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John R. Antonio, Jr.
SECRETARY

August 13, 2002

Principal
ROOSEVELT PRIMARY
224 N. CAMINO PUEBLO
BERNALILLO, NM, 870040640

Re: Clarification regarding Asbestos NESHAP notification requirements under 40 CFR 61.145 Subpart M and 20 NMAC 2.78.

40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants (Asbestos NESHAP) requires that notices be postmarked or hand delivered at least 10 working days before any activity commences that may disturb asbestos containing material (ACM).

There has been some confusion regarding the applicability of the NESHAP notification for asbestos containing floor tile removal using heat machines and/or flooding with water. When these methods are not properly utilized there is an increased risk for releasing asbestos fibers and causes problems with the Asbestos NESHAP as well as with 40 CFR Part 763 (Asbestos-Containing Materials in Schools). 40 CFR Part 763 was published in the Federal Register on Friday, October 7, 1987 and states in part:

"EPA is issuing a final rule under section 203 of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2843, to require all local education agencies (LEAs) to identify asbestos-containing materials (ACM) in their school buildings and take appropriate actions to control release of asbestos fibers."

The attached notice clarifies the fact that the 10 day notice is required for floor tile removal in accordance with the Asbestos NESHAP. Please bring this Notice and clarification regarding asbestos floor tile abatement to the attention of your maintenance and asbestos personnel at your school.

If you have any questions, please call me at 505-955-8076.

Thank you,

Royce Wyrick
Asbestos Supervisor

NOTICE

In the preamble of 40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants: Asbestos NESHAP revision which was promulgated on Tuesday, November 20, 1990, the ENVIRONMENTAL PROTECTION AGENCY (EPA) stated that :

"Other floor tile removal methods are available that do not result in the material being so severely damaged. Such methods include the use of heat from heat guns or electric heat machines, the use of infrared machines, flooding with water or amended water, and the use of dry ice or liquid nitrogen. These methods when properly utilized allow the tiles to be removed with a minimum of damage to the tiles and would not be subject to the NESHAP."

The Air Quality Bureau (AQB) has visited job sites where heat was used for asbestos containing floor tile removal as well as jobs where flooding with water or amended water was being used for floor tile removal. AQB has found that these methods, when properly utilized may allow removal without creating regulated asbestos containing material (RACM), but that in the field operators encounter problems and these methods are not properly utilized.

AQB is delegated by The Environmental Protection Agency (EPA) to enforce the Asbestos NESHAP. In order to fulfill its delegated responsibilities, AQB must receive notification of asbestos floor tile removal projects.

Each owner or operator of a demolition or renovation activity in any facility defined in 40 CFR 61.141, where 160 sq. ft. or more of asbestos containing floor tile and mastic will be disturbed or removed shall provide written notice of intent to the Air Quality Bureau (AQB), 2048 Galisteo, Santa Fe, NM, 87505.

The notice shall be postmarked or hand delivered at least 10 working days before the tile removal begins. Delivery of the notice by U.S. Postal, commercial delivery service, or hand delivery is acceptable.

These notification requirement applies to all asbestos containing floor tile and mastic removals including projects where removal methods which include the use of heat from heat guns or electric heat machines, the use of infrared machines or flooding with water or amended water.

Notification is required prior to the scheduled start date when dry ice or liquid nitrogen is used for floor tile removal. However, the 10 day prior notice requirement is not required for jobs where dry ice or liquid nitrogen is used for removal. AQB has not been aware of the use of dry ice or liquid nitrogen being used for asbestos tile removal in New Mexico and therefore has not been able to evaluate whether operator error is likely to cause the creation of RACM on these projects.

Failure to provide notification is a violation of 40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants: Asbestos NESHAP.