



April 5, 2019

Matthew Karl
Environmental Quality Analyst
Air Quality Division
Department of Environmental Quality
401 Ketchum St, Suite B
Bay City, Michigan 48708

Re: DEQ Violation Notice: 2300 Alexander St - SRN: U251903138, Genesee County

Dear Mr. Karl,

I am writing in response to the violation notice issued on March 25, 2019 for 2300 Alexander Street, Flint, MI, 48505. During an inspection on March 20, 2019 you identified that Building Decommission Services (BDS) Environmental was removing friable RACM in the form of linoleum flooring that had not been notified for in NESHAP (National Emission Standards for Hazardous Air Pollutants).

We take this notice very seriously and we will work in full cooperation with the Michigan Department of Environmental Quality (MDEQ), Air Quality Division to address the issues identified. BDS has submitted a response to the violation notice issued dated March 25, 2019. We look forward to receiving your response to their letter so we can better understand the nature of the violation and make any improvements to our compliance systems if need be.

With guidance from the MDEQ we have instituted significant controls to hold our contractors accountable for full compliance with state and federal environmental regulations. We are committed to improving our systems as needed to further hold contractors accountable. Please let us know if you would like us to provide any additional information or documentation regarding this response including photos, surveys, revised surveys, original NESHAP notification or re-inspection reports. We would be happy to provide this information to you via secure file transfer.

The Genesee County Land Bank currently has significant controls in place to hold our contractors accountable for compliance with federal environmental regulations. Based on this violation we will be following up with our Environmental Surveyors regarding methods of classifying ACM as Friable and Non-Friable. With guidance from the MDEQ, Air Quality Division, we have developed and instituted the following monitoring and compliance procedures:

- 1) Require NESHAP Notification of all ACM.
- 2) Require abatement of all ACM beyond recommendation by the MDEQ and EPA as detailed in our Request for Pricing Scope of Work.
- 3) Provide detailed information on environmental compliance requirements to contractors during required contractor meetings and through regular oral and written communication.
- 4) Invite MDEQ and MIOSHA staff to present at contractor trainings.
- 5) Improved our bid specifications with input from EPA, MDEQ and MIOSHA.

452 S. Saginaw Street Flint, MI • 48502-1832 • Phone 810.257.3088
www.thelandbank.org Fax 810.257.3090





- 6) Require that all abatement contractors upload before and after abatement photographs to Box.com
- 7) Staff conducts a thorough file review of each abated property. The documents reviewed include: environmental surveys, abatement documentation, manifests and photos uploaded to box.com.
- 8) Request inspection on specific properties where staff has identified potential concerns or irregularities during the review process described above.
- 9) Contract a certified environmental surveyor to randomly re-inspect abatement projects when completed.
- 10) Frequently communicate with MDEQ and MIOSHA staff for guidance, problem solving and issue identification.
- 11) GCLBA Demolition inspectors identify potential irregularities on abatement projects through casual observation (caution tape, containment left up, debris, etc.) without entering the site.
- 12) Provide clear guidance to Abatement and Demolition contractors on how to proceed if potential issues are identified.

A signed copy of the letter is forthcoming. We look forward to working with you so we can continue to improve our compliance and monitoring procedures. If you have any questions or require additional information please contact me at 810-257-3088 ext. 529 or by email jmarcy@thelandbank.org.

Sincerely,

A handwritten signature in blue ink that reads "James W. Marcy".

James W. Marcy
Demolition Project Manager
Genesee County Land Bank Authority

CC: Mr. Kenneth Lawler, BDS Environmental
Ms. Mary Ann Dolehanty, MDEQ
Dr. Eduardo Olaguer, MDEQ
Mr. Christopher Ethridge, MDEQ
Ms. Jenine Camilleri, MDEQ
Ms. Karen Kajiya-Mills, MDEQ
Mr. Brad Myott, MDEQ
Mr. Jason Wolf, MDEQ
Ms. Michele Wildman, Genesee County Land Bank Authority
Ms. Christina Kelly, Genesee County Land Bank Authority
Ms. Faith Finholm, Genesee County Land Bank Authority



April 2, 2019

Matthew Karl
Environmental Quality Analyst
Air Quality Division
Michigan Department of Environmental Quality
Saginaw Bay District Office
401 Ketchum Street, Suite B
Bay City, Michigan 48708

RE: 42300 Alexander Street, Flint, MI – U251903138

Dear Mr. Karl:

This letter is in response to your letter dated March 25, 2019 regarding removing RACM linoleum flooring without a NESHAP notification at the house located at 2300 Alexander Street, Flint, MI. You requested the following information:

1. The dates the violation occurred;
2. An explanation of the causes and duration of the violation;
3. Whether the violation is ongoing;
4. A summary of the actions that have been taken and are proposed to be taken to correct the violation and the dates by which these actions will take place; and
5. What steps are being taken to prevent a reoccurrence.

