



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

June 14, 2010

**RE: NOTICE OF VIOLATION
AMERISTAY HOTELS
800 WEST EMMITT AVENUE
WAVERLY, OHIO 45690
PIKE COUNTY**

Certified: 70073020000178849637

Mr. Randall Roe
Ameristay Hotels
800 W. Emmitt Ave.
Waverly, Ohio 45690

Dear Mr. Roe:

This Notice of Violation (NOV) is in reference to the demolition of the Scioto Motel building previously located at 10954 Emmitt Avenue in Waverly. The demolition was conducted by Randall Roe and the former structure and the associated property are also owned by Mr. Roe. On April 14, 2010, Ohio EPA received a complaint regarding open burning and demolition activities at the site. On April 22, 2010, I arrived at the demolition site to find the entire structure gone and a moderate amount of debris in piles and in the dumpster. During the conversation with Mr. Roe, I informed him that he failed to have the facility surveyed for asbestos by a Certified Asbestos Hazard Evaluation Specialist as well as failed to submit a notification of demolition or renovation.

On the morning of April 17, 2010, Mr. Mike Sherron of the Ohio EPA's Southeast District Office, Division of Emergency and Remedial Response observed an unattended fire at the site of the former Scioto Discount Store. Demolition debris, wood, plywood, shingles and tar paper were being burned in one location. Trees that had been cleared from the perimeter of the property were also burned. Later in the day, Mr. Sherron again observed burning at this site and made contact with workers on the property.

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).

3. The open burning of demolition wastes, tar paper and shingles is not permitted anywhere in Ohio. To open burn land clearing wastes the property must be located in an unrestricted area, the fire must be at least 1,000 feet from the nearest inhabited building, an air curtain destructor must be used, the fire must be contained inside a pit and prior written permission from the Ohio EPA is required. The open burning on this site is in violation of Ohio Administrative Code Rule 3745-19-03 and is punishable by a fine of up to twenty five thousand dollars per offense.

Thank you for submitting the information I requested during my April 22nd site visit.

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

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- Any additional waste receipt records for the demolished structures.
- Any additional information related to the demolished structures and a description of the demolition techniques employed.
- A commitment that you or 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.

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) 380-5201.

Sincerely,



Chad Winebrenner
District Representative
Division of Air Pollution Control

CW/mlm

Enclosures

cc: Bruce Weinberg, SEDO, DAPC
Lisa Duvall, SEDO, DAPC
Dan Bergert, SEDO, DSIWM
Tom Buchan, CO, DAPC
Tom Kalman, CO, DAPC
Steve Lowry, SEDO, DAPC
Lisa Holscher, USEPA, Region V
Sandy Colegrove, Pike Co. Environmental Health Director, Pike Co. Health Dept.