



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

November 26, 2008

**RE: WARNING LETTER
FORMER BOB EVANS RESTARUANT
1212 SR 664
LOGAN, OHIO 43138
HOCKING COUNTY**

Certified: 70063450000190557532

Mr. Emmert Leffler
Leffler Construction
14912 Leffler Rd.
Aurora, Indiana 47001

Dear Mr. Leffler:

This warning letter is in response to a complaint received by this office on September 9, 2008. The complaint alleges that the Bob Evans Restaurant on SR 664, in Logan Ohio, was demolished without complying with the U.S. EPA and Ohio EPA requirements for building demolition.

On September 11, 2008, I spoke to Dan Havener of Bob Evans Farms regarding the demolition. Mr. Havener supplied me with information regarding the demolition. As part of the investigation, I also spoke to Angie Pullins of Pullins Excavating (demolition contractor) and Emmert Leffler of Leffler Construction (general contractor).

Be advised that the demolition of the above-noted structure (a facility as defined by OAC Rule 3745-20-01(B)(18)) 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 U.S. EPA for any violations for which Ohio is unable to initiate a required enforcement action.

In accordance with 40 CFR 61.145(b) and OAC Rule 3745-20-03(A), the owner or operator of a facility being demolished, is required to provide Ohio EPA with written notification prior to demolition. The notification is required to be submitted at least 10 working days prior to the demolition.

Additional provisions of 40 CFR 61 and OAC Chapter 3745-20 referring to, "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.

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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.

VIOLATIONS:

1. As noted-above, 40 CFR 61.145(b) and OAC Rule 3745-20-03(A) require that the owner or operator of a facility being demolished, provide Ohio EPA with written notification prior to the demolition. The notification is required to be submitted at least 10 working days prior to the demolition.

The results of my inspection revealed that the above-noted facility was demolished without notification of Ohio EPA as required by 40 CFR 61.145(b) and OAC Rule 3745-20-03(A). The lack of proper notification has resulted in a violation of these rules.

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

- A commitment that your company will comply with the applicable provisions of 40 CFR 61 and OAC Chapter 3745-20 for all future demolition or renovation projects.
- Any clarifications, responses, explanations or evidence on your behalf pertaining to the above-stated violations.

Finally, be advised that this warning letter 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.

For your convenience, the form for notifying Ohio EPA of demolition or renovation activities can be found at the following web link http://www.epa.state.oh.us/dapc/atu/asbestos/not_form.pdf. 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

Enclosures

cc: Bruce Weinberg, SEDO, DAPC
Bruce Smith, Bob Evans Farms
Bill Pullins, Pullins Excavating