

# Air Pollution Control Division

## Canton City Health Department

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APC Contractual Representative  
Serving All of Stark County

**Terri A. Dzienis**  
APCD Administrator

**James M. Adams, RS, MPH**  
Health Commissioner

January 7, 2013

### *VIA EMAIL*

Mr. Russell Stewart  
Chemstruction  
11746 Kile Road  
Chardon, Ohio 44024

**Re: NOTICE OF VIOLATION  
REPEAT ASBESTOS VIOLATIONS  
Improper Demolition Activities relating to Asbestos Containing Material  
Stark Ceramics, 600 West Church Street, East Canton, Ohio 44730**

Dear Mr. Stewart:

During routine surveillance, an investigator from this office was on site at the subject property (600 West Church Street, East Canton, Ohio) on January 3, 2013 and documented evidence of building demolition. This was not the first time Canton APCD had visited the site and found improper handling of asbestos containing materials. Canton APCD is currently working with Chemstruction and others to clean up other portions of the site as part of asbestos contamination originated during earlier asbestos violations noted in October 2012 by Canton APCD. Emerald Environmental developed a DRAFT Remediation Design Plan for the Former Stark Ceramics Site on November 29, 2012. This plan was developed to detail the cleanup procedures required since the previous asbestos violations created a large amount of asbestos contaminated waste material (ACWM).

Chemstruction had verbally informed APCD of their interest in demolishing buildings 10 and 11 via telephone on December 20, 2012. APCD informed Chemstruction that an Ohio EPA notification would need to be submitted 10 working days prior to the start of the demolition work. However, demolition of these buildings (former kiln buildings), located in the northern portion of the site, began prior to January 3, 2013 without prior notification as requested. Buildings 10 and 11 both contained significant amounts of transite roof and wall panels. According to an asbestos material survey completed by Pioneer Environmental Systems, Inc. in October 2011, building 10 contained approximately 60,000 square feet of asbestos containing ½" corrugated cement panels (transite) and building 11 contained approximately 55,800 square feet of transite. The survey also notes 1,100 square feet of asbestos containing coated metal roof vents on building 11.

The transite panels were to be removed prior to the start of any demolition activities. However, based upon observations made by APCD on January 3 and 4, 2013, all transite panels were not removed and apparent demolition had caused the transite panels to break into small fragments, thus rendering the material as regulated asbestos containing material (RACM). In addition, on January 3, 2013, Canton APCD observed Mr. Stewart operating an excavator which was utilized to actively demolish a northern portion of building 11; transite panels were observed to fall from the roof and walls of building 11 and break into smaller pieces during these demolition activities. The broken transite fragments are mixed in amongst other construction and demolition debris rendering the entire pile as ACWM. This pile is located adjacent to and west of an existing ACWM pile that was caused by earlier asbestos violations conducted circa October 2012. The new ACWM pile encompasses the footprints of buildings 10 and 11.

Below is a summary of the findings, violations, and requested actions that need to be addressed as a result of the investigations conducted by the Canton City Health Department, Air Pollution Control Division. Many of these violations are repeat violations that Chemstruction committed and was made aware of in an earlier notice of violation letter dated October 25, 2012. Select photographs taken during the site inspection on January 3, 2013 by the APCD investigator are included as an attachment.

**Finding 1:**

On or before January 3, 2013, demolition of buildings 10 and 11 began without prior notification.

**Violation of:**

Since an Ohio EPA notification was not completed prior to demolition activities, Chemstruction is in violation of the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), 40 Code of Federal Regulations (CFR) Part 61, Subpart M, Section 61.145(b)(1), which states:

*“Each owner or operator of a demolition or renovation activity shall provide the administrator with written notice of the intention to demolish or renovate.”*

Due to failure to notify the administrator prior to the start of demolition activities, Chemstruction is also in violation of Ohio Administrative Code (OAC) 3745-20-03(A)(1). This regulation states:

*“Each owner or operator shall provide the director of Ohio EPA with written notice of intention to demolish or renovate.”*

**Finding 2:**

On or before January 3, 2012, buildings 10 and 11 were partially demolished without using proper work practices to minimize asbestos and dust emissions. On January 3 and 4, 2013, Canton APCD observed small fragments of transite on the ground and throughout the debris pile along with building remnants from buildings 10 and 11. There was evidence that some of the transite pieces on the ground, as well as portions of the debris pile, had been run over by heavy equipment. No water spray was observed during the demolition on the northern portion of building 11, which caused transite roof and wall panels to fall and break, and no water source was observed.

