



State of Ohio Environmental Protection Agency

Southeast District Office

2195 Front Street
Logan, Ohio 43138

TELE: (740) 385-8501 FAX: (740) 385-6490
www.epa.state.oh.us

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

March 9, 2009

**RE: NOTICE OF VIOLATION
FORMER POPE GOSSER CHINA CO.
BUILDING (FLAG BUILDING)
303 NORTH 15TH STREET
COSHOCOTON, OH 43812
COSHOCOTON COUNTY**

CERTIFIED: 70073020000178821428

Ms. Patricia Giese
6175 Highway 17 North
Awendaw, SC 29429

Dear Ms. Giese:

This Notice of Violation (NOV) is in reference to the demolition project occurring at the former Pope Gosser China Co. Building (Flag Building), located at 303 North 15th Street, Coshocton, Ohio. Per the City of Coshocton, you are listed as the owner of this property. The demolition is being conducted by Mr. Dan McKay of Antique Wood and Salvage, 3610 Conch Street, Mount Pleasant, SC 29466. Notice of Violation (NOV) letters were sent to and received by Mr. Dan McKay on December 13, 2007 and January 16, 2008. Ohio EPA has not received a response to these NOV's.

In accordance with 40 CFR 61.145 (a) and Ohio Administrative Code (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 Part 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)(39), 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.

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 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 U.S. EPA for any violations for which Ohio is unable to initiate a required enforcement action.

VIOLATIONS:

1. 40 CFR 61.145(b) and OAC Rules 3745-20-03 (A)(1) and (2) require that written notification of the intention to demolish or renovate be provided to Ohio EPA and that the notification be updated as necessary.

Ohio EPA does not currently have on file an active Ohio EPA Notification of Demolition and Renovation for the demolition occurring at 303 North 15th Street, Coshocton, Ohio. A complete and revised notification was most recently requested during a February 27, 2009 conversation with Dan McKay.

By not submitting the required, complete and updated notification, violations of 40 CFR 61.145(b) and OAC Rules 3745-20-03 (A)(1) and (2) have occurred.

2. 40 CFR 61.145(c)(1) and OAC Rule 3745-20-04(A)(1) require that all regulated asbestos-containing material be removed 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.

As identified in an expired Ohio EPA Notification of Demolition and Renovation (postmarked March 31, 2008), 158 linear feet of pipe and 58,495 square feet of regulated asbestos-containing material (RACM) were noted to exist at the facility. This notification expired on April 30, 2008. This notification was submitted by Lepi Enterprises for the abatement of the above-noted RACM. Per Lepi Enterprises, only a very small portion of the above-noted asbestos was abated. Demolition activities conducted at this facility have resulted in RACM being disturbed.

By disturbing RACM, violations of 40 CFR 61.145(c)(1) and OAC Rule 3745-20-04(A)(1) have occurred.

Ohio EPA is requesting that all demolition and salvage operations be halted until the above violations are addressed and arrangements to abate all RACM at the facility have been discussed with this office. Within ten (10) days after receipt of this notice, we are requesting that you submit to our office the following information:

- A response to each of the violations noted above.
- An updated and complete Notification of Demolition and Renovation.

- A plan and schedule to address abatement of all RACM at the facility.
- Any clarifications, responses, explanations or evidence on your behalf pertaining to the above-stated violations.

Failure to submit a response to this Notice of Violation may result in escalated legal action being pursued against you and your company.

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 these violations 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
Dale Warner, SEDO, DSIWM
Dan McKay, Antique Wood and Salvage.