



State of Ohio Environmental Protection Agency

Southeast District Office

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Logan, Ohio 43138

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

October 1, 2008

**RE: NOTICE OF VIOLATION
FORMER BLACKBURN PROPERTY
947 EAST CANAL STREET AND
931, 923, 911 AND 909
CHESTNUT STREET,
NELSONVILLE, OHIO 45764
ATHENS COUNTY**

Certified: 70063450000190559734

Mr. Brent Hayes
Breston LLC
P.O. Box 807
Athens, Ohio 45701

Dear Mr Hayes:

This notice is in reference to the demolition and asbestos abatement project occurring at the following 5 adjacent properties: 947 East Canal Street and 931, 923, 911, and 909 Chestnut Street, Nelsonville Ohio. On September 9, 2008, Lepi Enterprises submitted a Notification of Demolition and Renovation form for each of the above-noted properties.

The notification for 947 East Canal Street indicated that 1,400 square feet of Category 1 nonfriable asbestos material was not to be removed from the facility. The scheduled date for demolition was listed as September 23 to October 8, 2008.

The notification for 931 Chestnut Street indicated that there was no asbestos present in the facility. The scheduled date for demolition was listed as September 23 to October 8, 2008.

The notification for 923 Chestnut Street indicated that 1 square foot of Regulated Asbestos Containing Material (RACM) and 1,600 square feet of Category II nonfriable asbestos material were to be removed from the facility. The scheduled date for asbestos abatement was listed as September 23 to October 7, 2008; the scheduled date for demolition was listed as October 8th to October 23, 2008.

The notification for 911 Chestnut Street indicated that there was no asbestos present in the facility. The scheduled date for demolition was listed as September 23 to October 8, 2008.

The notification for 909 Chestnut Street indicated that 4,380 square feet of RACM and 2,000 square feet of Category II nonfriable asbestos material were to be removed from the facility. The scheduled date for asbestos abatement was listed as September 23 to October 7, 2008; the scheduled date for demolition was listed as October 8 to October 23, 2008.

On September 15, 2008, I responded to a complaint regarding demolition at the above-noted addresses. At the time of the inspection, the structures at 931 and 911 Chestnut Street had been demolished and much of the debris removed from the lots. Portions of the structure at 909 Chestnut Street had been demolished with RACM being disturbed. RACM had been disturbed and asbestos abatement of RACM had been initiated at the 923 Chestnut Street structure. The structure at 947 East Canal Street was being dismantled.

Be advised that the demolition conducted at this site is 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 the 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.

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.

Additionally, pursuant to 40 CFR 61.141 and OAC Rule 3745-20-01(B)(20), 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.

VIOLATIONS:

1. 40 CFR 61.145(b)(4)(vi) and OAC Rule 3745-20-03(A)(4)(g) require that the notice of intent to demolish estimate the amount of RACM to be removed from the facility in terms of length of pipe in linear feet, surface area in square feet on other facility components, or volume in cubic feet where the length or area cannot be measured.

40 CFR 61.141 and OAC Rule 3745-20-01(B)(42)(d) define RACM as Category II nonfriable asbestos-containing material that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations.

The original notification forms for 923 and 909 Chestnut Street, listed 1,600 square feet and 2,000 square feet respectively of Category II nonfriable asbestos material to be removed. The listed material is transite siding. As these notifications are for demolitions, the transite siding is a RACM and must be listed on the notification forms as a RACM.

By listing the transite siding as a Category II material and not as RACM, violations of 40 CFR 61.145(b)(4)(vi) and OAC Rule 3745-20-03(A)(4)(g) have occurred.

2. 40 CFR 61.145(b)(3)(i) and OAC Rule 3745-20-03(A)(3)(a) require that the owner or operator postmark or deliver the notice of intention to demolish to the Ohio EPA field office at least ten (10) working days before the beginning of any demolition operation, asbestos stripping or removal work or any other activity including salvage activities and preparations that break up, dislodge or similarly disturb asbestos material.

The notification forms for the East Canal Street and Chestnut Street structures were postmarked September 9, 2008. Per 40 CFR 61.145(b)(3)(i) and OAC Rule 3745-20-03(A)(3)(a) demolition and abatement activities were not permitted to occur until September 23, 2008.

On or before September 15, 2008, the structures at 931 and 911 Chestnut Street had been demolished.

On or before September 15, 2008, portions of the structure at 909 Chestnut Street had been demolished with RACM (transite siding) being disturbed.

On or before September 15, 2008, RACM (transite siding) had been disturbed on the northwest side of the structure at 923 Chestnut Street.

On or before September 15, 2008, removal of RACM (transite siding) had been initiated on the northeast and southeast sides of the structure at the 923 Chestnut Street structure.

By initiating demolition and asbestos removal prior to September 23, 2008, violations of 40 CFR 61.145(b)(3)(i) and OAC Rule 3745-20-03(A)(3)(a) have 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.

On or before September 15, 2008, portions of the structure at 909 Chestnut Street had been demolished with RACM (transite siding) being disturbed.

On or before September 15, 2008, RACM (Transite siding) had been disturbed on the north side of 923 Chestnut Street.

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 61.145(c)(8) and OAC Rule 3745-20-04(B)(1) state that no RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this chapter unless at least one authorized representative, trained in the provisions of this rule and the means of complying with them, is present at the location of operations.

No authorized representative was present while RACM was disturbed at 923 and 909 Chestnut Street. As such, violations of 40 CFR 61.145(c)(8) and OAC Rule 3745-20-04(B) have occurred.

5. 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 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.

Within ten (10) days after receipt of this notice, we are requesting that you submit to our office the following information:

- A summary of the demolition and abatement activities that have been completed and are yet to be completed at 947 East Canal Street and 931, 923, 911, and 909 Chestnut Street, Nelsonville Ohio. All documentation associated with the demolition and abatement, including the type and quantity of material removed as well as copies of the final waste disposal records.
- A list of the names, addresses and role of all contractors involved in the demolition/abatement of these structures.
- Any clarifications, responses, explanations or evidence on your behalf pertaining to the above-stated violations.

Finally, be advised that this Notice of Violation in no way waives the right of the Ohio EPA or U.S. EPA 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 (740) 380-5231.

Sincerely,



Steve Lowry
District Representative
Division of Air Pollution Control

SL/mlm

cc: Bruce Weinberg, SEDO, DAPC
Tom Buchan, CO, DAPC
Tom Kalman, CO, DAPC
Lisa Holscher, USEPA, Region V
Jeff Lepi, Lepi Enterprises