



## REGIONAL AIR POLLUTION CONTROL AGENCY

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

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

September 20, 2011

### CERTIFIED MAIL

Mr. Tim Meixner

Montessori Center of South Dayton

2900 Acosta Street

Kettering, Ohio 45420

**Re: Asbestos abatement activities at the Montessori Center of South Dayton school building located at 2900 Acosta Street, Kettering, Ohio**

### NOTICE OF VIOLATION

Dear Mr. Meixner:

You are hereby notified that the Regional Air Pollution Control Agency (RAPCA) finds the Montessori Center of South Dayton (MCS D) to be in violation of federal, state, and local asbestos regulations as they relate to proper survey, notification, emission controls, and waste handling of asbestos at the above-referenced site.

On July 22, 2011, a RAPCA representative inspected the MCS D school building located at 2900 Acosta Street, Kettering, Ohio. The inspection was performed in response to a complaint referral RAPCA received from Ohio Department of Health. The complaint alleged asbestos was removed by the owners of MCS D without proper emission controls. The RAPCA representative observed suspect asbestos-containing materials (ACM), in the form of floor tiles, had been removed from: classrooms 159-160, 161-162, kitchen, and dish wash/service/storage rooms (kitchen adjacent rooms). The RAPCA representative observed the following: Room 159-160: a wall had been removed that formerly divided the room into two rooms, a large amount of dust across floors and along exterior wall with push broom, and air circulating between this room and adjacent room 161-162; Room 161-162: a wall had been removed that formerly divided the room into two rooms, all the floor tiles removed with a few edge pieces at doorways; Kitchen and kitchen adjacent rooms: the majority of floor tiles were removed, the floor tiles remaining were dry and had been chipped/pulverized during removal, area was open to gym/multi-purpose room with air-handling unit running; Outside dumpster: floor tile debris was observed in and around the dumpster located on the outside of the school building. It is RAPCA's understanding that no prior asbestos survey was performed and the owners of MCS D removed the floor tiles as part of renovation activities without proper training or emission controls in-place. No notification was submitted to RAPCA prior to the renovation activities.

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As a result of the July 22, 2011 inspection, RAPCA requested the following to MCSD: immediately close and seal off rooms where floor tiles have been disturbed and restrict access, turn off any air handling units shared between rooms where floor tiles have been removed and occupied areas, have a consultant perform bulk asbestos sampling and air monitoring to identify the extent of contamination due to the loss of integrity of the floor tile and the proximity of the contaminated rooms to occupied areas of the building, have a licensed asbestos abatement contractor clean contaminated areas as well as the outside dumpster and surrounding area, and to cease all renovation activities that may damage building materials until a thorough asbestos survey has been performed.

On July 27, 2011, MCSD contacted RAPCA regarding improper waste disposal. MCSD stated contact was made to Waste Management (WM) requesting no dumpster service, however, WM emptied the contaminated dumpster and disposed of it earlier that day. RAPCA contacted WM who stated they were not told about the contamination issue but was asked to skip service that week due to an event at the school which the truck operator was not aware of. WM stated that the contamination issue was never identified to them and that the dumpster was not locked up to prohibit removal. WM addressed the asbestos waste disposal per their contingency plan.

On August 10, 2011, RAPCA performed a follow-up inspection at the MCSD school building. MCSD informed RAPCA that Zeigler Environmental Services (Zeigler) was hired to clean and remove remaining floor tiles in the kitchen and kitchen adjacent rooms only and that air monitoring was performed in the kitchen and Room 161-162 only. Rooms 159-160 and 161-162 and the gym/multi-purpose room which were identified as being contaminated during the July 22, 2011 RAPCA inspection were not decontaminated. No air monitoring was performed to identify the extent of contamination throughout the school. No notification for the clean-up activities were submitted to RAPCA. No project design was prepared to address the contamination or clean-up measures.

As a result of the August 10, 2011 inspection, RAPCA requested the following of MCSD: the gym/multi-purpose room and other adjacent rooms to the kitchen be decontaminated via HEPA vacuum/wet-wipe by a licensed asbestos abatement contractor with prior notification submitted to RAPCA. In addition, RAPCA recommended final air-clearance ran per AHERA requirements, aggressive air monitoring performed in Rooms 159-160/161-162, and air monitoring of remainder of school building to identify extent of contamination.

On August 12, 2011, RAPCA was contacted by Helix Environmental, Inc. (Helix) regarding air sampling performed on August 11, 2011. Helix is a consultant hired by MCSD to perform air sampling within the school. Helix stated they performed aggressive air sampling throughout the school and were awaiting the results. It is RAPCA's understanding that no decontamination of the gym/multi-purpose room and other adjacent rooms to the kitchen was performed as requested by RAPCA during the August 10, 2011 inspection. Helix stated the gym/multi-purpose room areas were opened to the rest of the school and that fans and leaf-blowers were used to mix up

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the air throughout the building to perform aggressive air sampling. No additional cleaning took place.

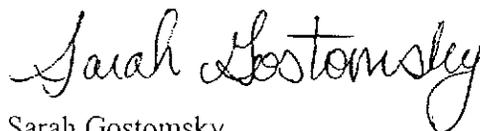
The July 22, 2011 RAPCA inspection was conducted for the purpose of determining compliance with the corresponding Montgomery County Hazardous Air Pollution Control Regulation 150 (MCHAPCR 150), the Ohio Administrative Code (OAC) Asbestos Emission Control Standards and Procedures specified in Chapter 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 July 22, 2011 RAPCA inspection constitute corresponding violations of MCHAPCR 153.06 (A), (C), OAC rules 3745-20-02 (A), 3745-20-03 (A), and 40 CFR Section 61.145(a), and (b) pertaining to proper asbestos survey and notification procedures. In essence, a thorough inspection must be performed and a notification must be completed and submitted to RAPCA or to the Ohio EPA jurisdictional office at least ten (10) working days prior to the actual demolition and/or renovation operation. The conditions found also constitutes violations of MCHAPCR 153.07 (A), OAC rules 3745-20-04 (A)(1), (A)(6), (B), (C), and 40 CFR Section 61.145(c)(1), (6) and (8) pertaining to proper asbestos emission controls and MCHAPCR 153.11 (A), OAC rules 3745-20-05 (A), (B)(1), (C), (D), (E), (G), and 40 CFR Section 61.150 (a), (b), (c), and (d) pertaining to proper asbestos waste disposal.

These violations can be resolved through the signing of the Administrative Findings and Orders (Orders) which include a civil monetary penalty. Draft Orders will be issued after receipt of this Notice of Violation. Please respond in writing within ten (10) days of receipt of the Orders 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.

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

Sincerely,



Sarah Gostomsky  
Asbestos Coordinator  
Monitoring & Analysis Unit

cc: John Paul, Administrator, RAPCA  
Mark Case, Director, Div. of Env. Health, PHDMC  
Tom Kalman, Central District OEPA  
Julie Morris, U.S. EPA Region V  
Phil King, U.S. EPA Region

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 Mr. Tim Meixner  
 Montessori Center of South Dayton  
 2900 Acosta Street  
 Kettering, OH 45420

PS Form 3800, August 2003

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Mr. Tim Meixner  
 Montessori Center of South Dayton  
 2900 Acosta Street  
 Kettering, OH 45420

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