



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 233 3932 4449 7891**

July 30, 2009

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

**Re: NOTICE OF VIOLATION - Violations of NESHAP and Ohio Administrative Code rules pertaining to asbestos notification and survey at 301 South Court Street Circleville, Ohio**

Dear Mr. Tatman:

On June 2, 2009, Ohio EPA received and reviewed an OHIO ENVIRONMENTAL PROTECTION AGENCY NOTIFICATION OF DEMOLITION AND RENOVATION NOTICE (notification) for Circleville Oil, located at 301 North Court Street, Circleville, Ohio. It was determined that the notice lacked sufficient information to consider the notice complete. At that time, it was also noted that question IV "Is Asbestos Present" was marked "no".

On June 4, 2009, the business was inspected for the presence of asbestos by Ohio EPA. When asked, Circleville Oil representative Gary Scherer said that Industrial Insulation Specialists (IIS) had removed asbestos from the business. The Ohio EPA inspector collected samples of suspect materials, one of which later tested positive for the presence of asbestos. During the inspection, the inspector learned from Mr. Scherer that another building and canopy were to be demolished at the same time as the main building. Both these structures were not indicated on the original notification. At that time no suspect material was observed. The inspector called IIS representative Michael Tatman about the need for IIS to submit a revised notification.

On June 8, 2009, Ohio EPA received a revised notification. The revised notification addressed only the additional building and lacked sufficient information to standardized questions X (Description of planned Demolition or Renovation work to be performed and method(s) to be employed, including demolition or renovation techniques to be used and description of affected facility components) and XI (Description of work practices and engineering controls to be used to comply with the requirements, including asbestos removal and waste handling emission control procedures). During a subsequent conversation with the IIS representative it was learned that a third building was to be included in the demolition project.

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

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On June 9, 2009, the Ohio EPA inspector met with the IIS representative and Circleville Oil representatives Bob Gillum and Gary Scherer. The Ohio EPA inspector answered questions and provided guidance while an additional revised notification was filled out and submitted to the inspector. At IIS's insistence, a call was made to Mr. Thomas Buchan (Ohio EPA's Asbestos NESHAP Coordinator) concerning the need to have a NESHAP certified inspector present during the demolition to check for asbestos containing building materials that may not have been abated. Mr. Buchan concurred with the Ohio EPA inspector that a NESHAP certified inspector must be present during the demolition.

During the June 9 meeting and subsequent walk through, no suspect material was detected in the third building. The Ohio EPA inspector also received a waste receipt from the Pine Grove Landfill, from Mr. Tatman, indicating IIS had disposed of 3 cubic yards of friable asbestos containing material from Circleville Oil. The inspector and the IIS representative proceeded to the main building and the inspector indicated to the IIS representative where the positive sample of asbestos containing material was taken.

Afterward, the Ohio EPA inspector discussed the need to properly fill out the notification. The inspector offered to answer any questions the IIS representative had about filling out the notification.

The inspector asked the IIS representative why asbestos was present when the notice indicated no asbestos was present. The IIS representative told the inspector that it meant asbestos would not be present at the time of demolition. The inspector advised that this was an incorrect interpretation of applicable rules. Please note that the instructions for filling out line IV of the OHIO ENVIRONMENTAL PROTECTION AGENCY NOTIFICATION OF DEMOLITION AND RENOVATION FORM states: *Declare whether or not asbestos is present in any quantity.* During a previous unrelated inspection on May 27, 2009, Ohio EPA explained this same clarification to IIS representative, Michael Tatman. The inspector also noted question VII (Approximate Amount of Asbestos Materials) was marked "NA" [Not applicable].

The notification form requires the inspector to indicate the presence of, amounts of, and plans for abatement of (if necessary) asbestos prior to any abatement, demolition, or renovation activity. Information supplied on the form is required documentation of the condition and state of the site at the time of the inspection.

Documents acquired during pre-demolition inspections indicate that IIS removed 3 cubic yards of friable asbestos containing material from Circleville Oil and disposed of it on June 1, 2009. Ohio EPA is unable to locate a notice for this removal activity. Ohio EPA believes IIS failed to submit proper notification and observe the required waiting period before beginning the asbestos removal activity. Ohio EPA also notes that IIS failed to identify all buildings to be demolished in the initial demolition notice.

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In view of the above facts, Ohio EPA finds IIS in violation of 40 CFR 61.145(b) *Notification Requirements* and Ohio Administrative Code rule 3745-20-03 *Standard for notification prior to demolition or renovation*.

In addition, by marking "no" on question IV (*Is Asbestos Present?*) and marking "NA" [Not applicable] on question V (*Removal Contractor Name*) and "NA" on question IX (*Dates for Asbestos Removal*) Ohio EPA believes that IIS has violated OAC rule 3745-20-03 (E) which states: ... *The certification required in paragraph (A)(4)(p) of this rule shall acknowledge the existence of laws prohibiting the submission of false or misleading statements and shall certify that the facts contained in the notice are true, accurate and complete.*

Ohio EPA finds that IIS failed to detect asbestos containing materials on piping in the basement of the main Circleville Oil building. Ohio EPA finds that the pre-demolition inspection conducted at Circleville Oil under the operation, control, or supervision of IIS is in violation of 40 CFR 61.145(a), *Standard for demolition and renovation*. Also, please note that IIS is found to be in violation of OAC rule 3745-20-02 *Standards for demolition and renovation, facility inspection, and determination of applicability*. In accordance with 40 CFR 61.145 (a) and OAC 3745-20-02, all facilities must be thoroughly inspected for the presence of asbestos prior to commencement of demolition or renovation.

Additionally, pursuant to 40 CFR 61.145(a) and OAC rule 3745-20-02, these rules apply to both the owner and operator of a demolition or renovation project. Owner or operator means any person who owns, leases, operates, controls, or supervises a facility or demolition or renovation operation.

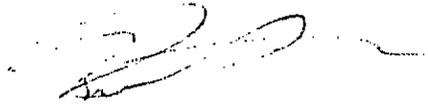
Within thirty (30) days after receipt of this notice, Ohio EPA requests that IIS submit the following information:

- A letter stating that IIS understands all applicable Federal and State regulations as well as a commitment to comply with the requirements of 40 CFR 61 and OAC rule 3745-20.
- Any clarifications, responses, explanations or evidence on IIS's behalf pertaining to the above-stated violations. Any additional information that IIS can supply regarding oversight of the project that may be useful in Ohio EPA's evaluation of the above noted violations.

Finally, be advised that this Notice of Violation in no way waives the right of Ohio EPA or United States Environmental Protection Agency to pursue additional enforcement action. Further communications may be directed to you regarding this violation or any additional violations that may be found. If you have any questions regarding this matter, please contact me at (614) 995-0671.

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Sincerely,



Richard Fowler  
Environmental Specialist  
Division of Air Pollution Control  
Central District Office

- c: Isaac A. Robinson, III, Chief, CDO
- Adam Ward, Unit Manager, DAPC/CDO
- Kelly Toth, Permits and Compliance Team Supervisor
- Steve Lowry, DAPC/SEDO
- Jeffery Gerdes, Sanitarian Program Specialist/ODH
- DAPC/CDO File
- John Paulian, DAPC/CO
- Tom Buchan, DAPC/CO