



## PORTSMOUTH LOCAL AIR AGENCY

USEPA AND OEPA REPRESENTATIVE FOR ADAMS, BROWN, SCIOTO AND LAWRENCE COUNTIES  
605 Washington Street, Third Floor, Portsmouth, Ohio 45662 (740) 353-5156, ext 285 Fax (740) 353-3638

May 2, 2008

### CERTIFIED MAIL

Mr. Dan Malone  
168 Highland Avenue  
McDermott, OH 45652

#### Re: Notice of Violation

Dear Mr. Malone:

This letter is in reference to the demolition of the former McKee's Grocery Store located at 1930 Washington Blvd., West Portsmouth, Ohio. Demolition operations are subject to compliance with the National Emission Standards for Asbestos instituted in the Code of Federal Regulations (CFR) Chapter 40, Part 61, Subpart M and Ohio Administrative Code (OAC) rule 3745-20 titled Ohio Asbestos Emission Control Rules.

Section 61.145 of the federal rule and OAC Rule 3745-20-03 requires each **owner** or **operator (demolition contractor)** of a demolition to comply with notification requirements under these rules. Compliance with these requirements is possible by completing the enclosed form titled "OEPA notification of demolition and renovation" and submitting this form at least **ten working days** prior to the start of the demolition or renovation. Also in accordance with above-mentioned rules, an evaluation for the purpose of identifying asbestos containing material (ACM) is to be conducted by an asbestos hazard evaluation specialist certified by the Ohio Department of Health prior to the start of any commercial demolition or renovation.

On April 17, 2008, personnel from this office followed up a complaint about the demolition of the above-mentioned structure. It was determined that this demolition was subject to the requirements of 40 CFR Part 61, Subpart M, and Ohio asbestos emission control rules. It was further determined that you violated 40 CFR Part 61, Subpart M, specifically 61.145 and OAC 3745-20-03 for failing to file a complete notification. Without a proper and timely notification this office cannot determine the extent of compliance with the Federal and State rules. Failure to comply with these rules is a serious violation of the Clean Air Act, which provides for substantial penalties for non-compliance. Both the **facility owner** and the **demolition contractor** are subject to compliance with all the above-mentioned rules.

This notice of violation in no way waives the right of the Ohio EPA or USEPA to pursue additional enforcement action. Further communications may be directed to you regarding these violations. All future demolition/renovation operations under your supervision or contractual control must comply with both Federal and State laws pertaining to demolitions/renovations.

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Furthermore, investigators from this office observed open burning of demolition debris located at the above mentioned premises on April 16, 2008. OAC rule 3745-19 prohibits the open burning and specifically OAC rule 3745-19-04 prohibits such burning in unrestricted areas.

Should you have any questions, please do not hesitate to contact Louis Boerger at (740) 353-5156 for further guidance.

Sincerely,

  
Cindy Charles, Director

cc: John Paulian, DAPC  
cc: Clint Shuff, DSWIM  
cc: Tom Buchan, DAPC  
cc: Lisa Holscher, USEPA