



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

DEC 4 2007

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: No Action Assurance Concerning The Alternative Asbestos Control Method;
National Emission Standard for Asbestos, Asbestos Demolition and Renovation
Standard, 40 C.F.R. Part 61, Subpart M, section 61.145

FROM: Granta Y. Nakayama *Granta Y. Nakayama*

TO: Richard E. Greene
Regional Administrator, Region 6

I am in receipt of your letter dated November 8, 2007, that requests a no action assurance (NAA) to allow EPA to conduct the third phase of testing to evaluate an Alternate Asbestos Control Method (AACM) for demolition of buildings with asbestos-containing building materials.

In order to determine whether the AACM provides an equivalent reduction in asbestos emissions when compared to the demolition control method currently prescribed under the asbestos NESHAP, EPA will exercise its enforcement discretion to temporarily allow EPA Region 6, the EPA Office of Research and Development (ORD), the City of Fort Worth, the Texas Department of State Health Services (DSHS), and their contractors to evaluate the AACM at a property under the control of the City of Fort Worth, Texas. This exercise of enforcement discretion applies only to the project identified in the Quality Assurance Project Plan (QAPP) (Attachment A) and only to the provisions of the asbestos NESHAP found in 40 CFR Part 61, Subpart M, §§61.145 (c)(1) thru (6). All other provisions of the asbestos NESHAP will be fully applicable. This NAA is effective immediately and will continue until midnight, Thursday, January 31, 2008.

I understand that the site specific QAPP for the first phase of testing the AACM was subjected to outside peer review prior to that test being performed, and that the test report from that phase of testing also was subjected to outside peer review. The site specific QAPP for this third phase of testing the AACM incorporates recommendations from those peer reviews to ensure that it is protective of public health and the environment. Representatives from several offices within the Agency will evaluate the air and other monitoring data in the post-demolition demonstration report. In addition, the draft final post-demolition demonstration report will be subjected to outside peer review.

I further understand that the QAPP for the third phase of testing also will provide that the field leaders, comprised of representatives from the City of Fort Worth, DSHS, ORD, and their contractors, must be trained in and familiar with the asbestos NESHAP requirements and the means of complying with those requirements, will be present during the project, and will have the authority to stop work if necessary. All asbestos-containing waste materials generated during the demolition will be handled, transported, and disposed of in accordance with the asbestos NESHAP provisions pertaining to waste disposal. Moreover, although not required under the asbestos NESHAP, wastewater generated during the demonstration project will be contained and filtered, and a minimum of three inches of soil, where it exists, will be removed from the site at the completion of the demolition and disposed of as asbestos-containing waste material. These latter actions are an integral part of the AACM itself. As a further precaution, the project includes a Remedial Action Project Plan (Attachment B) in the unlikely event of an asbestos release.

Finally, I understand that the public was notified of this proposed test through a November 2, 2007 letter from the City of Fort Worth and that a public informational meeting was held in Fort Worth on November 15, 2007. In addition, the City of Fort Worth posted a notice of the meeting on their City website, as required by the City, and meetings were held with representatives of the Eastside Sector Alliance, Woodhaven Neighborhood Association, Sierra Club of Texas, the Fort Worth Sierra Club and DSHS to discuss the project and any concerns they might have. The City of Fort Worth and the EPA project team will continue to keep the neighborhood apprised as the project proceeds forward with the actual demolition, and subsequently follow-up with the neighborhood on the results collected at the demolition site.

Copies of the AACM third phase research project Final Report required by the QAPP shall be sent to the following address:

Pamela J. Mazakas, Associate Director
Air Enforcement Division
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (MC 2242A)
Washington, DC 20460

If you have any questions or comments regarding this enforcement discretion, please contact Pamela Mazakas of my staff. She can be reached at (202) 564-4028.

Attachments