



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 03 2008

ASSISTANT ADMINISTRATOR  
FOR ENFORCEMENT AND  
COMPLIANCE ASSURANCE

Catharine Fitzsimmons  
Chief, Iowa Air Quality Bureau  
Department of Natural Resources  
7900 Hickman Road, Suite 1  
Urbandale, IA 50322

Re: Iowa Department of Natural Resources Request for a No Action Assurance

Dear Ms. Fitzsimmons:

I am in receipt of your July 1, 2008 letter in which you request a no action assurance (NAA) for limited provisions of the asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAP), 40 CFR Part 61, Subpart M. In your letter, you highlight the catastrophic effects from the record flooding in Iowa that began back in early June. You note that 83 of Iowa's counties have been declared as state disaster areas, and 78 counties are under a Presidential emergency declaration. See enclosures. I want to acknowledge the extraordinary circumstances facing the State and local communities. EPA appreciates the Iowa Department of Natural Resources' (IDNR) efforts to expedite renovation and demolition activities while ensuring protection of public health and the environment. We think it is appropriate to proceed cautiously. Our respective staffs, along with staff from EPA Region 7, have been working together to consider the issues associated with the asbestos NESHAP that you have raised.

In your letter, you are seeking relief from two very limited provisions of the asbestos NESHAP: 1) the ten day notification requirement for demolitions and renovations (40 C.F.R. § 61.145(b)(3)(i) and (ii)) and; 2) the thorough inspection requirement for renovations (40 C.F.R. § 61.145(a)).

With regard to the notification requirements, the regulations already afford flexibility for emergency renovation operations (as defined in 40 C.F.R. § 61.141) and for demolitions of covered facilities occurring under an order of a State or local government agency issued because the facility is structurally unsound and in danger of imminent collapse. See, 40 C.F.R § 61.145(b)(iii). For both of these situations, notice need only be provided as early as possible before, but not later than, the following working day. 40 C.F.R. § 61.145(b)(3)(iii). This provision, however, does not apply to other types of renovations or demolitions. Today, I am exercising my enforcement discretion and

granting an NAA that allows this flexibility to be applied to all renovations and demolitions of covered facilities damaged by the storms and flooding in counties covered by a disaster declaration made by the President of the United States, as per your request. All other applicable asbestos NESHAP requirements, with the exception of the thorough inspection requirement for renovations (as discussed below) remain in effect.

With regard to the inspection requirement for renovations, the regulations require the owner or operator to thoroughly inspect the affected facility or that part of the affected facility where the renovation operation will occur prior to the commencement of renovation work for the presence of asbestos. See, 40 C.F.R. § 61.145(a). IDNR seeks to allow owners or operators to forgo the required inspection in the context of renovations, provided that all material is treated as if it were, in fact, asbestos-containing and is removed prior to any activity that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal. IDNR would require all material to be handled, transported, and disposed of in accordance with the asbestos NESHAP regulations applicable to regulated asbestos-containing material. Today, I am exercising my enforcement discretion and granting an NAA to allow the requested inspection flexibility to apply to all renovations of structures damaged by the storms and flooding in Iowa counties covered under a disaster declaration made by the President of the United States. All other applicable asbestos NESHAP requirements, with the exception of the notification requirement for renovations (as discussed above) remain in effect.

Your letter also requests that inspections be waived for covered facilities demolished under an order of a State or local government agency, where such facilities are structurally unsound and in danger of imminent collapse. We do not believe an NAA is necessary for this because an inspection is not required for these types of facilities under section 61.145(a)(3) of the asbestos NESHAP.

Today's NAA applies to owners or operators of renovations or demolitions of structures damaged by the recent storms and flooding in Iowa counties covered under a disaster declaration made by the President of the United States. This NAA will be effective for 90 days from the date of issuance. This NAA does not apply to any other federal requirements that may apply to demolition or renovation activities (other than the asbestos NESHAP provisions specifically discussed herein). EPA reserves the right to revoke or modify this NAA.

EPA is committed to continuing to work with IDNR in addressing the difficult circumstances caused by the recent storms and floods. If you have any questions, please

give me a call at 202-564-2220, or have your staff call Pam Mazakas of my staff, at 202-564-4028, or William Spratlin, of EPA Region 7, at 913-551-7401.

Sincerely,



Granta Y. Nakayama

Enclosures

cc: John Askew, Regional Administrator, Region 7  
William Spratlin, Region 7