



State of Ohio Environmental Protection Agency

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March 5, 2009

Ms. Barbara Koelbl
Facilities Director
Columbus Public Schools Board of Education
1907 Leonard Avenue
Suite 150
Columbus, OH 43214

Re: NOTICE OF VIOLATION - Violation of NESHAP and Ohio Administrative Code rules pertaining to asbestos abatement and pre-demolition activities at Sharon, Scioto Trails, and East Linden schools

Dear Ms. Koelbl:

This letter serves as follow-up to Ohio Environmental Protection Agency's, Central District Office, Division of Air Pollution Control's (CDO) inspections of asbestos abatement and pre-demolition activities at Columbus Public School's (CPS) Sharon, Scioto Trails, and East Linden schools.

In accordance with 40 CFR 61.145 and OAC 3745-20-02, all facilities must be inspected for the presence of asbestos prior to commencement of demolition or renovation. Additional provisions of 40 CFR 61 and OAC rule 3745-20 referring to notification requirements and procedures for asbestos emission control and waste handling and emission control apply if asbestos materials are found and in amounts exceeding 160 square feet or 260 linear feet or 35 cubic feet.

Additionally, pursuant to 40 CFR 61.145 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.

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

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VIOLATIONS

Sharon Elementary School

On December 5, 2008, CDO received a *Notification of Demolition and Renovation* notice submitted by CPS's operator Gateway Environmental Services of Highland, Illinois. This notification was deficient in a number of areas.

- The person listed as the Ohio Asbestos Hazard Evaluation Specialist is not listed on the Ohio Department of Health's website as having a current license. The only license held by Mark Briguglio (license number AS24616) is that of an Asbestos Hazard Abatement Specialist;
- amounts and types of asbestos containing materials to be removed were incorrect;
- dates for asbestos removal were incorrect;
- Section XI, (Work Practices) was incomplete;
- the title of the individual signing sections XVII and XVIII of the form was omitted; and
- the operator began removal activities prior to the expiration of the 10 day waiting period.

40 CFR 61.145(b) and OAC rule 3745-20-03(A)(3) state that each owner or operator shall provide notification of demolition or renovation at least ten working days before the beginning of any demolition operation, asbestos stripping or removal work, or any other activities 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. The submittal of a deficient notification, and beginning abatement work prior to the end of the 10 day waiting period violates 40 CFR 61.145(b) and OAC rule 3745-20-03(A)(3).

CDO has received revised *Notification of Demolition and Renovation* forms which identify Rick Isaly (ES31005) as the Certified Asbestos Hazardous Evaluation Specialist. This name does not appear in the inspection reports (2001 and 2007 AHERA reports) requested by and provided to CDO. CDO is unaware of any pre-demolition asbestos inspections/surveys performed by this individual in relation to this facility. CDO considers the submittal of inaccurate *Notification of Demolition and Renovation* forms to be a continuing violation of OAC rule 3745-20-03(A).

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Additional asbestos containing materials, not identified in the original notification, have been discovered at Sharon School. It appears as if the pre-demolition survey was a compilation of the August 1, 2000 *AHERA 3-Year Re-inspection of Sharon Elementary School, 5400 Foster Avenue, Columbus, Ohio 43214* and the April 1, 2007, *AHERA 3-Year Reinspection of Sharon Elementary School, 5400 Foster Avenue, Columbus, Ohio 43214*. Please note that based on our observations and findings (additional asbestos in significant quantities has been discovered), it would appear that a thorough survey was not performed as required by OAC rule 3745-20-02(A). Please note that failure to perform a thorough inspection is a violation of OAC rule 3745-20-02(A).

On December 10, 2008, a CDO inspector found that the abatement contractor had been dumping/throwing asbestos containing floor tile, and associated removal wastes, out of a second floor window into an unlined open top dumpster. This method of handling caused the material to become friable. OAC rule 3745-20-04(A)(2)(b) and 40 CFR 61.145(c)(3)(B)(6)(ii) state that all Regulated Asbestos Containing Material (RACM) including material that has been removed or stripped; be carefully lowered to the ground and/or floor not dropping, throwing, sliding or otherwise damaging or disturbing the regulated asbestos-containing material. The asbestos-containing material was not being handled carefully. As such, a violation of OAC rule 3745-20-04(A)(2)(b) and 40 CFR 61.145(c)(3)(B)(6)(ii) has occurred.

