



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Central District Office

MAILING ADDRESS:

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50 W. Town St. Suite 700  
Columbus, Ohio 43215

TELE: (614) 728-3778 FAX: (614) 728-3896  
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P.O. Box 1049  
Columbus, OH 43216-1049

**CERTIFIED MAIL # 91 7108 2133 3932 4450 1581**

November 21, 2008

**Re: NOTICE OF VIOLATION**

Mr. Dan Reichert  
Reichert Excavating Incorporated  
11418 State Route 274  
Lewistown, OH 43333

Dear Mr. Reichert:

You have been identified as the contractor involved in initial demolition of poultry barns at the New Day Farms LLC facility at 27322 State Route 739, Raymond, Ohio in Union County. Be advised that the demolition conducted at this site was subject to compliance with the Clean Air Act and regulations promulgated thereunder, setting forth a National Emission Standard for Asbestos (NESHAPS) codified in 40 CFR 61.140. These types of operations are also subject to Ohio Administrative Code (OAC) Chapter 3745-20, "Ohio Asbestos Emission Control Rules". Pursuant to Section 112 (KK) of the Clean Air Act, the authority to implement and enforce the NESHAP has been delegated to Ohio EPA, Division of Air Pollution Control. Parallel enforcement authority is retained by the administrator of the USEPA for any violations for which Ohio is unable to initiate a required enforcement action.

The purpose of this letter is to inform you of your responsibility to comply with OAC Chapter 3745-20 and 40 CFR Part 61, Subpart M.

In accordance with 40 CFR 61.145(a) and OAC Rule 3745-20-02(A), 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 Chapter 3745-20 referring to, "Notification Requirements" and, "Procedures for Asbestos Emission Control" apply if friable asbestos materials were found and stripped from facility components 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. Regulated Asbestos Containing Material (RACM) was found in the demolition debris and estimated to exceed the notification requirements.

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

## VIOLATIONS

1. 40 CFR 61.145 and OAC rule 3745-20-03 require that notification be submitted for any demolition activity, even if the building to be demolished contains no regulated asbestos containing materials and that the notification be postmarked or delivered to Ohio EPA at least ten working days before demolition can begin. The purpose of the notification is to give the USEPA and/or Ohio EPA an opportunity to inspect the project for compliance with these rules. No notification was received for the initial demolition activity (observed on June 12, 2008) at this facility. These regulations consider the "wrecking or taking out of any load - supporting structural member of a facility with any related handling operations or the intentional burning of any facility" as demolition activity. Because no notification was submitted in accordance with these rules this demolition was in violation of these rules.
2. In accordance with 40 CFR 61.145(a) and OAC 3745-20-02(A), all facilities must be inspected for the presence of asbestos prior to commencement of a demolition or renovation. No inspection was performed, therefore, this demolition was in violation of these rules.
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. No removal was performed, therefore this demolition was in violation of these rules.

Please respond within ten (10) days after receipt of this notice. The Central District Office, Division of Air Pollution Control requests that you submit to this office the following information:

- A summary of the demolition activities Reichert Excavating Incorporated performed at the New Day Farms LLC facility.
- All documentation associated with the demolition and including the type and quantity of material removed as well as copies of the final waste disposal records.
- A list of the names, addresses, contact information and role of all contractors involved in the demolition of these structures.
- Any clarifications, responses, explanations or evidence on your behalf pertaining to the above-stated violations.

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- Detailed plan that Reichert Excavating Incorporated will enact to prevent violation of the aforementioned rules as well as all other applicable rules that apply to all future demolitions and/or renovations that Reichert Excavating Incorporated performs in the future.

Be advised that all future projects that involve the demolition or renovation of a facility must comply with OAC Chapter 3745-20 and 40 CFR Part 61, Subpart M, and that all notifications are properly completed and submitted in a timely manner.

Finally, be advised that this Notice of Violation in no way waives the right of the Ohio EPA or USEPA 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, DAPC/CDO Unit Manager  
Kelly Toth, Permits and Compliance Team Supervisor  
DAPC/CDO File

RF/cl NOV to Reichert