



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

March 27, 2009

**RE: NOTICE OF VIOLATION
PFEIFER DRIVE STRUCTURES
1185 AND 1175 PFEIFER DRIVE
ZANESVILLE, OHIO 43701
MUSKINGUM COUNTY**

Certified: 70073020000178822166

Mr. Charles Murrey
Murrey & Son Topsoil Specialists
1357 Sand Ridge Road.
Zanesville, Ohio 43701

Dear Mr. Murrey:

This Notice of Violation (NOV) is in reference to the demolition of two former structures located at 1185 and 1175 Pfeifer Drive in Zanesville, Ohio. The demolitions were conducted by Murrey & Son Topsoil Specialists. These former residential structures and the associated properties are owned by the Trinity Evangelical Lutheran Church. On February 24, 2009, I spoke to a complainant regarding the demolition activities. Later that morning, I spoke to Terry Harmon, Trustee for the Trinity Evangelical Lutheran Church. After speaking with Mr. Harmon I spoke with you. During our conversation, I requested that demolition activities be halted until an on-site meeting could be arranged. You agreed to halt demolition and to keep the debris wet. At approximately 9:00 a.m. on February 26, 2009, I arrived at the demolition site and met with you and Mr. Harmon. At the time of my site visit, I observed that both structures had been demolished. The structure debris from 1185 Pfeifer Drive had mostly been removed from the property. Structure debris was still present at 1175 Pfeifer Drive. Per Ohio EPA records, the remaining structure debris was removed from the site by Lepi Enterprises Inc. on March 6, 2009.

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 of the above-noted structures (an installation as defined by OAC Rule 3745-20-01(B)(27)) 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.

VIOLATIONS:

1. 40 CFR 61.145(a) and OAC Rule 3745-20-02(A), require that all facilities be thoroughly inspected by a certified asbestos hazard evaluation specialist for the presence of asbestos prior to commencement of a demolition or renovation.

As the required asbestos inspection was not conducted, violations of 40 CFR 61.145(a) and OAC Rule 3745-20-02(A) have occurred.

2. 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 notice of intention to demolish or renovate. The notification is required to be submitted at least ten (10) working days before the beginning of any demolition operation.

Ohio EPA did not receive the required notification prior to the beginning of the demolition operation. The lack of proper notification has resulted in violations of 40 CFR 61.145(b) and OAC Rule 3745-20-03(A).

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

- A copy of all waste receipt records for the demolished structures.
- 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 NOV 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.

Mr. Chuck Murrey
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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
Tom Buchan, CO, DAPC
Tom Kalman, CO, DAPC
Lisa Holscher, USEPA, Region V
Terry Harmon, Trustee, Trinity Evangelical Lutheran Church
Mike Kirsch, Environmental Health Director, City of Zanesville