



State of Ohio Environmental Protection Agency

STREET ADDRESS:

**Central District Office**

MAILING ADDRESS:

Lazarus Government Center  
50 W. Town St., Suite 700  
Columbus, Ohio 43215

TELE: (614) 728-3776 FAX: (614) 728-3898  
www.epa.state.oh.us

P.O. Box 1049  
Columbus, OH 43216-1049

**CERTIFIED MAIL # 91 7108 2133 3932 4449 3985**

August 13, 2010

Mr. Jeff Stemmler  
Kurtz Brothers, Inc.  
6279 Houchard Road  
Dublin, OH 43016

**Re: Notice of Violation  
Air Pollution Control Compliance Evaluation on July 29, 2010  
Ohio EPA ID 0125042428 and 0125943107**

Dear Mr. Stemmler:

On January 22, 2009, Ohio EPA sent a Notice of Violation to Kurtz Brothers, Inc. requesting a complete permit-to-install and operate application for each emissions unit that required an air contaminant source permit be submitted within 30 days of receipt of the letter. To date no response has been received. On July 29, 2010, an inspection was performed to determine with applicable permits including 01-08537, 01-12136 and 01-12137, as well as compliance with state and federal air rules and regulations. A copy of the January 22, 2009, Notice of Violation is enclosed with this letter for reference purposes.

The attached Emission Unit Evaluation Forms contain observations on individual emission units. Listed below are "Findings" based upon Ohio EPA, Central District Office (CDO), Division of Air Pollution Control (DAPC) personnel observations and conversations with facility personnel. The findings are followed by "Violation(s)" (if applicable) and "Requested Action(s)" necessary to address stated findings and violations.

1. **Finding: Unpermitted installation of air contaminant sources**

CDO personnel observed two screen machines located at the 2850 Rohr Road, Groveport, Ohio, facility. One screen machine, a Doppstadt 720, was rented from Hall Equipment. Employees stated that one screen machine, a Findlay 683 with serial number FTP541315, is owned by Kurtz Brothers, Inc.

CDO personnel observed that installation of the portable screen machines was complete and the portable screen machines were operational during the site visit on July 29, 2010.

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

CDO personnel were informed by facility employees that a Peterson grinder, based at the Kurtz Brothers, Inc. Groveport Composting Facility, was relocated "just down the road" on July 28, 2010. CDO has no records of a second Peterson grinder being installed and/or operated at the Kurtz Brothers, Inc. Groveport Composting facility.

### **Violation**

The installation and operation of an air contaminant source without first obtaining a permit-to-install and operate (PTIO) is considered a violation of Ohio Administrative Code (OAC) 3745-31-02(A) which states:

*"No person shall cause, permit, or allow the... installation, or modification and subsequent operation of any new source ... without first obtaining a PTIO from the director."*

Violations of OAC 3745-31-02 are also considered a violation of Ohio Revised Code (ORC) 3704.05(C), which states:

*"No person who is the holder of a permit ...shall violate any of its terms or conditions."*

### **Requested Action**

CDO requests that Kurtz Brothers, Inc. perform an emission inventory evaluating all air contaminant sources at the facility to determine if a PTIO is required. If a PTIO is required, please submit a complete PTIO application for that air contaminant source within thirty (30) days of receipt of this letter. A PTIO application for a portable emission unit will not be considered complete unless the make, model and serial number of that unit is included.

If Kurtz Brothers, Inc. determines that a PTIO is not required for any air contaminant source, please provide CDO information demonstrating why that air contaminant source does not need a PTIO, including all guidance, calculations, references, assumptions, and supporting documents.

## **2. Finding: Failure to perform monitoring and recordkeeping**

During the site visit on July 29, 2010, CDO personnel requested to review all monitoring records being maintained by Kurtz Brothers, Inc. CDO personnel were presented with a notebook containing the on-site records for visible emissions inspections for the emissions units located at the Kurtz Brothers, Inc. facilities with premise numbers 0125042428 and 0125943107. CDO personnel were informed that any other air emissions related records were maintained at the Dublin, Ohio, office for Kurtz Brothers, Inc.

CDO personnel reviewed the records being maintained at Kurtz Brothers, Inc. and determined that no records for fugitive particulate emissions had been maintained since February 10, 2010, for any emissions unit.

