



**Environmental  
Protection Agency**

John E. Kasich, Governor

Mary Taylor, Lt. Governor

Scott J. Gehring, Director

May 18, 2012

RE: **NOTICE OF VIOLATION**  
DEMOLITION AT 15479 STATE ROUTE 170  
CALCUTTA, OHIO

**CERTIFIED MAIL**

Mr. Wendell Bussard  
49322 Calcutta Smithferry Road  
East Liverpool, OH 43920

Dear Mr. Bussard:

On February 22, 2012, the Ohio EPA, Northeast District Office (NEDO), Division of Air Pollution Control (DAPC), received a call regarding demolition activities that had taken place at 15479 State Route 170 in Calcutta, Ohio. The caller stated that the building was a former commercial structure that was most recently used as a sandwich shop. On February 23, 2012, I investigated the demolition and observed that the structure at this location had been demolished and the demolition debris had been removed from the property. At the time of the investigation, I spoke to Mr. Jason Cunningham and Mr. Stan Cunningham of Stan Cunningham Excavating. Mr. Cunningham stated that Stan Cunningham Excavating was contracted by you to demolish this structure and that the demolition occurred on February 22, 2012.

The demolition of the structure conducted at 15479 State Route 170 in Calcutta, Ohio, was subject to compliance with the Clean Air Act and regulations promulgated thereunder, 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) Rule 3745-20, "Ohio Asbestos Emission Control Rules." Pursuant to 40 CFR 61.04(b)(KK), the authority to implement and enforce the NESHAP has been delegated to the State of Ohio, Division of Air Pollution Control. Parallel enforcement authority is retained by the administrator of the United States Environmental Protection Agency (U.S. EPA) for any violations for which Ohio is unable to initiate a required enforcement action.

The asbestos standard applies to, among other things, a demolition operation. Pursuant to 40 CFR 61.145 (a), all facilities must be inspected for the presence of asbestos prior to commencement of a demolition. 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(s) 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 would apply if **no** friable asbestos materials were found, or if the accumulative or total amount of friable asbestos materials in the structure were found to be less than 260 linear feet on pipes and/or less than 160 square feet on any other component.

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Similarly, in accordance with Ohio Administrative Code (OAC) 3745-20-02, "Standard for Demolition and Renovation, Facility Inspection, and Determination of Applicability", all facilities must be thoroughly inspected for the presence of asbestos prior to commencement of a demolition. Requirements of OAC Rule 3745-20-03, "Standard for Notification," OAC Rule 3745-20-04, "Demolition and Renovation Procedures for Asbestos Emission Control," and OAC 3745-20-05, "Standard for Asbestos Waste Handling", apply if the **combined** amount of friable asbestos containing material going to be disturbed exceeds 160 square feet on facility components, or 260 linear feet on pipes. OAC Rule 3745-20-03, "Standard for Notification", would apply if **no** friable asbestos materials were found, or if the accumulative or total amount of friable asbestos materials in the structure were found to be less than 260 linear feet on pipes and/or less than 160 square feet on any other component.

Finally, pursuant to 40CFR 61.141 and OAC Rule 3745-20-01(B)(38), "owner or operator" means any person who owns, leases, operates, controls or supervises a facility or demolition or renovation operation.

As of the present date, this office has not received the required "Ohio EPA Notification of Demolition and Renovation" form, nor did we receive any asbestos survey conducted in the structure(s) referenced above prior to the demolition.

Due to the above facts and in accordance with the above stated delegation of authority, you are hereby notified that the demolition of the structure conducted at 15479 State Route 170 in Calcutta, Ohio, 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 operation also constituted a violation of OAC 3745-20-02(A), "Standard for Demolition and Renovation, Facility Inspection, and Determination of Applicability," and OAC 3745-20-03, "Standard for Notification Prior to Demolition or Renovation," in the "Ohio Asbestos Emission Control Rules."

Within fourteen (14) days after receipt of this letter, you are requested to submit the following information:

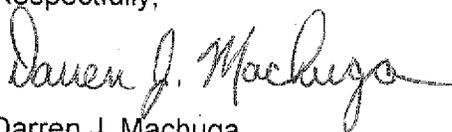
- The name, address, phone number and contact person of all contractors involved in the demolition project.
- The name, address, phone number and contact person of all contractors involved in identifying suspect ACM at the site. Include any certification information as required from the Ohio Department of Health asbestos certification program.
- The name, address, phone number and contact person of all contractors involved in the disposal of waste from the demolition site.
- The location of the site where the waste from the demolition was disposed, including a copy of any manifests or receipts.
- A completed "Ohio EPA Notification of Demolition and Renovation" form for demolition located at 15479 State Route 170, Calcutta, Ohio.
- Copies of any asbestos survey reports that may have been conducted inside the structure prior to demolition.

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Note that the acceptance by the Ohio EPA of any requested information does not constitute a waiver of the Ohio EPA's authority to seek civil penalties as provided in Section 3704.06 of the Ohio Revised Code for any past or future violations of applicable requirements. The decision to pursue or decline to pursue such penalties in this matter will be made by the Ohio EPA at a later date.

Your cooperation in this matter will be appreciated. Clarification, explanation or evidence pertaining to this violation should be brought to our immediate attention. If you have any questions regarding this letter, please contact me at (330) 963-1287 or Bob Princic at (330) 963-1230.

Respectfully,



Darren J. Machuga  
District Representative  
Division of Air Pollution Control

DJM:bo

pc: Ed Fasko, NEDO, DAPC  
Bob Princic, NEDO, DAPC  
Tom Buchan, CO, DAPC  
Tom Kalman, CO, DAPC  
Bill MacDowell, U.S. EPA, Region V