



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

JUN 29 2009

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

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

Dear Dr. Leggett:

I am in receipt of Assistant Secretary Peggy Hatch's letter of June 26, 2009 (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 relief provided by the no action assurance letters issued to LDEQ over the last several years. The 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. Craig Taffaro, on behalf of St. Bernard Parish, also requests such relief in his letter of June 26, 2009 (Enclosure 2). The NAAs were issued on February 3 and 24, 2006, February 2, September 28, December 26, 2007, February 29 and August 28, 2008, and March 31, 2009 (hereinafter collectively referred to as the NAAs) (Enclosures 3, 4, 5, 6, 7, 8, 9 and 10). These NAAs are due to expire on June 30, 2009.

Assistant Secretary Hatch's letter notes that all residential demolitions in Jefferson, Plaquemines, St. Tammany, and Orleans Parishes have been completed. However, there are still a few hundred homes in St. Bernard Parish eligible for Federal Emergency Management Agency (FEMA) funding and St. Bernard Parish needs an extension through September 30, 2009, to complete its work. EPA also received a letter dated June 29, 2009 (Enclosure 11) from FEMA, in which it states its support for the NAA extension for St. Bernard Parish and that it has extended the Interagency Agreement (IAA) with Region 6 to extend funding for EPA air quality monitoring.


EPA has considered FEMA's letter and the information provided by LDEQ and St. Bernard Parish. Also, Region 6, LDEQ and FEMA 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 for St. Bernard Parish through September 30, 2009. EPA will not extend the NAAs beyond September 30, 2009. St. Bernard Parish should take steps to avoid causing itself delays by using the intervening months to take whatever steps are necessary (including renegotiating or rebidding contracts) 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 by October 1, 2009.

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. Region 6's Compliance Assurance and Enforcement Division will continue with the same level of oversight it performed under the previous NAAs, conducting regular on-site visits and meeting to discuss monitoring data and technical issues. Region 6 also will 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. 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. 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,


Cynthia Giles
Assistant Administrator

Enclosures

Cc: Larry Starfield, Acting Regional Administrator, Region 6
Craig P. Taffaro, Jr., Parish President, St. Bernard Parish