



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Asbestos Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Sherwood Facility Owner/Operator Enter into Consent Administrative Order

11/12/2020

The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and U.S. Pizza Co., Inc., (“U.S. Pizza”) entered into an October 29th Consent Administrative Order (“CAO”) addressing alleged violations of Arkansas Pollution Control and Ecology Commission Regulation No. 21 (Arkansas Asbestos Abatement Regulation). See LIS No. 20-183.

The CAO provides that U.S. Pizza on May 22, 2019, demolished or caused to be demolished four individual structures (“Site”) located in Sherwood, Arkansas.

The structures at the Site are stated to constitute a “Facility” as defined in Arkansas Pollution Control and Ecology Commission Regulation 21, Chapter 4. Further, U.S. Pizza is stated to meet the definition of an “owner or operator of a demolition or renovation activity” as defined in Regulation 21, Chapter 4.

DEQ is stated to have received a complaint regarding the demolition of the four structures on May 22, 2019. The structures are stated to have been identified as Suites A, B, C, and D, using the same corresponding address of 8403 AR-107.

DEQ personnel are stated to have observed that the four structures were completely demolished. Such investigation is stated to have indicated that U.S. Pizza failed to conduct or have conducted a thorough asbestos inspection of the affected Facility prior to demolition, violating Regulation 21.501. It is also stated to have indicated that a written Notice of Intent (“NOI”) and appropriate NOI fee were not submitted to DEQ at least 10 working days prior to commencing the demolition activity. Such failure is alleged to violate Regulation 21.601.

U.S. Pizza is stated to have submitted a NOI on May 28, 2019, for the four demolished structures which included a schematic identifying the structures as U.S. Pizza Co., Repair Shop, Hair Shop, and Vacant.

On June 19, 2019, DEQ informed U.S. Pizza of the issues identified during the May 22nd investigation. U.S. Pizza responded to DEQ on July 2, 2019, indicating that it had received a demolition permit from the City of Sherwood prior to any demolition taking place. It is stated to have believed that the demolition was in

compliance with all rules and regulations. U.S. Pizza was further stated to be unaware of any rules or regulations regarding asbestos inspection or notice to DEQ prior to receiving the June 19, 2019, letter.

U.S. Pizza requested that DEQ consider a Supplemental Environmental Project proposal in lieu of civil penalties arising from the alleged instances of noncompliance.

U.S. Pizza neither admits nor denies the factual and legal allegations contained in the CAO.

The CAO assesses a civil penalty of \$10,840. However, should U.S. Pizza elect to perform a Supplemental Environmental Project approved by DEQ, \$7,588 of this amount shall be payable to DEQ. \$3,252 of the total civil penalty shall be used to fund a Supplemental Environmental Project approved by the DEQ Director.

A copy of the CAO can be downloaded [here](#).