



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

AUG 28 2008

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Harold Leggett, Ph.D.
Secretary
Louisiana Department of Environmental Quality
P.O. Box 4301
Baton Rouge, Louisiana 70821-4301

Dear Dr. Leggett:

We are in receipt of Assistant Secretary Peggy Hatch's letter of July 29, 2008 (Enclosure 1), in which she requests on behalf of the Louisiana Department of Environmental Quality (LDEQ) that the United States Environmental Protection Agency (EPA) extend the February 3 and 24, 2006, the February 2, September 28, and December 26, 2007, and the February 29, 2008, No Action Assurance letters (hereinafter collectively referred to as the NAAs) (Enclosures 2, 3, 4, 5, 6, and 7). These NAAs provide flexibility for certain provisions of the National Emission Standard for Asbestos (asbestos NESHAP), 40 CFR Part 61, Subpart M, for demolition activities necessitated by Hurricanes Katrina and Rita, and are due to expire on August 29, 2008. Although much progress has been made, EPA recognizes the ongoing challenge Louisiana faces since Hurricane Katrina made landfall on August 29, 2005.

I also received a copy of a letter dated August 21, 2008 (Enclosure 8), in which the Federal Emergency Management Agency (FEMA) supports the NAA extension request and notes it is prepared to extend its Interagency Agreement (IAA) with Region 6 to provide funding for EPA air quality monitoring. We understand that FEMA will also be covering some additional oversight activities to be performed by Region 6 and that the IAA extension will continue until March 31, 2009.

EPA has considered FEMA's letter and the information provided by LDEQ in recent conversations between our staffs and in Assistant Secretary Hatch's letter, most notably the significant volume of remaining homes that still require expeditious demolition (estimated at 5,000 to 10,000) in the Parishes covered by the NAAs. Also, Region 6 and LDEQ have not identified any public health concerns from their review of asbestos air monitoring data. In light of all of these considerations, today EPA is exercising its enforcement discretion and extending the NAAs through March 31, 2009. However, during a meeting with Assistant Secretary Hatch and representatives from the City of New Orleans and St. Bernard, St. Tammany, and Jefferson Parishes, on August 21, 2008, my staff made clear that EPA does not intend to extend the NAAs beyond the March 31, 2009 date. LDEQ and the Parishes should use the intervening months to work toward full compliance with the asbestos NESHAP, as implemented by LDEQ through its authorized Louisiana Emission Standards for Hazardous Air Pollutants (LESHAP) program.

Oversight of the demolition activities by both Region 6 and LDEQ is critical. Today's extension is conditioned on the oversight activities continuing as specified in the NAAs, except that daily demolition oversight will transition from EPA Region 6 to LDEQ. Region 6's Compliance Assurance and Enforcement Division will continue with the same level of oversight as it performed under the previous NAAs, conducting regular on-site visits and meeting to discuss monitoring data and technical issues. Region 6 will also continue to perform perimeter monitoring at selected demolition sites as part of its oversight activities.

Today's extension is further conditioned on continuation of all the conditions specified in the NAAs (except as noted in the preceding paragraph). LDEQ must immediately notify EPA Region 6 if it becomes aware of any information indicating that it is not advisable for EPA to continue to allow the flexibility provided in today's NAA extension. EPA reserves the right to revoke or modify the NAAs that are extended by way of this letter, as well as today's extension itself. In addition, as is the case with the NAAs being extended by this letter, this NAA extension does not apply to any other federal requirements that may apply to residential demolition activities (other than the asbestos NESHAP provision specifically discussed in the NAAs and herein).

Through today's extension of the NAAs, EPA is continuing its commitment to work with LDEQ in addressing the very difficult circumstances caused by Hurricanes Katrina and Rita. If you have any questions, please give me a call at 202-564-2440 or John Blevins of EPA Region 6, at 214-665-2210.

Sincerely,



Granta Y. Nakayama
Assistant Administrator

Enclosures

cc: Richard Greene, Regional Administrator, Region 6
Peggy M. Hatch, Assistant Secretary, LDEQ
Cheryl Nolan, Assistant Secretary, Office of Environmental Services