



Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

January 8, 2010

Mr. Justin L. Smith, President
Town & Country Plumbing
144 S. Main Street
Burns, WY 82053

RE: Notice of Violation

Dear Mr. Smith,

Enclosed you will find a Notice of Violation (NOV) issued to the Town & Country Plumbing by the Department of Environmental Quality, Air Quality Division, for the failure to comply with W.S. 35-11-201 of the Wyoming Environmental Quality Act and Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations in the renovation of the WYDOT building located at 5300 Bishop Boulevard in Cheyenne, Wyoming.

As the Department and this Division consider the failure to comply with asbestos requirements to be a serious matter, I am considering recommending that the Department refer this violation to the State Attorney General's office requesting a suit be filed in District Court to recover appropriate penalties.

If you would like to discuss settlement of this issue prior to referral to the Attorney General's office, please contact Ms. Karen Godman, Air Quality Compliance Program Principal, at 307-777-8601 no later than ten (10) days after receipt of this letter.

Should you have any questions regarding this matter, please feel free to contact me or Ms. Karen Godman.

Sincerely,

David A. Finley
Administrator
Air Quality Division

cc: Glenn Spangler
Linda Dewitt
Nancy Vehr
Bob Gill
Keith Guille



**BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING**

IN THE MATTER OF THE NOTICE OF VIOLATION)
ISSUED TO TOWN & COUNTRY PLUMBING) **DOCKET NO. 4627-10**
MR. JUSTIN L. SMITH, PRESIDENT)
144 S. MAIN STREET)
BURNS, WYOMING 82053)

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

- 1) The Department of Environmental Quality, Division of Air Quality has found the Town & Country Plumbing to be in violation of W.S. 35-11-201 of the Wyoming Environmental Quality Act and Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations as a result of the renovation of the WYDOT building located at 5300 Bishop Boulevard in Cheyenne, Wyoming.
- 2) W.S. 35-11-201 of the Wyoming Environmental Quality Act states, "No person shall cause, threaten or allow the discharge or emission of any air contaminant in any form so as to cause pollution which violates rules, regulations and standards adopted by the council.
- 3) Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations establishes asbestos emission standards for demolition, renovation, manufacturing, spraying and fabricating that apply to owners and operators of facilities where renovation/demolition activities are taking place.
- 4) On June 18, 2009, Mr. Robert Rodriguez, Asbestos Inspector, conducted a complaint investigation of a renovation at the WYDOT building located at 5300 Bishop Boulevard in Cheyenne, Wyoming. While conducting the inspection, Mr. Rodriguez found that two boilers had been taken apart and removed from the boiler room. Parts of boiler were located onsite with exposed rope gasketing. Approval from both the facilities program manager and general contractor was granted to collect and analyze samples of the rope gasketing material as this had not been conducted. Both explained that the boiler removal had been conducted by Town & Country Plumbing. Sample results for the rope gasketing on the boilers returned at 100% chrysotile asbestos. The renovation had been done prior to an asbestos inspection and materials disposed of as normal waste. These results affirm the violations of Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations.
- 5) Chapter 3, Section 8(i)(i) of the Wyoming Air Quality Standards and Regulations states, "To determine which requirements of paragraphs (i)(i), (i)(ii), and (i)(iii) apply to the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II non friable ACM." Based on the investigation conducted by Mr. Rodriguez, an inspection had not been conducted at the site prior to the renovation.

6) Chapter 3, Section 8(i)(ii) of the Wyoming Air Quality Standards and Regulations states, "Each owner or operator of a demolition or renovation activity to which this section applies shall: (A) provide the Administrator with written notice of the intention to demolish or renovate." Further requirements in Chapter 3, Section 8(i)(ii) require the notification at least ten working days prior to the start date. Based on a review of the Air Quality Division's records, notification was not provided prior to the renovation of this facility.

7) Chapter 3, Section 8(i)(iii) of the Wyoming Air Quality Standards and Regulations states, "Remove all regulated asbestos-containing material (RACM) from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the material..." The gasketing material exposed during the removal and component breakdown of the boilers would be a Regulated Asbestos Containing Material (RACM).

8) Chapter 3, Section 8(i)(iii)(H) of the Wyoming Air Quality Standards and Regulations states, "No RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this section unless the individuals supervising and performing the operation have been trained in the provisions of this regulation and the means of complying with them..." The RACM was removed by employees that had not been properly trained.

9) Chapter 3, Section 8(m)(ii) of the Wyoming Air Quality Standards and Regulations states, "All asbestos-containing material shall be deposited as soon as is practical by the waste generator at: (A) A waste disposal site operated in accordance with the provisions of paragraph (q), or ..." During his inspection on June 18, 2009, Mr. Rodriguez determined that the asbestos-containing waste material, which was removed from the WYDOT building was not deposited appropriately at a proper disposal site.

10) Said violations consist of failing to: 1) thoroughly inspect the facility prior to renovation as required by Chapter 3, Section 8 (i)(i), 2) provide prior written notification of a demolition/renovation project to the Administrator as required by Chapter 3, Section 8(i)(ii) of the Wyoming Air Quality Standards and Regulations, 3) remove all RACM from the facility being renovated prior to any activity that would break up, dislodge, or similarly disturb the material in violation of Chapter 3, Section 8(i)(iii) of the Wyoming Air Quality Standards and Regulations, 4) to use properly trained individuals for removal of the RACM in violation of Chapter 3, Section 8(i)(iii)(H) of the Wyoming Air Quality Standards and Regulations, and 5) properly dispose of asbestos-containing waste material in violation of Chapter 3, Section 8(m)(ii).

11) Under W.S. 35-11-901(a), any person who violates any provision of Article 2 of (the Environmental Quality Act)... or any rule, regulation, standard or permit adopted pursuant to those provision, or who violates any determination or order of the council pursuant to Article 2 of (the Environmental Quality Act)... is subject to a penalty not to exceed ten thousand dollars for each violation for each day during which the violation continues, a temporary or permanent injunction, or both a penalty and an injunction.

12) This notice is being sent to you pursuant to W.S. 35-11-701(c), which requires that, in any case of the failure to correct or remedy an alleged violation, the Director of the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible.

Dated this 27 day of JAN, 2010.



David A. Finley
Administrator
Air Quality Division



John V. Corra
Director
Department of Environmental Quality

Please direct all inquiries to David A. Finley, Administrator, Division of Air Quality,
Department of Environmental Quality, Herschler Building, 2nd Floor, 122 West 25th
Street, Cheyenne, Wyoming 82002. (Telephone: 307-777-3746)