



**Environmental
Protection Agency**

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

May 4, 2011

RE: **NOTICE OF VIOLATION**
DEMOLITION OF
913 EAST 147 STREET, CLEVELAND, OHIO

CERTIFIED MAIL

Mr. Steve Gonzalez
Gonzalez Construction
11103 Memphis Ave.
Brooklyn, Ohio 44144

Dear Mr. Gonzalez:

On March 29, 2011, the Ohio EPA Northeast District Office (NEDO), Division of Air Pollution Control (DAPC), received an asbestos demolition notification. The notification indicated the abatement of 12 square feet of regulated asbestos-containing material (RACM). The date for asbestos removal listed on the notice was April 11, 2011.

On April 13, 2011, the undersigned conducted an inspection of the structure. At the time, the inspection documented suspected asbestos containing material (ACM) in the form of pieces of broken transite panels on the ground and evidence of removal of transite panels in progress from the sides of the structure. Also, the inspection documented numerous bags, some broken open, in which fragmented pieces of transite were observed on the ground, apparently staged for disposal. Ohio EPA expressed concerns of the ongoing demolition activities in a message to the Cleveland Building Department on April 13, 2011. Ohio EPA has since obtained a copy of the survey, which did not mention or quantify the ACM transite that covered the house.

A follow-up inspection on April 18, 2011, found the structure being demolished by Gonzalez Construction, the demolition contractor of record. Mr. Steve Gonzalez stated that the transite siding was removed by workers for Gonzalez Construction with final completion of removal on Sunday April 17, 2011. The transite material was taken to a Waste Management construction and demolition debris (C&DD) facility in Solon, Ohio the morning of April 18, 2011. Bencin Trucking removed two roll-off containers of demolition debris to a Bencin CD&D facility.

The two disposal facilities where the asbestos material was disposed of were contacted by Ohio EPA and the material was segregated and has since been disposed of properly.

On April 20, 2011, Ohio EPA received sample results of the transite that documented it as containing 15% asbestos. An interview with neighbors determined that the transite removal, which was not documented on the Ohio EPA demolition notification form, was occurring after business hours and on the weekend.

The interview, along with Ohio EPA's visual inspection of the open bags on-site, and our observation of the fragmented pieces strewn about the ground, lead to our determination that this material was no longer classified as a Category II non-friable material, but was in fact RACM, per OAC 3745-20-01 (B)(42) (d), which states that "... Category II non friable asbestos-containing material that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by forces expected to act on the material in the course of demolition or renovation operations..."

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Furthermore, as the RACM was co-mingled throughout the remaining debris pile at the site, Ohio EPA determined that this material, along with the previous material taken to two C&DD facilities, was RACM, and would require disposal at an asbestos-certified landfill.

In view of the above facts, this demolition project conducted at 913 East 147 Street, Cleveland, Ohio on or about April 13 to 18, 2011, was subject to compliance with the Clean Air Act and regulations promulgated there under, setting forth a National Emission Standard for Asbestos 40 CFR 61.140, et seq. (NESHAP Asbestos Standard). These types of operations are also subject to Ohio Administrative Code (OAC) chapter 3745-20, "Ohio Asbestos Emission Control Rules."

The asbestos standard applies to, among other things, a demolition operation. Pursuant to 40 CFR 61.145, all facilities must be inspected for the presence of asbestos prior to commencement of a renovation. Paragraphs (b), "Notification Requirements," and (c), "Procedures for Asbestos Emission Control" of this section would apply if the accumulative or total amount of friable asbestos materials in the structure was found to be equal to or greater than 260 linear feet on pipes and/or equal to or greater than 160 square feet on any other component. Paragraph (b), "Notification Requirements," of this section also applies if no friable asbestos materials were found, or if the accumulative or total amount of friable materials in the structure were less than 260 linear feet on pipes and/or less than 160 square feet on any other component. (Similar requirements are also stated in OAC rules 3745-20-02, 3745-20-03 and 3745-20-04, "Ohio Asbestos Emission Control Rules.")

Pursuant to 40 CFR 61.141, an "owner or operator of a demolition or renovation activity means any person who owns, leases, operates, controls or supervises the facility being demolished or renovated, or any person who owns, leases, operates, controls or supervises the demolition or renovation operation, or both." Any owner or operator is prohibited under 40 CFR 61.19 from circumvention of a visible emission standard or notification requirements by the piecemeal carrying out of an operation.

Finally, pursuant to Section 112 (KK), the authority to implement and enforce the NESHAP has been delegated to the State of Ohio Environmental Protection Agency's Division of Air Pollution Control. Parallel enforcement authority is retained by the administrator of U.S. EPA for any violations for which Ohio is unable to initiate a required enforcement action.

In accordance with the above stated delegation of authority, you are hereby notified that the demolition conducted on 913 East 147 Street on or about April 13-18 2011, by Gonzalez Construction, was in violation of the NESHAP requirements in 40 CFR 61.145(a) and (b), "applicability" and "notification requirements" in the "Standard for Demolition and Renovation." This was also a violation of OAC rule 3745-20-02, "Standard for Notification" in the Ohio Asbestos Emission Control Rules. Also, the demolition project was in violation of OAC rule 3745-20-04, "Demolition and Renovation Procedures for Asbestos Emission Control."

Within fourteen (14) days of receipt of this letter, you are requested to submit the following information. This request for information is made pursuant to OAC Rule 3745-15-03.

- 1) The name, address, phone number and contact person of all contractors involved in the renovation project and an explanation of each company's involvement.
- 2) The name, address, phone number and contact person of all contractors involved in the disposal of both C&DD waste along with RACM from the site of the demolition project and an explanation of the involvement.

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- 3) The locations of the site where both C&DD waste along with RACM from the demolition was disposed including a copy of any manifests or receipts.
- 4) A copy of any asbestos survey reports of the building.
- 5) The actual beginning and ending dates of the abatement and demolition projects.
- 6) Copy of a revised asbestos notification form.
- 7) The names and copies of the ODH asbestos certifications for those workers who removed the transite, along with the name and ODH certification of the supervisor who directed the removal.

This Notice of Violation in no way waives the right of Ohio EPA or U.S. EPA to pursue additional enforcement action. Further communications may be directed to you regarding this violation or additional violations that may be found.

Clarification, explanation or evidence pertaining to this violation should be brought to our immediate attention. If you have any questions, please contact me at (330) 9631241 or Bob Princic at (330) 963-1230.

Sincerely,



Richard Kolosionek
District Representative
Division of Air Pollution Control

RK:bo

pc: Ed Fasko, DAPC, NEDO
Bob Princic, DAPC, NEDO
Tim Fischer, DAPC, NEDO
Tom Buchan, DAPC, CO
Tom Kalman, DAPC, CO
Marcus Glasgow, Legal/CO
Allan Richards, ODH
Bill MacDowell, U.S. EPA, Region 5
Mr. Edward Rybka, City of Cleveland