



State of Ohio Environmental Protection Agency

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Central District Office

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Columbus, OH 43216-1049

CERTIFIED MAIL # 7006 2760 0005 5171 5653

June 4, 2007

Gill Porter
Asphalt Technologies, LTD
219 ½ High Street
Edison, OH 43320

Re: Notice of Violation: Installation and operation of air contaminant sources without permits required by OAC rules 3745-31-02 and 3745-35-02, nuisance condition, as per Ohio Administrative Code (OAC)3745-15-07

Dear Mr. Porter:

The Central District Office (CDO), Division of Air Pollution Control (DAPC), appreciates the cooperation of Asphalt Technologies, LTD. during the November 21, 2006, site visit of your facility located at 219 ½ High Street in Edison, Ohio. The purpose of the site visit was to discuss permitting issues and to further our efforts regarding several odor complaints received by our office between July 2006 and December 2006. Present during the site visit were Gill Porter (Asphalt Technologies, LTD), John McVicker (Asphalt Technologies, LTD), Rick Armstrong (Asphalt Technologies, LTD), Jennifer Carlin (Ohio EPA), Luke Mountjoy (Ohio EPA), Todd Scarborough (Ohio EPA) and Richard Lindstrom (Ohio EPA). Below is a summary of findings and any action items that need to be addressed:

Best Available Technology needed for permit application:

The site visit consisted of a walkthrough of the entire facility and an examination of each emissions unit at the facility including two loading racks, several storage tanks, roadways, storage piles and railcar unloading of asphaltic products. During the site visit, it was noted by Mr. Rick Armstrong that on the day of the last odor complaint, Asphalt Technologies was in the process of transferring asphaltic material between several different storage tanks. It is CDO's belief that the odors associated with the transfer of material between storage tanks was the source of the observed odor complaint.

CDO has received a significant number of complaints regarding objectionable odors coming from the above referenced facility. Therefore, CDO is now providing you with this letter in order to address the concerns raised by the complainants. CDO believes that a nuisance condition may exist, as per Ohio Administrative Code (OAC)3745-15-07, which states:

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

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Except as provided in paragraph (B) of this rule, the emission or escape into the open air from any source or sources whatsoever, of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, odors, or any other substances or combinations of substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property, is hereby found and declared to be a public nuisance. It shall be unlawful for any person to cause, permit or maintain any such public nuisance.

As a result, CDO is requesting Asphalt Technologies add control measures to the two loading racks, storage tanks and railcar unloading operations to help alleviate the odor problems.

Based on our site visit and researching other like operations, CDO has determined that the installation of a vapor recovery system including fabric filters and a carbon bed on all asphaltic storage tanks, loading racks and unloading of material from railcars to be Best Available Technology (BAT). Based upon our discussions during the site visit, it is CDO's understanding that Asphalt Technologies is in agreement with our BAT determination. Therefore we are asking you amend the PTI application # 01-01328 reflecting the above described BAT determinations and resubmit within 45 days of this letter.

Note, if Asphaltic Technologies determines that BAT is something other than determined, then Asphalt Technologies will need to submit to CDO a complete BAT evaluation along with a modification to PTI application # 01-01328. In accordance with Ohio Revised Code 3704.01(F) and Ohio Administrative Code 3745-31-01(N), a BAT evaluation is to consider air pollution control devices and source design characteristics that have been previously demonstrated to operate satisfactorily and determine the cost effectiveness (cost per ton of removal of each pollutant) of each proposed air pollution control system. Asphalt Technologies' BAT evaluation should evaluate air pollution control systems demonstrated to achieve high overall control efficiency that are cost effective and should include at least three actual vendor quotes for each control technology evaluated. In submitting the analysis for review, please include the costs from all quotes from control equipment vendors used as part of the cost effectiveness evaluations and perform calculations in accordance with Ohio EPA Engineering Guidelines #46.

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Installation and operation of air contaminant sources without permits required by OAC rules 3745-31-02 and 3745-35-02:

My staff also learned during the site visit that Asphalt Technologies, LTD has installed and has been operating air contaminant sources prior to applying for and obtaining an air permit-to install (PTI) and air permit-to-operate (PTO) from the Ohio Environmental Protection Agency (Ohio EPA). Specifically, CDO learned that Asphalt Technology installed and operated several storage piles, roadways and a million gallon storage tank without the necessary permits. The installation and operation of any stationary air pollution source without first applying for and obtaining a PTI and PTO constitutes violations of OAC rules 3745-31-02 and 3745-35-02, respectively. The Ohio Administrative Code (OAC) rule 3745-31-02 (A) states that:

No person shall cause, permit, or allow the installation of a new source of air pollutants without first obtaining a PTI from the director. Ohio Administrative Code (OAC) rule 3745-35-02(A) states that no person may cause, permit, or allow the operation or other use of any air contaminant source without applying for and obtaining a PTO from the director.

Enclosed you will find the necessary PTI, PTO and Emissions Activity Category (EAC) forms needed for the roadways and storage piles. CDO is requesting that Asphalt Technologies submit all necessary PTI, PTO, and EAC forms within 45 days receipt of this letter.

Please note that 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 Ohio EPA at a later date.

If at some time in the future you plan to install/modify an air contaminant source, please contact CDO at (614) 728-3778 to obtain the appropriate forms and discuss the applicability of any rules in question. Ohio EPA will endeavor to process all applications in an expeditious manner.

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If you have any questions, please do not hesitate to contact Jennifer Carlin at (614) 728-3807.

Sincerely,



Kelly Toth
Air Permits and Compliance Supervisor
Division of Air Pollution Control
Central District Office

Attachments: PTI application, PTO application and EAC form(s)

c: Jennifer Carlin, DAPC/CDO
Isaac Robinson, DAPC/CDO
Todd Scarborough, DAPC/CDO
Luke Mountjoy, DAPC/CDO