



City of Cleveland
Frank G. Jackson, Mayor

Department of Public Health
Division of Air Quality
75 Erieview Plaza, Suite 200
Cleveland, Ohio 44114-1839
216/664-2297 • Fax: 216/420-8047
www.clevelandhealth.org

**SERVING OHIO EPA AS AGENCY 13
FOR CUYAHOGA COUNTY**

**CERTIFIED MAIL #70022030000118087957
RETURN RECEIPT REQUESTED**

June 8, 2009

Brandon Smith
Kurtz Brothers & RKDF
6415 Granger Road
Independence, OH
44131

**NON-HPV
EMISSIONS VIOLATION**

FACILITY ID: 13-18-11-8045

NOTICE OF VIOLATION: Failing to comply with permit terms and conditions and improper record keeping

Dear Mr. Smith:

On June 5, 2009, the Cleveland Division of Air Quality (CDAQ) inspected RKDF/Kurtz Brothers (Kurtz) located at 950 Valley Belt Road in Brooklyn Heights. This letter serves as notification that you are operating sources in violation of the following applicable air statutes, air regulations, and air permit conditions.

Kurtz's operation of emission unit F001: Unpaved Roadways is in violation of Permit to Install (PTI) #13-3167 terms & conditions, the Ohio Revised Code (ORC) § 3704.05(C) and the Ohio Administrative Code (OAC) Rule 3745-17-08. During a U.S. EPA Test Method 22 observation, CDAQ witnessed 20 minutes and 58 seconds of fugitive dust over a 60 minute period. PTI#13-3167, Part A provides the following:

“There shall be no visible particulate emissions from any unpaved roadway or parking area except for a period of time not to exceed three minutes during any 60-minute observation period.”

PTI #13-3167, Part B. provides the following:

“Any material carried off of the permittee's property and deposited onto public streets by vehicular traffic or by erosion by water, etc., shall be promptly removed and disposed of properly to minimize or prevent resuspension.”

CDAQ representatives witnessed material being carried off Kurtz's property onto



public roadways. The accumulation of material on the roadway must be removed promptly.

Part B also allows for a maximum speed limit of 10 miles per hour shall be posted and enforced. CDAQ witnessed vehicles traveling at a rate of speed that appeared to be well over 10 miles per hour limit; this is a violation of PTI #13-3167 and ORC §3704-05(C). The 10 mile per hour speed limit must be enforced by Kurtz at all times.

PTI #13-3167, Part C requires Kurtz to maintain records that include:

1. The date dust suppressant were applied to the unpaved surfaces;
2. The portion of the unpaved surfaces that were treated with dust suppressant;
3. The application rate of water and chemical additives (gallons of each per square yard); and
4. The name of the equipment operator responsible for the application of the dust suppressants.

CDAQ requests a copy of the last 3 months of all required record keeping. If the records do not exist, CDAQ requests a copy of the template to be used for future record keeping.

Unless you undertake some type of corrective action with respect to the above noted violations, you will remain in non-compliance. CDAQ requests that Kurtz Brothers apply dust suppressant to roadways to minimize or eliminate visible emissions of fugitive dust, submit a corrective action plan containing a template for all required record keeping, and submit a statement describing methods to remove material from public roadways and a plan to reduce the speed of vehicles traveling on F001 to the following enforcement representative:

Andrew Kenney
Cleveland Division of Air Quality
75 Erieview Plaza 2nd Floor
Cleveland, Ohio 44114-1839

Your written response to this letter must be received by CDAQ within fourteen (14) days of your receipt of this letter. If there is insufficient time to correct the alleged violations within this timeframe, your response must include a timeline for correcting the alleged violations.

Violations of Ohio air pollution laws and /or permit terms and conditions are subject to the penalties stipulated in Ohio Revised Code Section 3704.99(A), which allows fines of not more than twenty-five thousand dollars or imprisonment for not more than one year, or both, for each violation.



Free assistance with state and/or federal regulations, rules, laws or permit conditions can be provided at no charge through the Ohio EPA Office of Compliance Assistance and Pollution Prevention (OCAPP). OCAPP can be contacted at <http://www.epa.state.oh.us/ocapp> or (614) 644-3469 or (800) 329-7518.

CDAQ makes no guarantee that the facility will meet the qualifying guidelines established by OCAPP.

OCAPP can also provide assistance to facilities that want to investigate methods of pollution prevention to reduce raw material usage and waste production. Again, there is no charge for their services.

CDAQ issues this letter with Ohio EPA's concurrence. The failure to mention any specific violation does not excuse any violations of local, state and federal laws or regulations regarding air pollution control. Violations of air pollution control laws may be pursued in local court or referred to Ohio EPA or U.S. EPA for further enforcement action. Should you have any questions, please call Andrew Kenney at 216-420-7683. All correspondence with CDAQ must include the Ohio EPA facility identification number for Kurtz Brothers: 13-18-11-8045.

Sincerely,

Valencia White, MPH
Field Enforcement Manager

VW/ak

cc: Richard Nemeth and Michael J. Krzywicki, CDAQ
John Paulian, Ohio EPA Central Office
Lisa Holscher, U.S. EPA Region V
Facility File and L:\Data\Facilities\1318118045\2009-6-8 NOV.doc

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Brandon Smith
Kurtz Bro. + AKDF
6415 Granger A.D.
Independence, OH
44131

2. Article Number
(transfer from sender)

7002 2030 0001 1808 7957

COMPLETE THIS SECTION ON DELIVERY

A. Signature
x Rebecca Beled Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery
Rebecca Beled 6/7/09

D. Is delivery address different from item Yes
If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes