



State of Ohio Environmental Protection Agency

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Central District Office

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December 4, 2008

Mr. Randy Peters
Project Manager
Henning Construction Company
5800 Merle Hay Road
Suite 14
P.O. Box 394
Johnston, IA 50131

Re: NOTICE OF VIOLATION - Failure to survey and submit notification of demolition and properly handle and dispose of asbestos containing wastes

Dear Mr. Peters:

This letter shall serve as follow-up to Ohio Environmental Protection Agency (Ohio EPA), Central District Office, Division of Air Pollution Control's investigation of demolition of poultry barns at 27322 State Route 739 Raymond Ohio on June 12, 2008.

Our investigation found Regulated Asbestos-Containing Material (RACM), near a debris pile on the concrete pad at the western edge of the North poultry barn which was being demolished.

Be advised that 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 a demolition or renovation. Additional provisions of 40 CFR 61 and OAC rule 3745-20 referring to, "Notification Requirements", and, "Procedures for Asbestos Emission Control" apply if friable asbestos materials were found and in amounts exceeding 160 square feet, or 260 linear feet or 35 cubic feet. Additional sections of these rules apply to asbestos waste disposal and handling.

Additionally, pursuant to 40 CFR 61.145 and OAC rule 3745-20-02(A), 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

VIOLATIONS

1. 40 CFR 61.145(a) and OAC 3745-20-02(A) require that prior to the commencement of demolition or renovation of an affected facility, a thorough inspection for asbestos be conducted. In addition, OAC 3745-20-02(A) requires that the inspection be performed by a certified asbestos hazard evaluation specialist.

By not having had the above noted inspection conducted at the facility, a violation of 40 CFR 61.145(a) and OAC rule 3745-20-02(A) has occurred.

2. 40 CFR Part 61.145(b)(3) and OAC rule 3745-20-03(A) 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 not submitting the above noted notification, a violation of 40 CFR Part 61.145(b)(3) and OAC rule 3745-20-03(A) has occurred.

3. 40 CFR 61.145(c)(1) and OAC Rule 3745-20-04(A)(1) require that the owner or operator remove all RACM from a facility being demolished or renovated before any activity begins that would break up, dislodge or similarly disturb the materials or preclude access to the material for subsequent removal.

By not removing all RACM from a facility being demolished before activity begins that would break up, dislodge or similarly disturb the materials, violations of 40 CFR 61.145(c)(1) and OAC Rule 3745-20-04(A)(1) have occurred.

4. 40 CFR 64.145(c)(6)(i) and OAC Rule 3745-20-04(A)(6) require all RACM, including material that has been removed or stripped, must be adequately wet and must remain adequately wet until collected and contained or treated in preparation for disposal.

The RACM observed outside of and around the building was dry and not contained. In addition it was observed that the contractor was not using water to control dust from the mechanical demolition activities. The RACM was not maintained in an adequately wet condition, as such, violations of 40 CFR 64.145(c)(6)(i) and OAC Rule 3745-20-04(A)(6) have occurred.

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5. OAC rule 3745-20-05(B)(1) states that each owner or operator on any demolition or renovation operation to whom this rule applies, shall discharge no visible emissions to the outside air during the collection, processing, packaging, transporting, or deposition of any asbestos containing waste material (ACWM) by adequately wetting the asbestos containing waste material and then sealing the ACWM while wet in durable leak tight containers or wrapping that complies with paragraph (C) of this rule.

The contractor was observed demolishing the North Poultry Barn without using water spray to control visible emissions being created by the demolition activities. The contractor was not applying water to keep demolition materials that might contain ACWM in an adequately wet state. Also, it was observed that these demolition materials were being placed in an open and unlined roll-off box. By not wetting and containing the ACWM as required, a violation of OAC rule 3745-20-05(B)(1) has occurred.

6. 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 these materials in durable leak tight containers or wrapping.

The ACWM that was observed was not contained or sealed as required. As such, a violation of OAC rule 3745-20-05(C)(2) has occurred.

In view of the above facts, you are hereby notified that the demolition activity conducted at New Day Farms LLC at 27322 State Route 739 Raymond Ohio under the operation, control or supervision of Henning Construction Company was at sometime before or on June 12, 2008 in substantive violation of 40 CFR Part 61, Subpart M, Section 61.145(a), "Standard for Demolition and Renovation Applicability" and OAC rules 3745-20-02(A), "Standards for demolition and renovation, facility inspection, and determination of applicability". This demolition activity was also in substantive violation of 40 CFR Part 61, Subpart M, Section 61.145(b)(3) "Notification requirements" and OAC rules 3745-20-03(A)(a), "Standard for notification prior to demolition or renovation"; 40 CFR Part 61, Subpart M, Section 61.145(c)(1) Procedures for asbestos emission control and OAC rules 3745-20-04(A)(1), 3745-20-04(A)(6)(a), and 3745-20-04(B)(1) "Demolition and renovation procedures for asbestos emission control"; and OAC rules 3745-20-05(B)(1), and 3745-20-05(C)(2), "Standard for asbestos waste handling".

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Within fourteen (14) days after receipt of this notice, we are requesting that you submit to our office the following information:

- An update regarding your company's plans to comply with the requirements of 40 CFR Part 61 and OAC rule 3745-20.
- A summary of the demolition activities already completed (including any other poultry barns demolished in the past) including the type and quantity of material already removed from the building/site(s).
- Copies of all the completed waste shipment records for asbestos contaminated materials.
- The results of a complete asbestos survey of the buildings and/or jobsite.
- 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.

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: Adam Ward, Unit Manager, DAPC/CDO
Mike Riggelman, Permits and Compliance Team Supervisor, DAPC/CDO