. of Law
Jincey Yemaya, CRC Aquatics Administration