



AKRON REGIONAL  
**AIR QUALITY MANAGEMENT DISTRICT**

Agent of the Ohio Environmental Protection Agency • Division of the Akron Health Department  
Serving Medina, Portage and Summit Counties

TELEPHONE: (330) 375-2480  
FAX: (330) 375-2402

L. M. Malcolm, P.E.  
Administrator

October 15, 2007

**CERTIFIED MAIL  
NOTICE OF VIOLATION**

Mr. Paul Scala, Vice President  
Kenmore Construction Company, Inc.  
700 Home Avenue  
Akron, Ohio 44310

Dear Mr. Scala:

On October 3, 2007, I investigated a fugitive dust complaint at Highway Asphalt Company (Ohio EPA facility #1677010013) located at 640 Ocean Avenue, Akron, OH. This facility produces asphaltic concrete, and includes a hot-mix asphalt plant, paved roadways/parking areas, and material handling/storage piles. Only the hot-mix asphalt plant has air permits (current Permit to Operate expires 08/16/10, and synthetic minor Permit to Install 16-02113, issued 06/05/01, allows the facility to avoid Title V program requirements). The paved roadways/parking areas and all other fugitive dust sources at the facility are currently on registration status.

Visible emissions observations were made of the facility's paved roadways/parking areas using US EPA Method 22. At the time of the observations, weather conditions were moderately windy and dry. Frequent truck traffic entered and left the facility, and a front-end loader was active in the yard. No posted speed limits were evident. Vehicular traffic generated significant fugitive dust emissions from paved surfaces heavily laden with easily suspendable fine, silty material. No recent paved surface cleanup was apparent, and a water truck was inactive sitting at the perimeter of the facility property.

Violations of applicable Ohio Administrative Code (OAC) regulations based upon my observations of the facility are noted below. For your information, these regulations may be viewed at:  
<http://www.epa.state.oh.us/dapc/regs/regs.html>.

OAC rule 3745-17-07(B)(4) states, in part, "there shall be no visible particulate emissions from any paved roadway or parking area except for a period of time not to exceed six minutes during any sixty-minute observation period". The results from my observations indicate a total cumulative visible emissions time period of 19 minutes during an observation time period of 56 minutes. This is a violation of OAC rule 3745-17-07(B)(4).

OAC rule 3745-17-08(B) states, in part, "no person shall cause or permit any fugitive dust source to be operated . . . without taking or installing reasonably available control measures to prevent fugitive dust from becoming airborne." Applicable reasonably available control measures (RACM) include, but are not limited to, the periodic application of water or other suitable dust suppression

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chemicals on roadways/parking areas; maintaining roadways in a clean condition; and the prompt removal of earth and other materials blown or deposited onto paved surfaces. My investigation indicates no apparent implementation of RACM. This is a violation of OAC rule 3745-17-08(B).

OAC rule 3745-15-07(A) states, in part, "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." During my visit, there were periods of time when clouds of dust, generated from your facility's roadways/parking areas, were blown beyond the fence line to neighboring properties. This is a violation of OAC rule 3745-15-07(A).

OAC rule 3745-31-02(A)(1) states "Except as provided in rule 3745-31-03 of the Administrative Code, no person shall cause, permit, or allow the installation of a new source of air pollutants, or cause, permit, or allow the modification of an air contaminant source, without first obtaining a permit-to-install from the director." Based on Agency records, your facility never applied for a Permit to Install before adding the two (2) new large limestone storage piles along Midway Street. This is a violation of OAC rule 3745-31-02(A)(1).

The existing situation at your facility is unacceptable and violations cited above must be corrected in a timely manner. In order to resolve these violations, please submit a written compliance plan and schedule to this Agency no later than fourteen (14) days from receipt of this letter. The plan should include specific control measures, e.g., sweeping, watering, posting and enforcing speed limits, and corresponding implementation dates to eliminate or sufficiently minimize visible emissions of fugitive dust from the facility's roadways/parking areas.

In addition to the compliance plan, please submit a Permit to Install application (Form #3150a) for the material handling/storage piles and Permit to Operate applications (Form #3161) for the paved roadways/parking areas and material handling/storage piles. Also provide with the permit applications the following emissions activity category (EAC) forms: Form #3111 "Roadways and Parking Areas"; and Form #3112 "Storage Piles". These forms can be found at: <http://www.epa.state.oh.us/dapc/fops/eac/eacforms.html>. Also, if certain qualifying criteria are met, you may request general permits for these sources. For information and procedures, please refer to: <http://www.epa.state.oh.us/dapc/genpermit/genpermits.html>.

This notice of violation and request for a compliance plan in no way waives the right of Ohio EPA or US EPA to pursue additional enforcement action in this matter, including the assessment of civil penalties. Ohio Revised Code allows for civil penalties of up to \$25,000 for each day of each violation. The decision to pursue, or decline to pursue, additional enforcement in this matter will be made at a later date.

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If you have any questions or need additional information, please call.

Sincerely,

A handwritten signature in cursive script that reads "Russell Risley".

Russell Risley  
Air Quality Engineer

Beth Mowrey, The Shelly Company  
LMM/FJM, ARAQMD  
Tom Kalman, Ohio EPA  
Lisa Holscher, US EPA