Before I provide the information requested, I will provide some background information that may be relevant in regards to the violation. As you know, BDS Environmental notified both MDEQ (NESHAP) and LARA (MIOSHA) that we would be removing asbestos-containing materials on March 9, 2019. We removed all universal wastes and all asbestos-containing materials that were listed in the Mannik Smith Group Asbestos Inspection Report with the exception of 100 square feet of non-friable gray linoleum from room 3. This linoleum was completely encased in ice on March 9, 2019 due to a substantial roof leak present at the kitchen roof. We were unable to remove the flooring unless we used an ax to chop it into small pieces and thus causing it to become non-intact or friable. As a result, we decided to wait until a future date when the ice had been melted and removal would be easier and safer.

We returned on March 20, 2019 to remove the flooring because the demolition contractor needed the flooring removed in order to demolish the house and the ice had melted substantially, but not completely. We established critical barriers at the entry ways to room 3 and began removing the non-friable flooring material.



We removed the linoleum flooring in a non-friable manner using manual methods (spud bars). It was during the removal process, that the MDEQ inspectors inspected the site. We were instructed to stop removal activities, which we immediately did. I believe that the reason we were told to stop removal was that we were not notified for asbestos removal at this address on March 20, 2019. We not only immediately stopped asbestos abatement activities, but we also submitted a second notification for this address which is now scheduled for April 3, 2019.

It should be noted that the violation notice is for failure to notify for the removal of RACM linoleum flooring. It is my belief that the linoleum flooring is not considered to be a Regulated Asbestos-Containing Material (RACM). RACM is defined as (a) *Friable asbestos material*, (b) *Category I nonfriable ACM that has become friable*, (c) *Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading*, or (d) *Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart*.

Additionally, Friable Asbestos Material is defined by the NESHAP regulations as *any material containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy, that when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy (PLM), verify the asbestos content by point counting using PLM.*

The Mannik Smith Group Pre-Demolition Regulated Materials Survey dated July 20, 2018 states that the “tile” portion of the gray linoleum flooring contains 1.50% chrysotile and the “backing” portion of the linoleum contains no asbestos. That report also classifies the gray linoleum as “Non-Friable”. Under Table 1 of the report the gray linoleum is listed as non-friable, in good condition and not a RACM. Also, the two workers who performed the removal operations on this flooring stated to me that it was wet, partially frozen and not friable during the removal operations.

It is my professional opinion that the gray linoleum that we were removing was a Category I nonfriable material that was removed in a manner that prohibited sanding, grinding, cutting or abrading forces that would cause the material to become friable. Since only a category I nonfriable material was to be removed from 2300 Alexander Street, Flint, on March 20, 2019 I did not believe that a second notification was required because notification is not required if only category I materials that are kept in good condition are to be removed from a planned renovation.

The following are our response to each item listed on page 1 of this letter:

The dates the violation occurred – We only removed category I non-friable flooring from 2300 Alexander Street without a notification on March 20, 2019.

Explanation of the causes and duration of the violation – It is not the standard operating procedure of BDS Environmental to perform asbestos abatement activities without first submitting asbestos notifications to the appropriate state agencies. However, in this case one notification had already been submitted for the house and it was believed that a second notification was not required if only category I nonfriable asbestos flooring in good condition was removed. The duration of the violation was less than 24 hours.

Whether the violation is an ongoing - The violation is not ongoing. We immediately ceased removal activities and sealed the entrances to the room where the category I nonfriable flooring was present once the MDEQ inspectors notified the crew of the notification issue.

A summary of the actions that have been taken and are proposed to be taken to correct the violation and the dates by which these actions will take place – On March 20, 2019, BDS Environmental submitted a ten day notification to the MDEQ and MIOSHA for the removal of 100 square feet of flooring from the house located at 2300 Alexander Street, Flint, MI. On all future projects, BDS Environmental will not perform any asbestos abatement activities without first submitting a ten day notification when required by law.

