



**Environmental
Protection Agency**

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

Certified Mail: 70102780000197061531

September 24, 2012

Scott Oster
Oster Enterprises, Inc.
5947 Whipple Ave. SW
Canton, OH 44720

Re: Tuscarawas County
Oster Sand and Gravel, Inc.; Facility ID # 0679000270
Notice of Violation (non-HPV)

Dear Mr. Oster:

On August 15, 2012, Ohio EPA, Division of Air Pollution Control (DAPC), Southeast District Office (SEDO), inspected Oster Sand and Gravel, Inc. located at 3467 Dover Zoar Road in Bolivar, Ohio. The purpose of the inspection was to determine the company's status of compliance with state and federal air pollution regulations and the air permits issued for this facility. Ohio EPA was represented by Jessica Kelley and me, while David Aventino and Mike Oszust represented Oster Sand and Gravel during the inspection.

The sand and gravel quarry was installed in 1994, and Oster Sand and Gravel obtained Permit-to-Install (PTI) No. 06-4094 for the operation (emissions units (EUs) F001, F002 and F003) on July 20, 1994. The aggregate plant, EU F003, was placed on registration status on October 14, 1994, but as was outlined in my email to you on January 6, 2011, this EU was not eligible for registration status because it is subject to BAT and New Source Performance Standards (NSPS) requirements as outlined in the PTI. State operating permits (PTOs) were most recently issued for the roadways (EU F001) and storage piles (EU F002) on April 5, 2006, and these PTOs expired on April 5, 2011. On June 30, 2011, a renewal application was received for the three EUs at the quarry, but this application was returned to you on September 12, 2011 due to deficiencies. A new Permit-to-Install and Operate (PTIO) application was received on August 30, 2012, for EUs F001-F003 as well as F004, a new emissions unit established for the paved roadways because the company is now requesting general permits for the paved and unpaved roadways and the available general permits are specific to only paved or only unpaved roadways and parking areas. The PTIO application was determined to be preliminarily complete, and a technical review of the application is underway.

Based on the facility tour, file review, and a review of the reports submitted by Oster Sand and Gravel, the following violations have been documented at the Bolivar facility. Copies of the checklists completed as part of the inspection are enclosed.

- (1) PTO Renewal Application Submittal.** In order to continue operating under expiring operating permits, permittees must submit renewal applications prior to the expiration dates of those permits. Then, pursuant to Ohio Revised Code (ORC) § 119.06, operators may continue to operate under the expired permits even if the permitting authority fails to issue renewal permits prior to their expiration date(s). The PTOs for EUs F001 and F002 expired on April 5, 2011, but a renewal application was not received until June 30, 2011; this renewal application was subsequently returned and a new application for those EUs and the aggregate plant was not received until August 30, 2012. Except for the reporting requirement violation identified below, the company has continued to operate in compliance with the expired operating permits; therefore, DAPC, SEDO will continue to

compliance with the expired operating permits; therefore, DAPC, SEDO will continue to process the renewal application. Outstanding and new issues discovered during the technical review of the new application are outlined in the comment section below.

(2) Quarterly Deviation Report Requirements
Part I.3.b and Part II.D. of the PTOs for EUs F001 and F002

As was identified in the warning letter dated November 3, 2010, the PTOs for EUs F001 and F002 require the submittal of quarterly deviation reports. Specifically, the company is required to submit quarterly written reports of (a) any deviations from emission limitations, operational restrictions, and control device operating parameter limitations detected by the testing, monitoring, and recordkeeping requirements specified in the permit, (b) the probable cause of such deviations, and (c) any corrective actions or preventive measures which have been or will be taken. If no deviations occurred during the calendar quarter, the permittee shall submit a quarterly report which states that no deviations occurred during that quarter. The reports must be submitted by January 31, April 30, July 31, and October 31 of each year and shall cover the previous calendar quarter.

The missing reports identified in the November 3, 2010 warning letter were received by Ohio EPA via Air Services on November 23 and December 1, 2010. Since then, the company has failed to ensure the deviation reports are submitted as required by the PTOs. Specifically, the reports due by 7/31/11, 10/31/11, 1/31/12 and 7/31/12 were received after the specified report deadlines, and no quarterly deviation report has been submitted to date for the 1st quarter of 2012 (due by April 30, 2012). Also note that although the company has opted to have the facility-wide roadways and storage piles permitted under the aggregate plant facility ID, the deviation reports for EUs F001 and F002 have been submitted under the new ID for the asphalt plant (0679005005) instead of the facility ID for the quarry (0679000270).

Until such time as the renewal permits are issued for the EUs associated with the aggregate quarry and the quarterly deviation report requirement is replaced with an annual reporting requirement, Oster Sand and Gravel must continue to submit quarterly deviation via Air Services by the specified deadlines. To address the ongoing non-compliance, the company must submit a compliance plan to DAPC, SEDO, that details the procedures Oster Sand and Gravel will utilize to ensure that all required compliance reports are submitted and are received by the reporting deadlines identified above.

