



State of Ohio Environmental Protection Agency

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November 1, 2010

Mr. Richard Duffy, Acting Director
Compliance Assessment and Media Program Division (2223A)
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, D.C.

RE: Clarification of asbestos NESHAP regulations regarding demolition of multiple residential structures for urban renewal projects

Dear Mr. Duffy,

On October 20, 2010, members of my staff had a conference call with Mr. Everett Bishop, U.S. EPA national asbestos program coordinator and Mr. Jeff Bratko, U.S. EPA Region V asbestos program coordinator to discuss the details of the residential exemption determination and how it applies to the NESHAP when municipalities are demolishing/renovating multiple residential structures as part of an urban renewal project. Ohio EPA has been applying the residential exemption (when there is only one house on a site/block during the same planning period) for these types of urban renewal projects. It was during our state asbestos training with inspectors from throughout the state (September 27-30, 2010) in which Mr. Bratko attended, that we were informed the residential exemption does not apply in this situation (except in emergency related circumstances).

We had conducted an extensive internal review before coming to the decision of allowing the residential exemption after reviewing all the applicability determinations relating to this subject and the 1995 Federal Register. Although the Federal Register notice was supposed to add clarity to the asbestos NESHAP, we found the rule and guidance confusing. During our October 20, 2010 conference call with U.S. EPA staff, we requested a written clarification from U.S. EPA to clarify how the NESHAP applies in this situation. It was suggested that we make this written request to you.

After many discussions and e-mails with Mr. Bishop and Mr. Bratko, I would like to provide the following to you what we now believe to be an accurate representation of how U.S. EPA applies the NESHAP in these situations. Upon your review, we would appreciate your comments and any clarifications regarding this matter.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korteski, Director

1.) When a jurisdiction (city, county, village, township) decides to demolish multiple homes during a specific planning period (calendar year, FY; etc), the NESHAP considers this to be an "urban renewal" project. The funds used for this project can come from one or multiple sources. Under this scenario ALL residential homes within that specific geographic jurisdiction (regardless of location/proximity) would be subject to the NESHAP regulations (all must have surveys; submit notifications; and conduct asbestos abatement if the accumulative amounts of RACM meet or exceed the thresholds of the project). This also means that the residential exemption of "isolated" homes would NOT apply (no residential exemptions), except for those isolated residential structures that might qualify due to an immediate emergency situation which are determined to be a threat to public health and safety. In addition, the specific homes would not have to be identified at the beginning of the planning period (homes can be selected throughout the planning period) and just the fact that the jurisdiction has control and intends to order the demolition/renovation of multiple numbers of homes would subject these homes to the NESHAP regulations.

2.) Additionally, I am requesting that U.S. EPA provide a definition or clearer understanding of "planning period" as it applies to this situation.

Currently, we are informing the governmental jurisdictions and regulated community that they must meet the federal NESHAP requirements for these urban renewal projects. Once you have developed a written response, I request that every U.S. EPA Regional Office and state air agency receive the guidance throughout the country. As you are aware, there are many urban renewal projects underway and making sure that the various urban areas are applying the NESHAP rule in a similar manner will provide for more regulatory certainty and uniform environmental protection

Thank you for your prompt attention to this matter.

Sincerely,



Robert Hodanbosi,
Chief, Division of Air Pollution Control

CC: Cheryl Newton, Region V
Everett Bishop, USEPA/Headquarters
Jeff Bratko, USEPA/Region V
Marcus Glasgow, Legal
Paul Koval, DAPC
Tom Buchan, DAPC
Frederick Jones, DAPC