

Asbestos Enforcement: Arkansas Department of Environmental Quality and Midway, Arkansas LLC Enter into Consent Administrative Order



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The Arkansas Department of Environmental Quality (“ADEQ”) and Freeman & Hassel Wander Development Co., L.L.C. (“FHD”) entered into a November 17th Consent Administrative Order (“CAO”) addressing alleged violations of the Arkansas regulations regarding asbestos renovation/demolition.

The CAO states that FHD:

...demolished or caused to be demolished two (2) structures formerly located on or about 1893 U.S. Highway 62 East, Mountain Home, Baxter County, Arkansas 72653 (the site).

The referenced structure is alleged to constitute a “facility” as defined in Arkansas Pollution Control and Ecology Commission (“Commission”) Regulation 21, § 4. Further, FHD is alleged to be an “owner or operator of a demolition or renovation activity” as defined in Commission Regulation 21, § 4.

ADEQ is stated to have received a complaint alleging noncompliance with Commission Regulation 21 for asbestos renovation and demolition activities at the site. The agency conducted a February 18th investigation and discovered that FHD demolished two structures at the site without first conducting a thorough asbestos inspection of the affected structures prior to demolition. The failure to investigate is alleged to constitute a violation of Commission Reg. 21.501 which violates Ark. Code Ann. § 20-27-1007(4).

The investigation was also alleged to have determined that FHD:

... failed to submit a written NOI and appropriate NOI fee to ADEQ at least ten (10) working days prior to commencing the demolition activity. As noted in paragraph A, the Findings of Fact, no asbestos inspection was conducted prior to the demolition activity; therefore the appropriate fee could not be determined at this time. Such failure violates APC&EC Reg. 21.601, and therefore violates Ark. Code Ann. § 20-27-1007(4).

The CAO provides that FHD agrees to pay a civil penalty of \$3,500. If the CAO was signed and returned to ADEQ prior to 4 p.m. on November 14th the penalty assessed was reduced by one-half.

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