

226110

RECEIVED



FILE COPY

State of Ohio Environmental Protection Agency

STREET ADDRESS:

Central District Office

MAILING ADDRESS:

Lazarus Government Center  
50 W. Town St., Suite 700  
Columbus, Ohio 43215

TELE: (614) 728-3778 FAX: (614) 728-3898  
www.epa.state.oh.us

P.O. Box 1049  
Columbus, OH 43216-1049

CERTIFIED MAIL # 91 7108 2133 3932 4449 5682

February 19, 2010

Mr. Michael L. Tatman  
President  
Industrial Insulation Specialists  
4703 State Route 361  
Circleville, OH 43113

Re: **Asbestos conversation on January 11, 2010**

Dear Mr. Tatman:

This letter serves as a follow-up to our telephone conversation on January 11, 2010. During this call we discussed issues relating to Ohio's asbestos regulations found in Ohio Administrative Code (OAC) 3745-20, appropriate completion of the Asbestos Demolition/Renovation Notification form, specific violations cited in a December 23, 2009 Ohio EPA letter sent to Industrial Insulation Specialists (IIS), and IIS's January 2, 2009 response.

During this call you requested a follow-up letter to document our conversation and clarify a number of issues.

**1. Owner or Operator**

The December 23, 2009 letter cited IIS for failing to conduct a thorough asbestos survey. After further internal evaluation, Ohio EPA has determined that the letter was mistakenly sent to IIS and instead should have been sent to the owner or operator.

The Ohio Administrative Code rule (OAC) 3745-20-01 defines "Owner or operator":

- (a) *As it applies to rules 3745-20-02 to 3745-20-05 of the Administrative Code, 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, or both; or*

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director



- (b) *As it applies to rules 3745-20-06 to 3745-20-07 of the Administrative Code, any person who owns, leases, operates, controls, or supervises an active or inactive asbestos waste disposal site or operation; or*
- (c) *As it applies to rules 3745-20-08 to 3745-20-15 of the Administrative Code, any person who owns, leases, operates, controls, or supervises the activities referenced in those rules.*

The Code of Federal Regulations Part 61, Subpart M subsection 61.141 defines Owner or Operator as:

*"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."*

Further, when an individual or company removes any asbestos containing material, signs Ohio EPA's notification form as the owner/operator, or any other reason specified above, then that individual or company becomes an "owner or operator" and associated state and federal asbestos regulations apply.

Since IIS's involvement with the building located at 27350 US Highway 23, South Circleville, was limited to conducting an asbestos survey, IIS is not an "owner or operator".

## **2. Notifications**

Proper completion of "Ohio EPA Notification of Demolition and Renovation" form by the owner/operator and following the associated instructions (attached and found at <http://www.epa.ohio.gov/dapc/files/files.aspx>) is imperative to assessing whether state and federal rules and regulations are being satisfied.

Section "VII. Approximate Amount of Asbestos Materials" of the notification form requests quantification of all asbestos materials, friability, and whether or not they will be removed. Please note that the notification instructions require the individual filling out the form to: "*Declare whether or not asbestos is present in any quantity*".

This section of the notification form is supported by OAC 3745-20-03(A)(4)(g) states:

*"(A) Each owner or operator to whom this rule applies shall: ...*

- (g) Estimate of the amount of regulated asbestos-containing material to be removed from the facility in terms of length of pipe in linear feet, surface area in square feet on other facility components, or volume in cubic feet where the length or area cannot be measured. Also, estimate the approximate amount of category I and category II nonfriable asbestos containing material in the affected part of the facility that will not be removed before demolition;"*

The NESHAP standard for demolition and renovation regulation § 61.145(b) further supports this by stating:

- "(b) Notification requirements. Each owner or operator of a demolition or renovation activity to which this section applies shall:...(4) Include the following in the notice:...(vi) Estimate of the approximate amount of RACM to be removed from the facility in terms of length of pipe in linear meters (linear feet), surface area in square meters (square feet) on other facility components, or volume in cubic meters (cubic feet) if off the facility components. Also, estimate the approximate amount of Category I and Category II nonfriable ACM in the affected part of the facility that will not be removed before demolition."*

### **3. Notification submission timing**

Ohio asbestos rules located in OAC 3745-20-02, Standards for demolition and renovation, facility inspection, and determination of applicability, require that *"...each owner or operator of any demolition or renovation operation shall have the affected facility or part of that facility where a demolition renovation operation will occur thoroughly inspected by a certified asbestos hazard evaluation specialist, ... prior to commencement of the demolition or renovation for the presence of ... asbestos containing material."*

OAC 3745-20-03, Standard for notification prior to demolition or renovation, states that each owner or operator subject to these rules shall submit a written notification to demolish or renovate to the Ohio EPA *"... at least ten working days before the beginning of any demolition operation, asbestos stripping or removal work, or any other activity including salvage activities and preparation that break up, dislodge or similarly disturb asbestos material ..."*.

Mr. Michael L. Tatman  
Industrial Insulation Specialists  
Page -4-

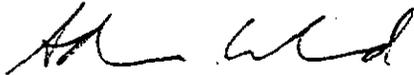
Further, revised notifications shall be submitted to the Ohio EPA when any of the following occur:

- "(1) When the amount of regulated asbestos containing material (RACM) affected by the demolition or renovation operations changes by at least twenty per cent;*
- (2) Any deviation in the demolition or renovation schedule or in the methods to be used for asbestos removal or disposal;*
- (3) Any change in the owner or operator; and*
- (4) Any change in the name and location of the selected waste disposal site."*

The owner or operator shall inform the Ohio EPA by telephone or facsimile concerning the changes to the notification. In addition, an amended written notification (including attached copies of the original notification and any revisions that may be applicable) shall be submitted as soon as possible but not later than one day following discovery of the change.

If you have any questions about Ohio EPA's asbestos program, the contents of this letter or any other issues, please feel free to contact Richard Fowler of my staff at (614) 995-0671, Tom Buchan of our Central Office at (614) 644-3607 or me.

Sincerely,



Adam Ward  
Air Unit Manager  
Division of Air Pollution Control  
Central District Office

Attachments: Asbestos Notification Form, Asbestos Notification Form Instructions

c: Kelly Toth, Supervisor, Permits and Compliance, DAPC/CDO  
John McGreevy, Supervisor, Permits and Compliance DAPC/CDO  
Richard Fowler, DAPC/CDO  
Steve Lowry, DAPC/SEDO  
Jeffery Gerdes, Sanitarian Program Specialist/ODH  
John Paulian, DAPC/CO  
Tom Buchan, DAPC/CO  
Steve Feldman, Legal  
DAPC/CDO File