



State of Ohio Environmental Protection Agency

Southeast District Office

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Logan, Ohio 43138

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www.epa.state.oh.us

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

January 21, 2009

**RE: NOTICE OF VIOLATION
JEFFERSON COUNTY
MT. PLEASANT SCHOOL
LOTS 56, 58, 60, 62, 64 AND 66
MT. PLEASANT, OH 43909**

**Certified Mail: 70073020000178821534
70073020000178821763**

Mr. Pete D' Agostino
P.S. Construction
752 Berwick Court
Copley, Ohio 44321

Mr. Robert S. Vukelic
RSV, Inc.
529 North 4th Street
Steubenville, Ohio 43952

Dear Sirs:

This Notice of Violation is in reference to the demolition project your companies are conducting at the Mt. Pleasant School, located between South Concord and East Streets in Mt. Pleasant, Ohio. A Notification of Demolition and Renovation for the structure at the above address was submitted by Robert S. Vukelic of RSV, Inc. (postmarked 11/25/2008). The removal contractor was listed as Aricks Environmental Management Services, Inc. (AC 1719). The contact person was listed as Pete D' Agostino. The Ohio Asbestos Hazard Evaluation Specialist was listed as Eric Witherspoon (AS 25716). The scheduled dates for asbestos removal were listed as December 5, 2008 through December 7, 2008. The original notification was for the abatement of 4,000 square feet of floor tile which was determined to be a regulated asbestos-containing Material (RACM). After a December 8, 2008 phone conversation with RSV, Inc., the notification was revised to 2,358 square feet of RACM (plaster) and 4,000 square feet of Category 1 Non-friable asbestos (floor tile). The abatement dates were revised to December 4, 2008 through December 12, 2008. The unoccupied building is scheduled to be demolished.

On December 9, 2008, this office received a complaint regarding the Mt. Pleasant School. On December 10, 2008, I made a site visit to the school to investigate the complaint. As part of the December 10, 2008 site visit, I also conducted an inspection of the active asbestos abatement project. During the inspection, I spoke with supervisors Alfred Jones (AS 29655) and Kriston Cobb (AS 29655); also present was Levert Bates (AS 29656).

At the time of the inspection, abatement activities had been initiated in two rooms of the school; the first floor kitchen/lunch room and the second floor band room. Abatement of the kitchen/lunch room was said to be complete, although plaster remained on portions of the walls. Abatement of the band room was not complete. The containment in the band room was severely breeched. Only one air filtration device (AFD) was operating. A manometer was not present and decontamination facilities were not available. In addition, a copy of the facility asbestos survey was not present at the site. Two roll-off boxes containing RACM were at the site. Both boxes contained black six-mil asbestos disposal bags. Photos and samples were taken as part of the inspection.

Be advised that the asbestos abatement 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 U.S. EPA 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)(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. At the time of the inspection, two roll-off boxes containing RACM were present at the abatement site. The roll-off box closest to the school (roll-off box 1) was approximately half full of black six-mil asbestos waste bags. The bags contained mostly plaster waste. Plaster waste was observed on the ground surrounding roll-off box 1. The second roll off box was approximately three quarters full and also contained plaster waste and metal construction debris. All observed bags of asbestos waste from both roll-off boxes were single bagged. Many of the bags from both roll-off boxes were ripped. Several of the bags were not sealed shut and were not leak tight. The roll-off boxes were not lined in a manner to make them leak-tight. RACM had spilled from the ripped bags and was loose in the roll-off boxes. None of the observed bags of RACM had generator labels attached to them.

40 CFR Part 61.150(a)(1)(iii) states that each owner or operator shall, after wetting, seal all asbestos-containing waste material in leak-tight containers while wet. OAC Rule 3745-20-05(B)(1)(c) also requires that all asbestos-containing waste material be sealed in leak tight containers.

Many of the observed bags of RACM located in the roll-off boxes were not leak-tight. Many of the bags were ripped, others were not sealed shut. As a result, RACM had spilled from the bags. The roll-off boxes were not sealed in a leak-tight manner. As the RACM was not sealed in leak-tight containers, violations of 40 CFR Part 61.150(a)(1)(iii) and OAC Rule 3745-20-05(B)(1)(c) have occurred.

2. OAC Rule 3745-20-05(C)(2) states that asbestos-containing waste materials shall be sealed in plastic bags having a thickness of at least 0.006 inch (six-mils). A second clean, leak-tight plastic bag having a thickness of at least 0.006 inch shall fully contain the first bag.

None of the observed bags of RACM located in the roll-off boxes were contained in a second clean, leak-tight plastic bag. As a result, a violation of OAC Rule 3745-20-05(C)(2) has occurred.

3. 40 CFR 61.150(a)(1)(v) states that each owner or operator shall, for asbestos-containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated. OAC Rule 3745-20-05(C)(1) also requires similar labeling.

None of the observed bags of RACM located in the roll-off boxes were labeled with the name of the waste generator and the location at which the waste was generated. As such, violations of 40 CFR 61.150(a)(1)(v) and OAC Rule 3745-20-05(C)(1) have occurred.

4. Subsequent to the site visit/inspection, I was informed that Eric Witherspoon (a licensed Asbestos Hazard Evaluation Specialist and the owner of Aricks Environmental Management Services Inc., which is a licensed asbestos abatement contractor) had not conducted an asbestos inspection of the Mt. Pleasant School as listed on the notification form. I was also informed that he was unaware that his company was listed as the removal contractor for the abatement of RACM at the Mt. Pleasant School project. Mr. Witherspoon indicated that the only work his company was doing at the school was the removal of category 1 nonfriable floor tile.

OAC Rule 3745-20-03(E) states that all notifications required by this rule shall identify the name and title of the person submitting the notification and shall be signed and dated by the person submitting the notification. The certification required in paragraph (A)(4)(p) of this rule shall acknowledge the existence of laws prohibiting the submission of false or misleading statements and shall certify that the facts contained in the notice are true, accurate and complete. The information listed on the Notification of Demolition and Renovation form appears to be inaccurate. As such, a violation of OAC Rule 3745-20-03(E) has occurred.

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Upon completion of the inspection, violations 1 through 3 were discussed with Alfred Jones (AS 29655) and Kriston Cobb (AS 29655). Alfred Jones and Kriston Cobb stated that abatement activities were over for the day. I requested that they (1) re-bag all single bagged and ripped bags of asbestos waste, (2) properly label the waste, and (3) secure and post warning labels around the rooms being abated. I also requested that the plaster debris on the ground around roll-off box 1 be abated. I requested from Robert S. Vukelic additional information regarding the original and any supplemental asbestos surveys conducted at the school.

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

- A summary of the asbestos abatement activities conducted at the Mt. Pleasant School. Please include the names and roles of all parties involved, including all asbestos hazard evaluation specialists, supervisors and abatement contractors.
- Copies of the waste manifests/landfill receipts for the roll-off boxes of RACM.
- A plan and schedule for future abatement/demolition activities at the Mt. Pleasant School.
- A copy of the asbestos survey(s) with sampling results for the Mt. Pleasant School.
- Any clarifications, responses, explanations or evidence on your behalf pertaining to the above-stated violations.
- A description of what actions will/have been taken to ensure that future compliance will be maintained in regard to the above-described 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 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, Manager, SEDO, DAPC
Tom Buchan, CO, DAPC
Tom Kalman, CO, DAPC
Lisa Holscher, USEPA, Region V
Merle Seibring Jr, Mayor Village of Mt. Pleasant
Erik Witherspoon, Arick Environmental Mgt. Inc.