What steps are being taken to prevent a reoccurrence – Effective March 25, 2019, BDS Environmental has informed all members of our team who have any responsibility regarding notifications, such as estimators, office staff, project managers, foremen and workers, of the need to submit notifications anytime friable materials, category II nonfriable and category I nonfriable materials (except in certain conditions) are removed. This will not be an ongoing issue.

It should be noted that the Genesee County Land Bank had no knowledge that BDS Environmental was returning to 2300 Alexander Street to remove the 100 square feet of category I nonfriable flooring. I am sure that the GCLB would want to see our notification for 2300 Alexander Street if they had foreknowledge that BDS would be there on March 20, 2019. We returned to 2300 Alexander the morning of March 20, 2019 to remove the category I nonfriable flooring so that the house could be demolished later that day. We did not feel that the flooring was RACM due to it being wet, partially frozen and nonfriable according to the MannikSmith Report and therefore, never sent in a second notification because we believed that no RACM was involved in the second abatement activity at this site.

BDS Environmental takes the safety of human health and the environment very seriously. I have personally discussed this violation notice with all of my estimators, office staff and field supervisors and have stressed the importance of properly submitting asbestos notification forms.

BDS Environmental does not dispute that we did remove category I nonfriable flooring on March 20, 2019 without submitting a notification. However, BDS Environmental was not aware that the non-friable gray linoleum was considered to be RACM. If we had known that it was RACM, then we certainly would have notified the appropriate state agencies.

Lastly, is it possible to have the sample that was determined to be friable by the MDEQ to be analyzed by the State using PLM analysis to determine its asbestos content?

Please contact me at (586) 755-9030 if you require any additional information at this time.

Respectfully submitted,

BDS ENVIRONMENTAL



Kenneth J. Lawler
Managing Partner

Attachments: Mannik Smith Group Report for 2300 Alexander St.
USEPA Applicability Determination Index, Control #: A000003
Notification form for April 3, 2019 removal



July 20, 2018

Demolition Program
 Genesee County Land Bank
 452 S. Saginaw Street, 2nd Floor
 Flint, Genesee County, Michigan 48502

Re: Pre-Demolition Regulated Materials Survey
 2300 Alexander St., Flint, Genesee County, Michigan

Dear GCLBA Demolition Program:

The Mannik & Smith Group, Inc. (MSG) is pleased to present Genesee County with the results of the pre-demolition regulated materials survey (RMS) performed at 2300 Alexander St., Flint, Genesee County, Michigan (hereinafter referred to as the "Site") by State of Michigan Accredited Asbestos Inspector, Olivia Sly (Accreditation Number A51251) and assisted by Spencer Rogers.

SUMMARY

Building Information	
Property Address	2300 Alexander St., Flint, Michigan
Parcel #	40-01-407-016
No. Stories	2
Square Footage (approx.)	1,225 SF
Siding	Wood
Basement	Yes
Garage	Yes



Asbestos Containing Material				
Functional Area	Material Group	Friable/Non Friable	Asbestos	Quantity
House Ducting	Vent Wrap	Friable	50% Chrysotile	150 SF
Room 3	Gray Linoleum	Non-Friable	Tile - 1.50% Chrysotile Backing - None Detected	100 SF
Exterior	House Window Glaze	Non-Friable	1.75% Chrysotile	225 SF (15 Windows)
Basement	Gray 9x9 Floor Tile	Non-Friable	Tile - 5% Chrysotile Mastic - None Detected	10 SF
Exterior	White Exterior Caulk	Non-Friable	2% Chrysotile	50 LF
Garage	Transite Siding Debris	Non-Friable	15% Chrysotile	200 SF

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ACM Survey Results

MSG identified sixteen (16) homogenous materials that were suspect as asbestos containing during the ACM survey. Thirty-five (35) bulk samples were collected from these suspect homogeneous materials and were submitted to APEX Research Inc. (APEX) for laboratory analysis of Bulk Materials by Polarized Light Microscopy using USEPA Method 600/R-93/116. APEX is accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) to analyze bulk samples for asbestos content. Of the aforementioned suspect homogenous materials identified during this ACM survey, laboratory analysis found six (6) samples containing greater than 1% asbestos (3-1, 7-1, 9-1, 14-1, 15-1, 16-1). The EPA defines ACM as materials containing greater than 1% asbestos.

