Ohio | Environmental Protection Agency

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

CERTIFIED MAIL # 91 7108 2133 3932 1838 2949

July 25, 2012

Mr. Richard Kenny
President
AHC Environmental Services, Inc.
1251 S. Front Street
Columbus, OH 43216

Re: Notice of Violation - Failure to conduct a proper asbestos survey and abatement of homes to be used for fire training

Dear Mr. Kenny:

On July 16, 2012 the Ohio Environmental Protection Agency, Central District Office (CDO) received notification of planned fire training activities to occur at 1803 and 1763 State Route 257 in Delaware Ohio. These homes were inspected by Ohio EPA's Central District Office (CDO).

During an inspection of the home located at 1763 State Route 257, the inspector discovered suspect flooring (Attachment A) not included in the asbestos survey performed by AHC Environmental Services Incorporated (AHC). The CDO inspector obtained a sample and sent it to a testing laboratory to determine if the flooring material contained asbestos. Laboratory testing confirmed the presence of asbestos above regulatory thresholds.

Later that day, the inspector inspected another home at 8738 Fontanelle road. The Scioto Township Fire Department intends to use it for fire training in the near future. Training is occurring in the house prior to burning it. The home had previously been abated by AHC. The inspector noted residual floor mastic in the front porch and adjoining closets (Attachment B). This mastic had been identified as asbestos containing material (AHC Sample 167-02A and/or 167-03A) and AHC had removed most of the mastic from the aforementioned areas.

Because AHC is listed as having performed the asbestos survey and AHC performed asbestos abatement activities to facilitate the demolition of the buildings, AHC is considered an operator under Ohio Administrative Code rule (OAC) 3745-20-01(B)(39)(a). As an operator, AHC is required to comply with asbestos rules and regulations, including, but not limited to OAC rule 3745-20-02 through OAC rule 3745-20-05.

1. **Finding**

   CDO received demolition notifications for the homes on State Route 257 stating that they were to be used for fire training. These notifications indicated that AHC had performed the survey for these homes. Later inspections performed by CDO found

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asbestos materials in one of the homes that had not been indicated on the asbestos survey. Please note that OAC rule 3745-20-02(A) requires each regulated structure to be demolished be thoroughly inspected for the presence of asbestos.

"Notwithstanding any other exclusion of this rule, and to determine which requirements of this rule and of rules 3745-20-03 and 3745-20-04 of the Administrative Code apply, each owner or operator of any demolition or renovation operation shall have the affected facility or part of the facility where a demolition or renovation operation will occur thoroughly inspected by a certified asbestos hazard evaluation specialist, in accordance with paragraph (C) of rule 3701-34-02 of the Administrative Code prior to the commencement of the demolition or renovation for the presence of asbestos, including category I and category II nonfriable asbestos-containing material."

Violation

Failing to perform a thorough survey is considered a violation of OAC rule 3745-20-02(A). Violation of OAC rule 3745-20-02(A) is also considered a violation of Ohio Revised Code (ORC) 3704.05(G) which states:

"No person shall violate any order, rule, or determination of the director issued, adopted, or made under this chapter."

2. **Finding**

AHC failed to remove asbestos containing flooring and mastic in houses (1763 State Route 257 and 8738 Fontanelle Road) to be used for fire training. OAC rule 3745-20-04 (A)(1) requires:

> *(A) Each owner or operator of a demolition or renovation operation to whom this rule applies shall comply with the following procedures:*
>
> *(1) Remove all regulated asbestos-containing material from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the materials or preclude access to the materials for subsequent removal….*

Please also note that OAC rule 3745-20-04(B)(E) requires that:

> *If a facility is demolished by intentional burning, or if demolition debris is to be burned, all regulated asbestos-containing material including category I and category II nonfriable asbestos-containing material must be removed in accordance with this chapter before burning.*

Violation

Failure to remove all RACM in buildings to be used for fire training is considered a violation of OAC rule 3745-20-04(A)(1). AHC's failure to remove RACM is considered a violation of OAC rule 3745-20-04 (B)(E). Violation of OAC rule 3745-20-04(A)(1) and 3745-20-04(B)(E) is also considered a violation of Ohio Revised Code (ORC) 3704.05(G).

Requested Action

CDO requests that in the future, AHC take steps to document and remove all asbestos containing materials in accordance with all applicable OAC rules prior to demolition or renovation. CDO also requests that AHC immediately enact asbestos survey procedures as detailed in AHC's January 24, 2012 commitment letter to CDO.

Please be aware that Ohio Environmental Protection Agency has the authority to seek civil penalties as provided in section 3704.06 of the ORC. Violation of Ohio's Asbestos Control Regulations may subject the building owner and removal, renovation, or demolition contractor to civil penalties of up to $25,000 dollars per day of violation. This letter or information submitted pursuant to this letter does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in the ORC. The decision on whether or not to seek such penalties will be made by Ohio Environmental Protection Agency at a later date.

If you have any questions regarding this matter, please contact Richard Fowler, of my staff at 614-995-0671.

Sincerely,

John McGreevy
Supervisor, Permits and Compliance
Division of Air Pollution Control
Central District Office

c: Adam Ward, Manager, DAPC/CDO
Kelly Toth, Supervisor, Permits and Compliance, DAPC/CDO
Josh Koch, Sanitarian Program Specialist, ODH/Asbestos Program
Mark Needham Asbestos Program Administrator, ODH/Asbestos Program
John Paulian, DAPC/CO
Tom Buchan, DAPC/CO
Richard Fowler, DAPC/CDO

JM/ct NOV Poor Surveys-4- 2012

Attachment A

Attachment B