UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

May 27, 2016

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7015 1520 0003 3990 0498

The Honorable Debe Hollingsworth
Mayor
City of Pine Bluff
200 East Eighth Avenue, Ste. 201
Pine Bluff, AR 71601
FCIS Program ID# 3600179818
Re: Notice of Noncompliance

Dear Ms. Hollingsworth:

The United States Environmental Protection Agency (EPA) hereby serves the City of Pine Bluff, Arkansas with this Notice of Noncompliance (NON) for violations of the Asbestos Worker Protection Rule relating to asbestos work conducted by employees of the City of Pine Bluff, Arkansas. Based upon EPA's investigation, City employees (truck drivers and firemen) were engaged in asbestos work in connection with demolition activities that were conducted under the August 26, 2015 Memorandum of Understanding between the Arkansas Department of Environmental Quality (ADEQ) and the City of Pine Bluff (MOU). As a governmental employer, you are subject to the Asbestos Worker Protection Rule (WPR) codified at 40 C.F.R. Part 763, Subpart G, and you need to ensure that workers who could be exposed to asbestos receive protection under the WPR.

The WPR, promulgated pursuant to Section 6(a) of the Toxics Substances Control Act (TSCA), extends the Asbestos Standards of the Occupational Safety and Health Administration (OSHA) to employees of state and local governments not covered by an OSHA approved state asbestos standard. The OSHA Standards are codified at 29 C.F.R. § 1910.1001 and 29 C.F.R. § 1926.1101. Failure to comply with the WPR requirements is a violation of Section 15 of TSCA, 15 U.S.C. § 2614, and subjects violators to potential civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

On May 9 – 11, 2016, the EPA conducted an asbestos compliance inspection of the demolition work conducted by Arkansas Community Correction (ACC) under the MOU. Based on the results of the inspection, EPA has determined that the City has violated the WPR as follows:

1. Failing to Provide Exposure Assessments and Monitoring – 29 C.F.R. § 1926.1101(f)(1)(i);

2. Failing to Provide Adequate Respiratory Protection - 29 C.F.R. §§ 1926.1101(e)(4) and 1926.1101(h);

3. Failure to Provide Protective Clothing – 29 C.F.R. § 1926.1101(i)(1);

4. Failure to Provide Asbestos Training – 29 C.F.R. § 1926.1101(k)(9); and

5. Failure to Institute Medical Surveillance – 29 C.F.R. § 1926.1101(m)(1)(i)(A).

This NON is issued to inform you that based upon EPA's investigation, the WPR applies to the City of Pine Bluff for the involvement of the City employees in the asbestos demolition projects conducted by the ACC under the MOU, and that the City of Pine Bluff failed to meet the requirements of the WPR. It is our understanding that the City of Pine Bluff and ACC have ceased work under the MOU. Please note that the issuance of this NON does not preclude EPA from identifying additional violations or initiating an enforcement action for civil penalties pursuant to Section 16 of TSCA, 15 U.S.C. § 2615.

EPA invites the City of Pine Bluff to provide any information it has related to the above violations to demonstrate that it was in compliance with the WPR. In addition, EPA offers the City of Pine Bluff the opportunity to meet and discuss this matter. To provide information or arrange a meeting, please contact Elvia Evering at the above address, call her at (214) 665-7575, or contact her via e-mail at evering.elvia@epa.gov within 10 days of the receipt of this letter.

We have enclosed a copy of the Asbestos Worker Protection Rule and the OSHA's Asbestos Standard, 29 C.F.R. § 1926.1101 for your convenience. If you should have any questions, please contact Elvia Evering.

Sincerely,

for Mark Potts
Chief
Waste Enforcement Branch

Enclosures

cc: Becky Keogh, Secretary
Arkansas Department of Environmental Quality

Stuart Spencer
Arkansas Department of Environmental Quality

Sheila Sharp, Director
Arkansas Community Correction

Wendy Kelley, Director
Arkansas Department of Correction