



Environmental
Protection Agency

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

CERTIFIED MAIL # 91 7108 2133 3932 1838 4271

December 30, 2011

Mr. Richard Kenny
President
AHC Environmental Services, Inc.
1251 S. Front Street
Columbus, OH 43216

Re: Notice of Violation - Failure to conduct a proper asbestos survey and abatement of homes used for fire training

Dear Mr. Kenny:

On August 29, 2011, Ohio Environmental Protection Agency (Ohio EPA) received notification of planned abatement and demolition activities to occur at 10560 Johnstown Road and 6309 and 6363 Kitzmiller Road in New Albany. On September 15, 2011, Ohio EPA received a notification for 2165 Beech Road in the New Albany area. These homes were all scheduled to be burned for fire training. These homes were all inspected by Ohio EPA's Central District Office (CDO).

During a September 26, 2011 inspection of a home located at 2165 Beech Road, the CDO inspector found residual asbestos materials. The inspector discovered Thermal System Insulation (TSI) and plastic sheeting used in the asbestos abatement process. AHC Environmental Services (AHC) was contacted to remove these materials. These materials were in plain sight (see Attachment A).

On September 30, 2011, a CDO inspector inspected 10560 Johnstown Road, and 6309 and 6363 Kitzmiller Road. The inspector found residual asbestos containing flooring, transite fireproofing, and TSI, a Regulated Asbestos Containing Material (RACM), in the buildings. Most of these materials were in plain sight.

During the inspection of 10560 Johnstown Road, asbestos containing flooring debris were found in a large debris pile which also contained plastic sheeting. The sheeting had been used as part of a containment area during abatement of the flooring. The inspector found transite fireproofing in the basement of 6363 Kitzmiller. The inspector also found TSI furnace tape, in plain sight, in the basement of 6309 Kitzmiller Road. AHC Environmental Services (AHC) was contacted to remove these materials (see Attachment B).

AHC Environmental Services Inc. (AHC) was hired to do both the asbestos survey and abatement activity to remove all RACM including Category I and Category II nonfriable asbestos containing material from the buildings prior to use for fire training. Because AHC is listed as having performed the asbestos survey and AHC performed asbestos abatement activities to

Central District Office
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, OH 43216-1049

614 | 728 3778
614 | 728 3898 (fax)
www.epa.ohio.gov

facilitate the demolition of the buildings, AHC is considered an operator under Ohio Administrative Code rule (OAC) 3745-20-01(B)(39)(a). As an operator, AHC is required to comply with asbestos rules and regulations, including, but not limited to OAC rule 3745-20-02 through OAC rule 3745-20-05.

1. Finding

CDO received demolition and abatement notifications for homes to be used for fire training. These notifications indicated that AHC had performed both the survey and abatement work for these homes. Later inspections performed by CDO found asbestos materials in the homes that had not been removed, properly removed, or in some cases indicated on the asbestos survey.

Violation

Failure to remove all regulated asbestos containing materials in buildings to be used for fire training is considered a violation of OAC rule 3745-20-04 (A)(1) which requires:

(A) Each owner or operator of a demolition or renovation operation to whom this rule applies shall comply with the following procedures:

(1) Remove all regulated asbestos-containing material from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the materials or preclude access to the materials for subsequent removal....

Violation of OAC rule 3745-20-04(A)(1) is also considered a violation of Ohio Revised Code (ORC) 3704.05(G) which states:

"No person shall violate any order, rule, or determination of the director issued, adopted, or made under this chapter."

Please also note that OAC rule 3745-20-04 (B)(E) requires that:

If a facility is demolished by intentional burning, or if demolition debris is to be burned, all regulated asbestos-containing material including category I and category II nonfriable asbestos-containing material must be removed in accordance with this chapter before burning.

AHC's failure to remove all regulated ACM is considered a violation of OAC rule 3745-20-04 (B)(E). Violation of OAC rule 3745-20-04(B)(E) is also considered a violation of Ohio Revised Code (ORC) 3704.05(G).

Please also note that OAC rule 3745-20-02(A) requires each regulated structure to be demolished be thoroughly inspected for the presence of asbestos.

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"Notwithstanding any other exclusion of this rule, and to determine which requirements of this rule and of rules 3745-20-03 and 3745-20-04 of the Administrative Code apply, each owner or operator of any demolition or renovation operation shall have the affected facility or part of the facility where a demolition or renovation operation will occur thoroughly inspected by a certified asbestos hazard evaluation specialist, in accordance with paragraph (C) of rule 3701-34-02 of the Administrative Code prior to the commencement of the demolition or renovation for the presence of asbestos, including category I and category II nonfriable asbestos-containing material."

Failing to perform a thorough survey is considered a violation of OAC rule 3745-20-02(A). Violation of OAC rule 3745-20-02(A) is also considered a violation of Ohio Revised Code (ORC) 3704.05(G).

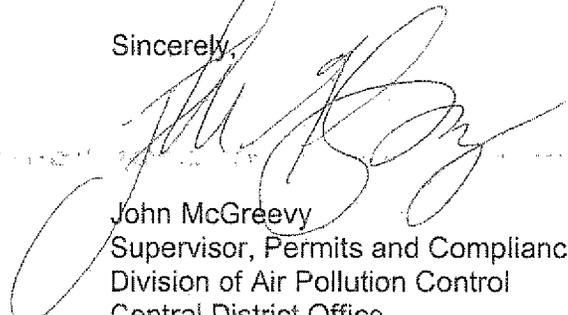
Requested Action

CDO requests that in the future, AHC take steps to document and remove all asbestos containing materials in accordance with all applicable OAC rules prior to demolition or remodeling. CDO also requests that as a response to this Notice of Violation, AHC document the operational processes that will be enacted to assure future compliance with all applicable OAC rules when performing asbestos surveys and abatement work. Please submit a copy of this document to CDO within 30 days of the receipt of this letter.

Please be aware that Ohio Environmental Protection Agency has the authority to seek civil penalties as provided in section 3704.06 of the ORC. Violation of Ohio's Asbestos Control Regulations may subject both the building owner and removal, renovation, or demolition contractor to civil penalties of up to \$25,000 dollars per day of violation. This letter or information submitted 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 Environmental Protection Agency at a later date.

If you have any questions regarding this matter, please contact Richard Fowler, of my staff at 614-995-0671.

Sincerely,



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

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- c: Adam Ward, Manager, DAPC/CDO
- Kelly Toth, Supervisor, Permits and Compliance, DAPC/CDO
- Josh Koch, Sanitarian Program Specialist, ODH/Asbestos Program
- Mark Needham Asbestos Program Administrator, ODH/Asbestos Program
- John Paulian, DAPC/CO
- Tom Buchan, DAPC/CO
- Richard Fowler, DAPC/CDO