**Violation of:**

Since Chemstruction began demolition activities at buildings 10 and 11 without prior removal of the transite panels, which subsequently were disturbed and broken into small fragments during demolition activities, and no apparent water supply present, Chemstruction is in violation of multiple work practice regulations. The following list of work practice regulations have been violated:

- 40 CRF Part 61, Subpart M, Section 61.145(c)  
*Procedures for asbestos emission control.*
- OAC 3745-20-04(A)(1)  
*Remove all regulated asbestos-containing material prior to any activity that would break up, dislodge, or similarly disturb the materials.*

- OAC 3745-20-04(A)(2)(a)  
*When a facility component covered with, coated with or containing regulated asbestos-containing material is being taken out of the facility as units or in sections, adequately wet all RACM during cutting and disjointsing operations.*
- OAC 3745-20-04(A)(2)(b)  
*When a facility component covered with, coated with or containing regulated asbestos-containing material is being taken out of the facility as units or in sections, carefully lower the units or sections to the floor and to ground level not dropping, throwing, sliding, or otherwise damaging or disturbing the RACM.*
- OAC 3745-20-04(A)(3)  
*Adequately wet regulated asbestos-containing materials when they are being stripped from facility components.*
- OAC 3745-20-04(A)(6)(a)  
*For all regulated asbestos-containing material including material that has been removed or stripped, adequately wet the materials and ensure that the materials remain adequately wet until collected and contained or treated in preparation for disposal.*
- OAC 3745-20-04(A)(6)(b)  
*For all regulated asbestos-containing material including material that has been removed or stripped, carefully lower the materials to the ground or floor not dropping, throwing, sliding, or otherwise damaging or disturbing the material.*

**Finding 3:**

On or before January 3, 2013, asbestos-containing transite panels, which were formerly located on the roof and walls of buildings 10 and 11, were not removed and/or were improperly removed during demolition activities and subsequently broken into small pieces. The investigator observed active demolition on the northern portion of building 11, with transite roof and wall panels still present and thus broken during the demolition activities. Thus, these activities rendered the typical category II non-friable asbestos containing material (ACM) to now be considered friable and therefore regulated asbestos containing material (RACM).

**Violation of:**

Since Chemstruction performed demolition work without proper asbestos training and licenses; Chemstruction violated 40 CFR Part 61, Subpart M, Section 61.145(c)(8), which requires an authorized and trained representative to be present onsite during the handling of RACM, and OAC 3745-20-04(B)(1), which states:

*“(B) No regulated asbestos-containing material shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this chapter unless all the following provisions are met..(1) At least one authorized representative, trained in the provisions of this chapter and means of complying with them, is present at the location of operations.”*

Since Chemstruction violated multiple rules and regulations within OAC 3745-20, then Chemstruction again is also in violation of Ohio Revised Code (ORC) 3704.05(G), which states:

*“No person shall violate any order, rule, or determination of the director issued, adopted, or made under this chapter.”*

**Discussion:**

Small pieces of transite still remain onsite and were observed throughout the debris pile and building remnants from buildings 10 and 11. Since the transite pieces are now comingled in with other construction and demolition waste, the entire newly created demolition pile, estimated to be greater than 70,000 square feet and including but not limited to the footprints of buildings 10 and 11, is considered asbestos contaminated waste material. This new asbestos contaminated debris pile will need to be treated the same as the existing asbestos contaminated debris pile and will require the use of certified trained individuals for proper disposal at an EPA approved landfill.

**Requested Actions:**

1. This Agency requests an immediate written response via email or regular mail (postmarked or emailed no later than January 11, 2012) from Chemstruction indicating receipt of this letter.
2. Chemstruction shall not repeat any of the above-listed violations at any point in the future. Should any of the above-listed violations be noted, Chemstruction will be subject to significant enforcement actions.

**Additional Information:**

It should be made clear that Canton APCD is currently involved in an active case involving clean-up operations required on a separate asbestos contaminated waste material pile located east of the pile created during demolition of buildings 10 and 11. This debris pile was the result of earlier asbestos violations.

Please be aware that APCD's investigation is continuing and further violations may be cited as a result of that investigation. You will receive a separate letter from APCD at that time. Please note that the Ohio EPA has the authority to seek civil penalties as provided in section 3704.06 of the Ohio Revised Code (ORC). This letter or information 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 to seek such penalties will be made by the Ohio EPA at a later date.

If you have any questions, please contact me at 330-489-3385 or via email to [jhupp@cantonhealth.org](mailto:jhupp@cantonhealth.org).

Sincerely,



Jaelyn Hupp, AHES  
Air Pollution Control Monitoring and Inspections Technician  
Canton City Health Department

Enclosures:      Photographs

cc:      Bruce Weinburg, Ohio EPA, via email  
         Mark Needham, Ohio Dept. of Health, Asbestos Program, via email  
         Brian Dickens, USEPA Region 5, via email  
         Judge Frank G. Forchione, via email  
         Ms. Lorrain Stewart Lockhart, owner representative, via email



Facing southwest, view of remnants of buildings 10 and 11 in background (building 14 in foreground).



Facing southwest, view of debris pile located in southern footprint of buildings 10 and 11; note transite panels.



Facing west, view during active demolition of northeast portion of building 11; note transite panels on roof and walls still present.



Facing north, view from approximate southern end of building 10 and 11 footprint.



Closer view of transite panels observed to have been broken and scattered amongst debris.



View of small fragments of transite located on ground.



View of broken transite pieces on ground, which were apparently, ran over by with heavy equipment.



Additional view of broken transite pieces on ground, which were apparently ran over by with heavy equipment