A point-count quantification procedure (PCQM) allows for lower detection limits than calibrated visual estimation (CVES), which is the quantification method widely used in asbestos analysis via Polarized Light Microscopy (PLM). If the asbestos content is found to contain less than 10% asbestos as determined by a method other than point counting by PLM, it can only be treated as non-ACM if verified to contain less than 1% by the PCQM. If not point-counted, the sample must be assumed to be greater than 1% and thus considered and treated as ACM. As part of this survey, three (3) samples (7-1, 9-1, 15-1) were analyzed using point count quantification.

Suspect ACM sample locations are depicted on the attached figure. See *Table 1, Asbestos Sampling Results* for a listing of homogeneous materials identified by MSG during this survey. A copy of the analytical reports including chains of custody is attached in *Attachment C, Analytical Reports and Chains of Custody*.

Universal Wastes, Hazardous Materials, and Other Regulated Materials Survey Results

Universal wastes, hazardous materials, and/or other regulated materials wastes were identified within the Site building. Quantities identified are provided in *Table 2, Universal Waste, Hazardous Materials, and Other Regulated Materials Inventory*.

CONCLUSIONS AND RECOMMENDATIONS

Asbestos Containing Materials

Of the sixteen (16) homogenous materials collected as part of the ACM survey, six (6) samples contained greater than 1% asbestos (3-1, 7-1, 9-1, 14-1, 15-1, 16-1) with one (1) sample classified as RACM (3-1). All materials containing ACM must be disposed of in a licensed landfill.

Prior to demolition, a notification of intent to demolish shall be made to the Michigan Department of Environmental Quality Air Quality Division (MDEQ-AQD) and Licensing and Regulatory Affairs (LARA), Asbestos Program. Notification, according to the procedure described by the NESHAP, Title 40 of the Code of Federal Regulations, Part 61, Subpart M, Notification, for renovation and demolition projects should be followed. A copy of this notification form is provided in *Attachment D, Notification of Intent to Renovate/Demolish*. This form shall be completed by the contractor who completes the demolition.

If additional suspect ACMs are discovered during demolition activities in areas that were determined during this survey to be structurally unsound and unsafe, inaccessible, concealed and/or in buried areas, shall be surveyed, tested, and abated if warranted. If suspect ACMs are determined to be RACM that would be disturbed during demolition activities, the RACM must be properly removed by a licensed asbestos abatement contractor.

Category I and Category II Non-Friable ACM may often be left in place during demolition activities if the ACM is not subjected to sanding, grinding, cutting, or abrading or has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material during the course of demolition.

Universal Wastes, Hazardous Materials, and Other Regulated Materials



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2365 Haggerty Rd South, Canton, MI 48188 Tel: 734.397.3100 Fax: 734.397.3131 www.MannikSmithGroup.com