**Violation**

The operation of emissions units at the Kurtz Brothers, Inc. facilities with premise numbers 0125042428 and 0125943107 without performing the required monitoring and recordkeeping is considered a violation of the permit terms and conditions from permit-to-install (PTI) 01-08537, PTI 01-12136 and PTO 01-12137 "Monitoring and/or Recordkeeping Requirements" section of the emissions units which state:

*"...[T]he permittee shall perform inspections to determine if visible particulate emissions are being emitted from the operations ... in accordance with the following minimum frequencies:"*

<u>Operation (or identification)</u>	<u>Minimum inspection frequency</u>
<u>PTI 01-08537</u>	
F003: Mulch color machine	Daily, when operating
F005: Mulch piles	Daily, when operating
Soil piles	Daily, when operating
Compost piles	Daily, when operating
<u>PTI 01-12136</u>	
F001: Unpaved roadways and Working pads	Daily, when operating
F002: Paved roadways and Working pads	Daily, when operating
<u>PTI 01-12137</u>	
P901: Peterson 6700B grinder	Daily, when operating
Conveyor stacker	Daily, when operating
Load-in	Daily, when operating

Kurtz Brothers, Inc. was required to maintain records of the following information under PTI 01-08537 for F005 and F006 and under PTI 01-12137 for emissions unit P901:

- a. *the date and reason why any required inspection was not performed;*
- b. *the date of each inspection where it was determined by the permittee that it was necessary to implement the control measures;*
- c. *the dates the control measure were implemented;*
- d. *on a calendar quarter basis, the total number of days the control measure was implemented...*

The records maintained from March 23, 2009, through February 9, 2010, do not meet the permit terms and conditions as no information regarding which emissions unit being observed was recorded in the log.

Emission unit F005 in PTI 01-08537, Section II.C.8 and emission unit P901 in PTI 01-12137, Section II.C.2 require a log of the rolling 12-month summation of operating hours for compliance purposes. A log of operating hours is not being maintained in accordance with the terms and conditions of the above listed PTIs.

Violations of the permit terms and conditions of PTI 01-08537, PTI 01-12136 and PTI 01-12137 are also considered a violation of Ohio Revised Code (ORC) 3704.05(C), which states:

*"No person who is the holder of a permit ...shall violate any of its terms or conditions."*

#### **Requested Action**

CDO requests that Kurtz Brothers, Inc. immediately maintain all required records in accordance with the terms and conditions in PTI 01-08537, PTI 01-12136 and PTI 01-12137. CDO further requests that Kurtz Brothers maintain the required operations log on-site in accordance with the terms and conditions of PTI 01-08537.

#### **3. Finding: Failure to submit quarterly compliance reports**

CDO received quarterly deviation reports for the reporting period through June 30, 2009, for Kurtz Brothers, Inc. Groveport Composting facility (facility premise number 0125042428). CDO has not received quarterly reports from the aforementioned facility since September 22, 2009. CDO has not received any reports for the Kurtz Brothers, Inc. facility with premise number 0125943107.

#### **Violation**

Failure to submit timely reports is considered a violation of the terms and conditions of PTI 01-08537, PTI 01-12136 and PTI 01-12137, Section I.A.2. which states:

*"Reports of any required monitoring and/or recordkeeping information shall be submitted to the appropriate Ohio EPA District Office... Quarterly written reports of (a) any deviations from emissions limitations, operational restrictions ... (b) the probable cause of such deviations, and (c) any corrective actions or preventative measures which have been or will be taken ... If no deviations occurred during a calendar quarter, the permittee shall submit a quarterly report, which states that no deviations occurred*

*during that quarter. The reports shall be submitted quarterly by January 31, April 30, July 31, and October 31 of each year."*

Violation of the permit terms and conditions of PTI 01-08537, PTI 01-12136 and PTI 01-12137 is also considered a violation of Ohio Revised Code (ORC) 3704.05(C), which states:

*"No person who is the holder of a permit ...shall violate any of its terms or conditions."*

#### **Requested Action**

CDO requests that all future required reports be submitted in accordance with the terms and conditions of PTI 01-08537, PTI 01-12136 and PTI 01-12137.

#### **4. Finding: Failure to submit semiannual and annual compliance reports**

CDO has not received semi-annual or annual compliance reports from Kurtz Brothers, Inc. facility with premise number 0125943107 in accordance with PTI 01-12137.

