



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Central District Office

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

CERTIFIED MAIL # 91 7108 2133 3932 4449 6832

October 21, 2009

Re: Letter to Central District Office
dated September 30, 2009

Mr. Dave Moore
Cox Paving, Inc.
11741 State Route 72
Leesburg, OH 45135

Dear Mr. Moore:

Thank you for your letter responding to the Central District Office's (CDO) Notice of Violation issued to Cox Paving Incorporated (Cox) on September 15, 2009, concerning demolition activities occurring at 18 West Coshocton Street in Johnstown, Ohio.

Please be advised that the demolition conducted at this site was subject to the National Emission Standard for Asbestos, codified in 40 CFR Part 61 Subpart M of the National Emission Standards for Hazardous Air Pollutants. This demolition is also subject to Ohio Administrative Code (OAC) chapter 3745-20, which is Ohio's asbestos emission control rule.

In your letter to CDO, you provide a number of clarifications concerning the demolition of the property in question. In response one you state:

A visual inspection of the structure at 18 West Coshocton Street in Johnstown was conducted prior to demolition as part of our companies operating policy in conjunction with guidelines of the Ohio EPA.

Please note all demolition activities are required to comply with 40 CFR Part 61.145(a), *Standard for demolition and renovation* as well as OAC rule 3745-20-02 *Standards for demolition and renovation, facility inspection, and determination of applicability*. The Ohio EPA guidelines CDO believes you are referring to are Ohio Administrative Code chapter 3745-20 which regulates the handling and disposal of asbestos wastes. Applicable to this demolition is OAC rule 3745-20-02(A) which states:

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

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Lee Fisher, Lieutenant Governor
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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.

Also applicable to this demolition is OAC rule 3745-20-03(A) which states in part:

Postmark or deliver the notice to Ohio EPA field office having jurisdiction in the county where the demolition or renovation is to occur as follows:

(a) 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 preparations that break up, dislodge or similarly disturb asbestos material if the operation is a demolition or renovation operation subject to this rule.

To CDO's knowledge, no survey by a Certified Asbestos Hazard Evaluation Specialist was performed prior to demolition and no notice was submitted as required by OAC rule 3745-20-03. In response number two you state:

Our operator was using standard demolition practices to get the construction debris material in manageable pieces to load in our dump truck to haul the debris off to a licensed landfill facility. The debris was hauled to Fallsburg Management LLC located at 7271 Fallsburg Road, Newark, Ohio 43055. Please note this structure had no asbestos containing materials.

At the demolition site, the inspector was told by Cox staff that the track hoe was being run back and forth over the debris pile so as to break up parts of the historic building to discourage souvenir hunters. CDO does not consider this action to be a standard demolition practice and un-necessarily subjects demolition debris to grinding, cutting, or abrading; this could lead to the release of asbestos fibers.

In response number two you state: *Please note this structure had no asbestos containing materials.* Please recognize that no inspection as required by OAC rule 3745-20-02(A) was performed; in addition sampling a debris pile after demolition has occurred is not considered an acceptable substitute for a thorough, proper evaluation. CDO requests that regulated structures be surveyed in compliance with OAC 3745-20-02 where applicable for all future demolitions.

In response number three you state: *"...We did however research the property and found this property is deeded a residential property..."*. CDO did a Google search of the street address, which yielded 2 different businesses with similar names located at 18 West Coshocton Street.

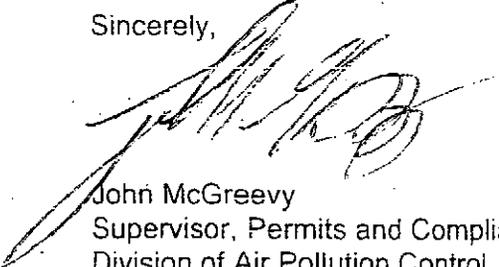
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One was a florist shop and the other was a restaurant. Because the building was used for commercial purposes, it is considered a "Facility" (OAC rule 3745-20-01(B)(28)), and thus subject to state and federal asbestos regulations. Because two buildings (18 and 46 West Coshocton Street) are under the control of the same owner or operator the site is considered an "Installation" (OAC rule 3745-20-01(B)(18)), and thus subject to state and federal asbestos regulations.

Please note that Ohio Environmental Protection Agency has the authority to seek civil penalties as provided in section 3704.06 of the Ohio Revised Code (ORC). Please be advised that violation of Ohio's Asbestos Control Regulations may subject both 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 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, Unit Manager, DAPC/CDO
Kelly Toth, Supervisor, Permits and Compliance DAPC/CDO
Steve Lowry, DAPC/SEDO
Jeffery Gerdes, Sanitarian Program Specialist/ODH
John Paulian, DAPC/CO
Tom Buchan, DAPC/CO
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