

**MAHONING-TRUMBULL AIR POLLUTION CONTROL AGENCY**

*A Division of the Youngstown City Health District*

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**OAKHILL RENAISSANCE PLACE**

2nd Floor - Room 25

345 Oak Hill Avenue

Youngstown, Ohio 44502-1454

Phone (330) 743-3333 ext 282

Fax (330) 744-1928

March 13, 2009

Mr. Michael A. Kernan  
1273 Red Tail Hawk  
Youngstown, Ohio 44512

**Certified Mail: 7007 2560 0001 3200 4399**

Dear Mr. Kernan:

On February 18, 2009 an inspector from the Mahoning- Trumbull Air Pollution Control Agency (M-TAPCA) observed the demolition of a commercial building located at 1001 Bears Den Road, Youngstown, Ohio 44511 (Mahoning County).

When I spoke with the contractor on February 5, 2009 he stated that the roof and exterior siding on the structure were to be removed but no demolition of any load supporting walls was to be done. At that time I informed him that if his plans change and he intends to remove any load supporting walls, he would need to have an asbestos survey conducted and submit an Ohio EPA Notification of Demolition and Renovation. However, on February 18, 2009 I observed that demolition had occurred. This demolition operation was subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR, Part 61, subpart M, Asbestos and Ohio Administrative Code (OAC) 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." Multiple residential buildings at a single site that are under the control of the same owner or operator constitute an installation and are subject to these rules.

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.

*EQUAL OPPORTUNITY EMPLOYER / EQUAL PROVIDER OF SERVICES*

REPRESENTING THE OHIO ENVIRONMENTAL PROTECTION AGENCY IN MAHONING AND TRUMBULL COUNTIES

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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.

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 1001 Bears Den 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.
- 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 residential buildings had been inspected for asbestos prior to demolition.

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.

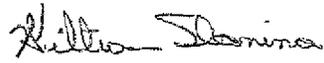
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Be advised that this Warning Letter does not constitute a waiver of M-TAPCA's ability to pursue further enforcement action through Ohio EPA concerning this or other violations or to seek civil penalties as provided in Revised Code Chapter 3704.

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

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.

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 22 Boardman-Canfield Rd. Boardman, Ohio 45412. (Mahoning County) include:

- 1) Failure to submit prior, written notification of the intention to demolish as required by 40 CFR 61.145 (b) (1), OAC 3745-20-02 (B) , 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).

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.

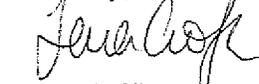
Violations of the NESHAP and OAC can result in maximum penalties of up to \$25,000 per day and imprisonment for one year, or both. The US EPA Asbestos Demolition and Renovation Civil Penalty Policy is used to calculate monetary penalties for violations of these rules.

Be advised that this Notice of Violation does not constitute a waiver of M-TAPCA'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.

It is the recommendation of this agency that the enclosed notice for demolition, any asbestos surveys that may have been done prior to demolition, and any additional information regarding the above referenced violations be submitted to this office for further review.

If you have any questions please feel free to contact me at (330) 743-3333 extension 283.

Sincerely,



Tara Cioffi, RS  
Administrator

cc: Tom Kalman, OEPA  
Maverick Contracting, 22 Boardman-Canfield Rd. Boardman, Ohio 45412