The inspector noted that inside the school building, un-wetted Asbestos Containing Waste Material (ACWM) was being placed in unlined fiber drums. OAC rule 3745-20-05(C)(3) requires the use of: A combination of a 0.006 inch (six-mils) plastic bag and a leak-tight steel, plastic, or fiber drum, or reinforced disposal box, leak-tight polypropylene woven fabric bag, or similar suitable and durable container. Drums shall be fitted with a matching lid and lock-rims, and boxes shall be banded and sealed with reinforced tape or in accordance with manufacturer's recommendations. 40 CFR 61.145(c)(B)(4) states: after a facility component covered with, coated with, or containing RACM has been taken out of the facility as a unit or in sections pursuant to paragraph (c)(2) of this section, it shall be stripped or contained in leak-tight wrapping... OAC rule 3745-20-04(A)(6)(a) states: Adequately wet the materials and ensure that the materials remain adequately wet until collected and contained or treated in preparation for disposal in accordance with rule 3745-20-05 of the Administrative Code. 40 CFR 61.145(c)(3)(B)(6)(i) states: Adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal.

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The ACWM that was observed was not contained as required. As such, a violation of OAC rule 3745-20-05(C)(3) and 40 CFR 61.145(c)(B)(4) have occurred. The materials were not adequately wetted, therefore a violation of OAC rule 3745-20-04(A)(6)(a) and 40 CFR 61.145(c)(3)(B)(6)(i) has occurred.

OAC rule 3745-20-05(D) states: Each waste generator shall mark vehicles used to transport asbestos-containing waste material during the loading and unloading of waste so that the signs are visible. Display the following legend in the lower panel of a sign which conforms to the requirements for twenty inch by fourteen inch upright sign specified in 29 CFR 1910.145(d)(4): "DANGER ASBESTOS DUST HAZARD CANCER AND LUNG DISEASE HAZARD Authorized Personnel Only". 40 CFR 61.150(a)(5)(b)(3)(c) requires operators: Mark vehicles used to transport asbestos-containing waste material during the loading and unloading of waste so that the signs are visible. The markings must conform to the requirements of subsection 61.149(d)(1) (i), (ii), and (iii). At the time of the inspection, no signage was on the roll off box containing the floor tile, therefore a violation of OAC rule 3745-20-05(D) and 40 CFR 61.150(a)(5)(b)(3)(c) has occurred.

Scioto Trail Elementary School

On December 5, 2008, CDO received a *Notification of Demolition and Renovation notice* submitted by CPS's operator Gateway Environmental Services of Highland, Illinois. This notification was deficient in a number of areas.

- The person listed as the Ohio Asbestos Hazard Evaluation Specialist is not listed on the Ohio Department of Health's website as having a current license. The only license held by Mark Briguglio (license number AS24616) is that of a Asbestos Hazard Abatement Specialist;
- amounts and types of asbestos containing materials to be removed were incorrect;
- dates for asbestos removal were incorrect;
- Section XI, (Work Practices) was incomplete;
- the title of the individual signing sections XVII and XVIII of the form was omitted; and
- the operator began removal activities prior to the expiration of the 10 day waiting period.

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40 CFR 61.145(b) and OAC rule 3745-20-03(A)(3) state that each owner or operator shall provide notification of demolition or renovation at least ten working days before the beginning of any demolition operation, asbestos stripping or removal work, or any other activities 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. By submitting a deficient notification, and beginning work prior to the end of the 10 day waiting period, violations of 40 CFR 61.145(b) and OAC rule 3745-20-03(A)(3) have occurred.

CDO has received revised *Notification of Demolition and Renovation* forms which identify Rick Isaly (ES31005) as the Certified Asbestos Hazardous Evaluation Specialist. This name does not appear in the inspection reports (2000 and 2007 AHERA reports) requested by and provided to CDO. CDO is unaware of any pre-demolition asbestos inspections/surveys performed by this individual in relation to this facility. CDO considers the submittal of inaccurate *Notification of Demolition and Renovation* forms be a continuing violation of OAC rule 3745-20-02(A).

Additional asbestos containing materials, not identified in the original notification, have been discovered at Scioto Trail Elementary School. It appears as if the pre-demolition survey was a compilation of the July 27, 2000, *AHERA 3-Year Re-inspection of Scioto Trail Elementary School, 2951 South High Street, Columbus, Ohio 43215* and the April 1, 2007, *AHERA 3-Year Reinspection of Scioto Trail Elementary School, 2951 South High Street, Columbus, Ohio 43215*. Please note that based on our observations and findings (additional asbestos in significant quantities has been discovered) it would appear that a thorough survey was not performed as required by OAC rule 3745-20-02(A). Please note that failure to perform a thorough inspection is a violation of OAC rule 3745-20-02(A).

On December 15, 2008, a CDO inspector inspected Scioto Trails Elementary School at 2951 South High Street, and:

- The abatement contractor had begun work removing floor tile and was placing un-wetted tile in unlined fiber drums. In addition to being un-wetted, the asbestos containing floor tile was in some cases broken up into small pieces making the tile friable; and,
- the inspector observed several piles of non wetted friable ACWM located throughout the building.