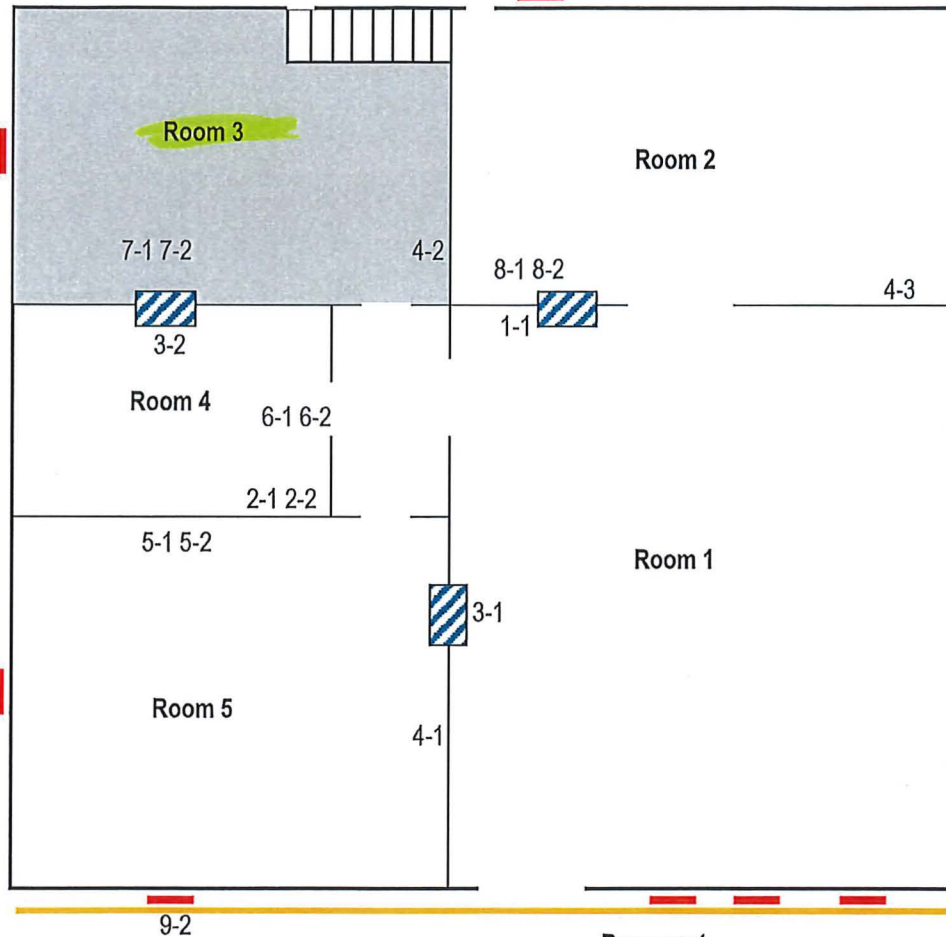
Address: 2300 Alexander St.

Date: June 19, 2018

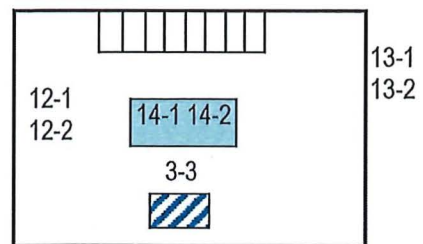
Drawing not to scale

Exterior
10-1 10-2
11-1 11-2
15-1 15-2

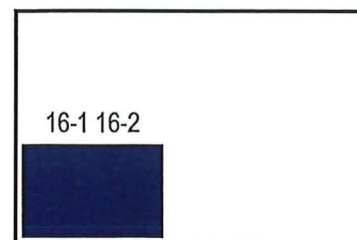
First Floor



Basement



Garage (Attached to Back of House)



-  Vent Wrap - 130 SF
-  Gray Linoleum - 100 SF
-  House Window Glaze - 180 SF (12 Windows)
-  Gray 9x9 Floor Tile - 10 SF
-  White Exterior Caulk - 50 LF
-  Transite Siding Debris - 200 SF

#-# = Asbestos Sample

**TABLE 1
Asbestos Sampling Results**

Client		Genesee County Land Bank Authority								
Survey Location		2300 Alexander St. Flint, MI								
Survey Date		June 19, 2018								
Functional Area	Floor	Sample ID	HM #	Homogeneous Material Group	Friable/Non Friable	Condition	EPA Classification	RACM	Asbestos	Quantity
RM-1	1	AS 1-1	HA-1	Drywall/Joint Compound	non-friable	good	Miscellaneous	No	None Detected	2870 SF
RM-6	2	AS 1-2	HA-1	Drywall/Joint Compound	non-friable	good	Miscellaneous	No	None Detected	
RM-7	2	AS 1-3	HA-1	Drywall/Joint Compound	non-friable	good	Miscellaneous	No	None Detected	
RM-4	1	AS 2-1	HA-2	Tile Adhesive	non-friable	good	Miscellaneous	No	None Detected	260 SF
RM-4	1	AS 2-2	HA-2	Tile Adhesive	non-friable	good	Miscellaneous	No	None Detected	
RM-5	1	AS 3-1	HA-3	Vent Wrap	friable	fair	TSI	Yes	50% Chrysotile	150 SF
RM-4	1	AS 3-2	HA-3	Vent Wrap	friable	far	TSI	Yes	Not Analyzed	
Basement	B	AS 3-3	HA-3	Vent Wrap	friable	fair	TSI	Yes	Not Analyzed	
RM-5	1	AS 4-1	HA-4	Textured Plaster	non-friable	good	Miscellaneous	No	None Detected	1530 SF
RM-3	1	AS 4-2	HA-4	Textured Plaster	non-friable	good	Miscellaneous	No	None Detected	
RM-2	1	AS 4-3	HA-4	Textured Plaster	non-friable	fair	Miscellaneous	No	None Detected	
RM-5	1	AS 5-1	HA-5	Panel Mastic	non-friable	good	Miscellaneous	No	None Detected	105 SF
RM-5	1	AS 5-2	HA-5	Panel Mastic	non-friable	good	Miscellaneous	No	None Detected	
RM-4	1	AS 6-1	HA-6	Tan Floral Linoleum	non-friable	good	Miscellaneous	No	None Detected	65 SF
RM-4	1	AS 6-2	HA-6	Tan Floral Linoleum	non-friable	good	Miscellaneous	No	None Detected	
RM-3	1	AS 7-1	HA-7	Gray Linoleum	non-friable	good	Miscellaneous	No	Tile - 1.50% Chrysotile Backing- None Detected	100 SF
RM-3	1	AS 7-2	HA-7	Gray Linoleum	non-friable	good	Miscellaneous	No	Tile - Not Analyzed Backing- None Detected	