#### **Violation**

Failure to submit semiannual and annual reports for emission unit P901 is considered a violation of the terms and conditions of PTI 01-12137, section II.D. which states:

*"The permittee shall submit semiannual written reports that ... identify all days during which any visible emissions of fugitive dust were observed from this emissions unit... These reports shall be submitted to ... the appropriate Ohio EPA District Office ... by January 31 and July 31 of each year and shall cover the previous 6-month periods. ...*

*The permittee shall submit annual reports that specify the total emissions of PE, SOx, NOx, VOC, and CO from this emissions unit for the previous calendar year. The reports shall be submitted by April 15 of each year."*

Violation of the permit terms and conditions of PTI 01-12137 is also considered a violation of Ohio Revised Code (ORC) 3704.05(C), which states:

*"No person who is the holder of a permit ...shall violate any of its terms or conditions."*

**Requested Action**

CDO requests that all semiannual and annual compliance reports from Kurtz Brothers, Inc. (facility ID number 0125943107) be submitted in accordance with PTI 01-12137.

5. **Finding: Failure to submit fee emissions reports**

As of July 29, 2010, Ohio EPA has not received the 2009 Fee Emissions Report from either Kurtz Brothers, Inc. facility (premise number 0125042428 and 0125943107).

**Violation**

Each individual air pollution facility is required to submit an annual fee emissions report in accordance with the terms and conditions of the permit, section I.A.15. which states:

*"The permittee shall pay fees to the Director of the Ohio EPA in accordance with [Ohio Revised Code] ORC section 3745.11 and OAC 3745-78."*

Violation of the permit terms and conditions of PTI 01-08537, PTI 01-12136 and PTI 01-12137 is also considered a violation of Ohio Revised Code (ORC) 3704.05(C), which states:

*"No person who is the holder of a permit ...shall violate any of its terms or conditions."*

**Requested Action**

CDO requests that Kurtz Brothers, Inc. immediately submit the fee emissions report for the two above mentioned facilities (premise numbers 0125042428 and 0125943107).

**Summary of Requested Actions**

CDO requests the following actions be performed:

1. Perform an emissions inventory and submit permit-to-install and operate applications for all necessary emissions units within thirty (30) days; and
2. Immediately maintain all required operational logs and reports; and
3. Submit quarterly reports in compliance with PTI 01-08537, PT 01-12136, and PTI 01-12137; and

Mr. Jeff Stemmler  
Kurtz Brothers, Inc.  
Page -7-

4. Submit semiannual and annual reports as required in PTI 01-12137; and
5. Immediately submit the fee emissions reports for 2009 for facilities 0125042428 and 0125943107.

**Additional information**

Kurtz Brothers, Inc. facilities with premise numbers 0125042428 and 0125943107 have been identified as Synthetic Minor Title V (SMTV) facilities. All SMTV facilities are required to submit certain reports via the eBusiness Center: Air Services, which is accessed through the eBusiness Center. The eBusiness Center may be reached from the Ohio EPA home page at [www.epa.state.oh.us](http://www.epa.state.oh.us) or directly at [ebiz.epa.ohio.gov](http://ebiz.epa.ohio.gov).

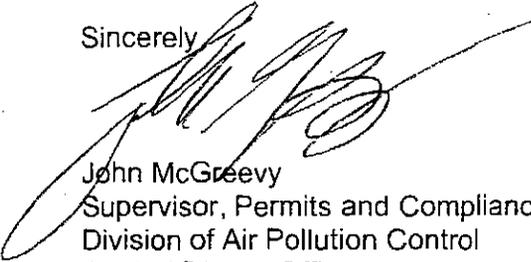
If at some time in the future this facility plans to install additional air contaminant sources or modify an existing air contaminant source, please contact Ohio EPA, Central District Office to obtain the appropriate forms and discuss the applicability of any rules in question. Ohio EPA endeavors to process all applications in an expeditious manner.

CDO personnel are willing to discuss air permitting regulations and compliance methods with Kurtz Brothers, Inc. personnel. If Kurtz Brothers, Inc. is interested in discussions with CDO personnel, please contact CDO at your earliest convenience.

Please note that the Ohio EPA has the authority to seek civil penalties as provided in section 3704.06 of the Ohio Revised Code (ORC). This letter or information pursuant to this letter does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in the ORC. The decision on whether or not to seek such penalties will be made by the Ohio EPA at a later date.

If you have any questions, please contact Barbara Walker of my staff at (614) 728-3805 or [barbara.walker@epa.state.oh.us](mailto:barbara.walker@epa.state.oh.us).

Sincerely



John McGreevy  
Supervisor, Permits and Compliance  
Division of Air Pollution Control  
Central District Office

c: Adam Ward, Manager, DAPC/CDO  
Kelly Toth, DAPC/CDO  
Barbara Walker, DAPC/CDO  
John Paulian, DAPC/CDO

Enclosures