OAC rule 3745-20-04(A)(6)(a) states: Adequately wet the materials and ensure that the materials remain adequately wet until collected and contained or treated in preparation for disposal in accordance with rule 3745-20-05 of the Administrative Code. 40 CFR

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61.145(c)(3)(B)(6)(i) states: Adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal. The materials were not adequately wetted, therefore a violation of OAC rule 3745-20-04(A)(6)(a) and 40 CFR 61.145(c)(3)(B)(6)(i) has occurred.

East Linden Elementary School

On December 16, 2008, a CDO inspector inspected East Linden Elementary School at 2500 Perdue Avenue. The inspector noted asbestos containing mastic (deposited by workers walking through liquid mastic and mastic remover) along with sawdust/wood shavings (clean up materials) outside at the entrance to the building.

OAC rule 3745-20-05(C)(2) states that asbestos containing waste materials shall be sealed in plastic bags having a thickness of at least 0.006 inch (six-mills). A second clean, leak tight plastic bag having a thickness of at least 0.006 inch (six-mills) shall fully contain the first bag. No efforts were being made to place the materials in durable leak tight containers or wrapping. 40 CFR 61.145(c)(B)(4) states: "After a facility component covered with, coated with, or containing RACM has been taken out of the facility as a unit or in sections pursuant to paragraph (c)(2) of this section, it shall be stripped or contained in leak-tight wrapping...". The inspector also inspected the onsite roll-off container box and found that a number of the bags inside were ripped and the ACWM inside did not appear to be adequately wet. ACWM was noted on the floor of the roll-off container box.

The ACWM that was observed was not contained as required. As such, a violation of OAC rule 3745-20-05(C)(2) and 40 CFR 61.145(c)(B)(4) have occurred. Also, because the materials were not adequately wetted, a violation of OAC rule 3745-20-04(A)(6)(a) has occurred. OAC rule 3745-20-04(A)(6)(a) states: "Adequately wet the materials and ensure that the materials remain adequately wet until collected and contained or treated in preparation for disposal in accordance with rule 3745-20-05 of the Administrative Code...". 40 CFR 61.145(c)(3)(B)(6)(i) states "Adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal...". The materials were not adequately wetted, therefore a violation of 40 CFR Part 61.145(c)(3)(B)(6)(i) has occurred.

OAC rule 3745-20-05(D) states "Each waste generator shall mark vehicles used to transport asbestos-containing waste material during the loading and unloading of waste so that the signs are visible. Display the following legend in the lower panel of a sign which conforms to the requirements for twenty inch by fourteen inch upright sign specified in 29 CFR 1910.145(d)(4): "DANGER ASBESTOS DUST HAZARD CANCER AND LUNG DISEASE HAZARD Authorized Personnel Only". 40 CFR 61.150(a)(5)(b)(3)(c) requires operators: Mark vehicles used to transport asbestos-containing waste material during the loading and

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unloading of waste so that the signs are visible. The markings must conform to the requirements of sub section 61.149(d)(1) (i), (ii), and (iii). At the time of the inspection, no signage was on the roll off box containing the bagged ACM, therefore a violation of OAC rule 3745-20-05(D) and 40 CFR 61.150(a)(5)(b)(3)(c) has occurred. CPS's operator, Environmental Restoration Group was advised of these findings.

On February 2, 2009, the inspector visited the facility after receiving notice that the operator would be off-site. At that time the inspector noted that the roll-off box still lacked the required signage and was unsecured. The inspector contacted Lawhon and Associates to report his findings. Again, at the time of the inspection, no signage was observed on the roll off box containing the ACM, therefore a violation of OAC rule 3745-20-05(D) and 40 CFR 61.150(a)(5)(b)(3)(c) has occurred.

SUMMARY

In view of the above facts, you are hereby notified that the pre-demolition activity conducted at the aforementioned schools under the operation, control, or supervision of Columbus Public Schools was/is in substantive violation of 40 CFR 61.145(a), *Standard for demolition and renovation* and OAC rules 3745-20-03(A), *Standard for notification prior to demolition or renovation*, and OAC rule 3745-20-02 *Standards for demolition and renovation, facility inspection, and determination of applicability*, and OAC rule 3745-20-04 *Demolition and renovation procedures for asbestos emission control*, and 40 CFR 61.145(c) *Procedures for asbestos emission control*, and OAC rule 3745-20-05 *Standard for asbestos waste handling*, and 40 CFR 61.150 *Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations*

Within thirty (30) days after receipt of this notice, CDO requests that you submit the following information:

- An update regarding Columbus Public School's plans to comply with the requirements of 40 CFR 61 and OAC rule 3745-20.
- A copy of Columbus Public School's plans to assure contractors comply with all applicable federal and state requirements relating to abatement and demolition and/or remodeling of schools or facilities owned and operated by Columbus Public Schools.
- Any clarifications, responses, explanations or evidence on your behalf pertaining to the above-stated violations. Any additional information that you can supply regarding oversight of the project that may be useful in Ohio EPA's evaluation of the above noted violations.

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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.

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
DAPC/CDO File