

MAHONING-TRUMBULL AIR POLLUTION CONTROL AGENCY

A Division of the Youngstown City Health District

/

July 21, 2008

OAKHILL RENAISSANCE PLACE

2nd Floor - Room 25

345 Oak Hill Avenue

Youngstown, Ohio 44502-1454

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Gene R. & Evelyn M. Koch
P.O. Box 196
Rogers, Ohio 44455

RE: Complaint # 08-053

Certified Mail: 7007 2560 0001 3200 4290

Dear Gene and Evelyn:

This letter concerns the demolition and subsequent burning of the facility located at 1627 North East River Road, Lake Milton, Ohio 44429 (Mahoning County) that took place on or about June 24, 2008. On July 3, 2008 the Milton Township Fire Department contacted our office in regards to the open burning of demolition debris and the demolition of multiple structures at the above location. On July 8, 2008 M-TAPCA confirmed the demolition operation and the open burning of waste materials being conducted at this facility.

The demolition of this facility was subject to the National Emission Standards for Hazardous Air Pollutants, 40 CFR, Part 61, subpart M, Asbestos and Ohio Administrative Code 3745-20, Asbestos Emission Control Rules (enclosed).

The Federal and State rules cited above regulate all facility demolitions and certain renovations. A facility is "any institutional, commercial, public, industrial or residential structure, installation, or building . . . excluding residential buildings having four or fewer dwelling units."

Briefly, the Federal Asbestos NESHAP requires that the affected facility or part of the facility where a demolition or renovation operation is to occur must be thoroughly inspected for asbestos. In Ohio, this inspection must be conducted by an individual certified as an Asbestos Hazard Evaluation Specialist. If the inspection reveals that there is more than 260 linear feet of regulated asbestos containing material (RACM) on pipes, 160 square feet of RACM on facility components, or 35 cubic feet of RACM off facility components, then all RACM must be removed from the facility by a licensed abatement contractor prior to demolition or before any activity occurs that would break up RACM or preclude access to it for subsequent removal. Specific work practice, waste handling and disposal provisions apply when removing RACM from a facility.

Prior written notification of the intention to demolish a facility is required whether or not there is any asbestos containing material in the facility. Prior written notification of the intention to renovate a facility is also required if more than the trigger levels of RACM will be disturbed in the course of a renovation.

EQUAL OPPORTUNITY EMPLOYER / EQUAL PROVIDER OF SERVICES

REPRESENTING THE OHIO ENVIRONMENTAL PROTECTION AGENCY IN MAHONING AND TRUMBULL COUNTIES

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These Federal and State notification requirements are not met when a local demolition or building permit is issued. Both the facility owner and the demolition contractor share the responsibility for complying with the applicable provisions of the NESHAP and OAC.

At this point, apparent violations committed in the demolition operation at 1627 North East River Road include:

- 1) Failure to conduct a thorough inspection as required by 40 CFR 61.145(a) and OAC 3745-20-02(A).
- 2) Failure to submit prior, written notification of the intention to demolish as required by 40 CFR 61.145 (b) (1) and OAC 3745-20-03 (A) (1) and postmark or deliver this notification at least 10 working days before demolition began pursuant to 40 CFR 61.145 (b) (3) (i) and OAC 3745-20-03 (A) (3) (a).

A first time violation of the notification requirement can result in a fine of \$10,000. For substantive violations, depending on the amount of asbestos containing material involved, first time work practice violations can result in fines of \$5,000 to \$15,000 per day.

Please provide the information requested below within five (5) working days after receiving this letter:

- 1) The dates when demolition began and ended for the facility.
- 2) Any documents identifying the demolition contractor. These documents may include, but are not limited to, contracts, agreements, purchase orders, letters to proceed, work orders, invoices and permits.
- 3) Any documentation in your possession that indicates the facility had been inspected for asbestos containing materials prior to demolition.

Also, the disposal of the demolition debris that was generated from this operation by open burning violated Ohio Administrative Code 3745-19-04 open burning in unrestricted areas and Ohio Revised Code 3704.05 (G).

In a unrestricted area, open burning of waste materials is not permitted under any circumstances. Additionally, burning of materials that contain grease or liquid petroleum products is prohibited at all times in Ohio.

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Violations of the NESHAP and OAC can result in maximum penalties of up to \$25,000 per day and imprisonment for one year, or both. The US EPA Asbestos Demolition and Renovation Civil Penalty Policy is used to calculate monetary penalties for violations of these rules.

Violators of the Ohio Revised Code section cited above can be fined not more than \$25,000 or imprisoned not more than one year, or both, for each violation as set forth in ORC 3704.99 (A). You are advised to cease all open burning at this site immediately and ensure that no additional open burning occurs.

Be advised that this Warning Letter does not constitute a waiver of MTAPCA's ability to pursue further enforcement action through Ohio EPA concerning this or other violations or to seek civil penalties as provided in Revised Code Chapter 3704.

If you have any questions please feel free to contact me at (330) 743-3333 extension 284.

Yours truly,



William Slanina
Inspector

cc: Lisa Holscher, USEPA
Tom Kalman, OEPA

copy by regular mail

enclosures