



**Environmental  
Protection Agency**

John R. Kasich, Governor

Mike DeWine, Lt. Governor

Scott J. Smith, Director

October 10, 2012

RE: **NOTICE OF VIOLATION  
DEMOLITION OF  
4499 East 143 Street  
CLEVELAND, OHIO**

**CERTIFIED MAIL**

Mr. David Underwood  
XL Excavating Inc.  
12291 Eagle Nest  
North Royalton, OH 44102

Dear Mr. Underwood:

On August 24, 2012, the Ohio EPA Northeast District Office (NEDO), Division of Air Pollution Control (DAPC), received an asbestos demolition notification postmarked August 23, 2012. The notification indicated the abatement of 1 square feet of duct tape as regulated asbestos-containing material (RACM) and the removal of 1000 square feet of transite as nonfriable asbestos material. The date for asbestos removal listed on the notification was September 14 through 15, 2012. The date listed for demolition of the structure was September 17, 2010 through September 28, 2012. The demolition of this structure was part of the City of Cleveland urban demolition activity.

On September 4, 2012, NEDO received a revised notification changing the amount of transite material to be removed to 1300 square feet. No other changes were on the notification.

On September 13, 2012, a representative of A& D Contractors, the asbestos removal contractor indicated on the notification, notified NEDO that he went to 4499 East 143 Street to examine the structure prior to abatement. At that time, he found it to be already demolished. The A & D representative also indicated that his company had not performed abatement activity on the structure.

In view of the above facts, this demolition project conducted at 4499 East 143 Street, Cleveland, Ohio prior to September 13, 2012, 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."

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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 4499 East 143 Street , prior to September 13, 2012, by XL Excavating Inc, 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.

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 construction demolition and debris (CD&D) 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 construction demolition and debris (CD&D) 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.

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) 963-1241 or Bob Princic at (330) 963-1230.

Sincerely,



Richard Kolosionek  
District Representative  
Division of Air Pollution Control

RK:bo

pc: Tom Buchan, DAPC, CO  
Bob Princic, DAPC, NEDO  
Tim Fischer, DAPC, NEDO  
Bruce Weinberg, DAPC, CO  
Tom Kalman, DAPC, CO  
Bill MacDowell, U.S. EPA, Region 5  
Edward Rybka, City of Cleveland, Dept. of Housing  
Damian Borkowski, City of Cleveland  
Michael Wolf, A & D Contracting, Inc.