



## REGIONAL AIR POLLUTION CONTROL AGENCY

Serving Clark, Darke, Greene, Miami, Montgomery & Preble Counties

117 South Main Street, Dayton, Ohio 45422-1280

937-225-4435 — Fax: 937-225-3486

[www.rapca.org](http://www.rapca.org)

February 26, 2008

### CERTIFIED MAIL

Mr. Dan Yarmon  
Rocky Mountain Catastrophe Environmental Services/  
Belfor Environmental Services  
4690 Joliet Street  
Denver, CO 80239

**Re: Asbestos abatement activities at the Kettering Tower building located at 40 N. Main Street, Dayton, Ohio.**

### NOTICE OF VIOLATION

Dear Mr. Yarmon:

You are hereby notified that the Regional Air Pollution Control Agency (RAPCA) finds Rocky Mountain Catastrophe Environmental Services/Belfor Environmental Services, (RMCat/Belfor), and ATC Associates, Inc. (ATC) to be in violation of federal, state, and local asbestos regulations as they relate to asbestos emission control procedures during asbestos removal operations at the above-referenced facility. A similar notice is being sent to ATC.

On November 7, 2006, RAPCA received a notification from RMCat/Belfor for the abatement of 34,000 square feet of regulated asbestos-containing material (ACM), in the form of fireproofing, from the Kettering Tower building located at 40 N. Main Street, Dayton, Ohio. The asbestos removal work was scheduled to take place on the 22<sup>nd</sup>, 23<sup>rd</sup>, and 24<sup>th</sup> floors from November 7, 2006 through January 1, 2007. A subsequent revision extended the completion date to January 31, 2007. Kettering Tower Partnership, LLC., building owner, hired ATC to provide oversight and perform final visual and air clearance of this asbestos abatement project.

On December 4, 2006, a RAPCA representative performed an inspection at the above-mentioned site in response to a complaint received by the agency. Active asbestos abatement activities were taking place on the 24<sup>th</sup> floor at the time of the RAPCA inspection. Asbestos containing spray-applied fireproofing was being removed, by hand scraping, off of ceiling decking and beams within a negative pressure containment. During this inspection, the RAPCA representative observed inadequately wet ACM fireproofing being removed and dry, friable, damaged suspect ACM fireproofing on the floor, inside waste bags, and on top of equipment inside of the containment in various locations on the 24<sup>th</sup> floor. During the December 4, 2006 inspection the RAPCA

representative observed the following:

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one worker actively scraping inadequately wet ACM fireproofing off of ceiling decking and witnessed visible emissions; office area with open waste bags piled inside room with dry ACM fireproofing strewn across bags; poly walls within office spaces where ACM removal was actively taking place without evidence of water usage (i.e. no water droplets seen or felt on walls), no puddling of water on floors and little to no discoloration of ACM fireproofing debris within some offices and hallways; only one airless sprayer operating while approximately five workers actively scraping ACM fireproofing in various office areas. At the opposite end of 24<sup>th</sup> floor where night shift removed ACM fireproofing the RAPCA representative observed dry friable ACM fireproofing debris on floor and on top of walls with no visible evidence of water usage. Photographs and a sample was collected.

The RAPCA representative immediately reviewed the areas of concern to the RMCat/Belfor site supervisor and requested RMCat/Belfor to cease active ACM removal and to adequately wet and properly package all disturbed ACM. RAPCA also requested RMCat/Belfor not to resume removal work until matter was discussed with ATC and RMCat/Belfor workers and properly addressed to alleviate potential future exposure. RMCat/Belfor and ATC agreed to the RAPCA requests.

The December 4, 2006 RAPCA inspection was conducted for the purpose of determining compliance with the corresponding Montgomery County Hazardous Air Pollution Control Regulation 150 (MCHAPCR 150), the Ohio Administrative Code (OAC) Asbestos Emission Control Standards and Procedures specified in Chapter 3745-20, and the National Emission Standards for Hazardous Air Pollutants (NESHAP) specified in 40 CFR Part 61, Subpart M.

The conditions found during the December 4, 2006 RAPCA inspection constitute corresponding violations of MCHAPCR 153.07 (D), OAC rules 3745-20-04 (A)(3), (A)(6)(a), and 40 CFR Section 61.145 (c)(3),(6)(i) pertaining to proper emission control.

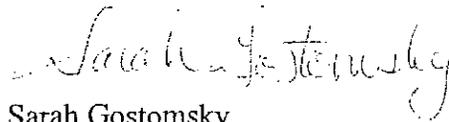
Specifically, to maintain compliance with local, state and federal asbestos regulations, all RACM must be adequately wetted with a wetting agent during the removal activities. For materials that do not absorb water readily, adequately wetting consist of coating the surfaces of the materials with water or a wetting agent prior, during, and, in most cases, after removal activities in order to prevent asbestos emissions. Whenever such materials are broken during the removal process, the exposed, dry surfaces must be wetted immediately to reduce emissions. After removal, adequately wetted asbestos-containing waste materials must be sealed in a leak-tight container or wrapping and appropriately labeled as specified by the Occupational Safety Health Administration regulations. Prompt collection and bagging of the ACM should prevent the ACM from drying out.

These violations can be resolved through the signing of the Administrative Findings and Orders (Orders) which include a civil monetary penalty. Draft Orders are included with this Notice of Violation. Please respond in writing within ten (10) days of receipt of the document if you wish to pursue a local settlement. Violations of this nature may carry substantial civil penalties at the state and/or federal level, however, RAPCA has the authority to exhibit latitude in a mutually agreeable resolution if this matter can be settled at the local level. If this matter cannot be resolved locally, RAPCA will have to refer this issue to the Ohio EPA and/or the U.S. EPA for resolution at the state or federal level.

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If you have any questions or comments, or wish to discuss this matter further, please feel free to contact me or Mr. Andrew Roth at (937) 225-4435.

Sincerely,



Sarah Gostomsky  
Asbestos Coordinator  
Monitoring & Analysis Unit

cc: Tom Kalman, Central District OEPA  
John Hoyer, Kettering Towers Partnership, LLC

/tlm

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