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

AUG 10 2005

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

**MEMORANDUM**

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

FROM: Thomas V. Skinner TVS
Acting Assistant Administrator

TO: Richard E. Greene
Regional Administrator, Region 6

I am in receipt of your memorandum that discusses a no action assurance to allow EPA to evaluate the Alternative Asbestos Control Method (Alternative Method) for demolition of buildings containing asbestos building materials. I understand that a scientific evaluation of the National Emission Standards for Hazardous Pollutants for Asbestos (Asbestos NESHAP) method for Demolition and Renovation will be conducted at the same time. This is a good opportunity to fully evaluate the two methods under nearly identical circumstances, and will potentially improve environmental compliance, if the Alternative Method is found to be equivalent or superior.

Because of the potential benefits of a new control method that may be less expensive and provide equal or better protection, EPA will exercise its enforcement discretion to temporarily allow regulated parties to evaluate the Alternative Method at a property under the control of the Fort Chaffee Redevelopment Authority in Fort Smith, Arkansas. This exercise of enforcement discretion applies only to the project identified in the Demonstration Protocol (discussed more fully in the paragraphs below). It is effective upon approval of the Demonstration Protocol by the Office of Research and Development and is conditioned upon the Demonstration Protocol containing the elements noted below. This enforcement discretion will continue until midnight, Monday, June 26, 2006.

I understand that the Demonstration Protocol is still under development, but will include numerous provisions to ensure the protection of public health and the environment. The Demonstration Protocol will be peer-reviewed and refined by EPA to ensure that it is, in fact, protective of public health and the environment. A site-specific Quality Assurance Project Plan (QAPP) also will be developed and externally peer-reviewed under the Agency's Peer Review

Policy. Representatives from several offices within the Agency will evaluate the air and other monitoring data in the post-demolition QAPP report. The independent Science Advisory Board will be involved in evaluating the demonstration results.

I understand that the Demonstration Protocol will also provide that representatives from the City, the State Department of Environmental Quality, and EPA will be present during the project and will have the authority to stop work if necessary. A certified industrial hygienist will be on staff during the project. Wastewater generated during the demonstration project will be contained and treated and all contaminated materials will be disposed of properly. If asbestos abatement is required, a licensed asbestos abatement contractor will be obtained. As a further precaution, the project includes a remediation plan in the unlikely event of a significant release. The public will also be involved at various stages of this project.

Copies of the Asbestos Assessment Report must be sent to the following address:

Pamela J. Mazakas, Acting 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.