(3) Non-Title V Fee Report for 2011
Ohio Revised Code (ORC) 3745.11(D) and OAC rule 3745-78-02(D)

In September of 2011, a separate facility ID number was created for the asphalt plant to identify it as a separate facility from the aggregate plant. Although a synthetic minor fee report was submitted for the asphalt plant on April 13, 2012 for calendar year 2011, the company has failed to submit the non-Title V fee report for emissions from the quarry for calendar year 2011. In a letter dated May 16, 2012 (copy enclosed), Oster Sand and Gravel was asked to report emissions for the aggregate operation, and to date, this report has not been submitted to DAPC. Therefore, the non-Title V fees owed for 2011 have not been paid.

To resolve this violation, Oster Sand and Gravel must prepare the enclosed fee report to identify the particulate emissions from the aggregate plant and associated roadways and storage piles, and must submit the completed report to the address on the letterhead.

Once the completed report is received, DAPC will issue you an invoice for the fees owed for the quarry emissions for 2011 which will resolve this violation.

**(4) NSPS Subpart OOO Compliance Demonstration
40 CFR Part 60, Subparts A and OOO (40 CFR §60.8 and 60.675)**

The NSPS for non-metallic mineral processing facilities requires demonstration of compliance with both the visible particulate emission limitations of no more than 15% opacity from the crushers and 10% opacity from screens and conveyor transfer points within 180 days of initial startup. In your August 30, 2011 response to my email from January 6, 2011, you confirmed that EU F003 is subject to NSPS Subpart OOO and that the required performance testing had not been conducted.

On September 20-12 and November 11, 2011, the required NSPS Subpart OOO performance testing was completed. A review of the test reports revealed that the aggregate processing equipment is in compliance with the applicable opacity limits in the subpart and PTI No. 06-4094 for EU F003. No further action is required to address this violation.

Comments:

- (1) During the inspection, we discovered that in addition to the aggregate processing equipment, the operations at the quarry also include the extraction of minerals, primarily sand and gravel, prior to processing. Although fugitive dust emissions are generated when overburden and minerals are extracted, loaded and stockpiled and through reclamation activities, it does not appear that the company has ever evaluated the emissions from this part of the process or applied for a PTI or PTIO for it. In your response to this letter, please provide an evaluation of the emissions from mineral extraction activities at the facility. If the process is not considered de minimis as defined in OAC rule 3745-15-05, Oster Sand and Gravel must prepare and submit a PTIO application so the mineral extraction activities can be properly permitted.
- (2) I have completed a technical review of the PTIO application submitted on August 30, 2012, as well as the email communications we had regarding the application received on June 30, 2011, and have identified the following issues that still need to be resolved:
 - (a) The facility map provided with the application only covers the operations that occur on the north side of Dover Zoar Road, and not the operations on the Oster property on the south side of Dover Zoar Road. Therefore, it is unclear whether the EAC forms submitted for the roadways and storage piles adequately cover the roadways and any storage pile activity in that separate area. Please review the EAC forms and flow diagram and provide updates as necessary to ensure that all of the operations to be covered by the general permits have been properly identified and evaluated.
 - (b) As was identified in my email dated August 8, 2011, the EAC form for EU F003 does not match the flow diagram provided for this EU, and it also does not match the process flow diagram provided with the NSPS Subpart OOO intent to test notification. In your email response on August 30, 2011, your consultant indicated that the EAC form would be updated to identify all of the equipment associated with the aggregate processing plant. However, the EAC form submitted with the application received on August 30, 2012 still indicates a total of 45 conveyors, while the updated flow diagram shows only 41. Please review the EAC form and ensure that it accurately reflects all of

the equipment at the facility, and if corrections to the EAC form are needed, please submit an updated document.

- (c) Per your August 30, 2011 response to my August 4, 2011 email, the installation date for the aggregate plant was confirmed to be 1994. Although your response stated that the facility profile would be updated in Air Services to correct the installation date for this EU, that correction has not been made to date. Please prepare and submit a facility profile change to identify the correct installation date for EU F003. In addition, the storage pile installation date is identified as 4/1/98. Because storage piles would have been created when the aggregate plant became operational, it appears that installation date is also incorrect and needs to be updated.

Within thirty (30) days of your receipt of this letter, Oster Sand and Gravel, Inc. must provide Ohio EPA with a compliance plan and schedule that outlines the steps that the company will take to ensure compliance with all applicable Ohio air pollution control laws and rules. Acceptance by Ohio EPA of a schedule for compliance does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in section 3704.06 of the Ohio Revised Code. The determination to pursue or decline to pursue such penalties in this case will be made by Ohio EPA at a later date.

We appreciate your staff's assistance during the inspection. Should you have any questions, please feel free to contact me at (740) 380-5245 or via email at kim.reinbold@epa.state.oh.us.

Sincerely,



Kimbra L. Reinbold
Division of Air Pollution Control
Southeast District Office

KLR/cs

Enclosures

cc: Dean Ponchak, DAPC, SEDO
Bruce Weinberg, DAPC, CO
Mickey Jencius, U.S. EPA, Region V