U.S. Environmental Protection Agency Applicability Determination Index

Control Number: A000003

Category: Asbestos
EPA Office: Region 9
Date: 04/15/1991
Title: Asbestos NESHAP
Recipient: Rueckert, David
Author: Trotter, Robert

Subparts: Part 61, M, Asbestos

Abstract:

Q: Does the exemption allowing Category I materials to be demolished in place extend to friable roofing felt layers located beneath or between nonfriable asphaltic roofing layers? A: No. If a material is friable there is no allowance under the NESHAP for that material to be demolished in place. Only asphalt based (bituminous) roofing may be demolished in place.

Q: Does nonfriable mastic from flooring material, carpet, covebase, or ceiling tile fall under the Category I non-friable ACMs? A: Yes. The asbestos NESHAP defines Category I material as "asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos". Mastic that is in good condition and non-friable would fall under Category I material.

Q: If nonfriable mastics are Category II nonfriable ACMs, then how are non-exempt flooring mastics to be handled when they occur beneath exempt resilient flooring? A: Mastics would be Category I material and could be demolished in place if in good condition prior to the demolition. Any friable material must be removed prior to a demolition unless it is "on a facility component that is encased in concrete or other similarly hard material and is adequately wet whenever exposed during demolition".

Q: Are renovation and demolition projects involving facilities with no known ACMs or with exempt Category I nonfriable ACM's required to comply with Notification requirements? A: The asbestos NESHAP does not require notification of renovation activities where asbestos materials are not being disturbed. If Category I materials are kept in a non-friable condition during removal, transport, and disposal, notification of renovation is not required.

Q: Does the use of standard demolition procedures and equipment (i.e., wrecking ball and crane, bulldozer wrecking, heavy equipment loading or material handling...) constitute sanding, grinding, cutting, or abrading? A: The NESHAP specifically allows such standard demolition procedures for Category I material. RACM need not be removed before demolition if it is Category I nonfriable ACM that is not in poor condition and is on a facility component that is encased in concrete or similarly hard material and is adequately wet whenever exposed during demolition.

Letter:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, Ca. 94105

April 15, 1991

David K. Rueckert
Industrial Hygiene Project Manager
Environmental Engineering Services
Western Technologies Inc.
3737 E. Broadway Road
Phoenix, AZ 85040

Dear Mr. Rueckert:

Thank you for your January 4, 1991 letter requesting a NESHAP Applicability determination on Category I asbestos containing material. Your specific questions on exempted demolitions where category I material is allowed to be demolished in place are addressed as follows:

1. Does the exemption as noted above extend to friable roofing felt layers located beneath or between nonfriable asphaltic roofing layers?

No. If a material is friable there is no allowance under the NESHAP for that material to be demolished in place. Only asphalt based (bituminous) roofing may be demolished in place. If, for example, a roof contained a layer of asphalt roofing and a layer of friable asbestos paper felt containing no asphalt, the paper ACM felt would have to be properly removed prior to demolition.

2. Does nonfriable mastic from flooring material, carpet, covebase, or ceiling tile fall under the Category I non-friable ACMs?

Yes. The NESHAP defines Category I material as "asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos". Mastic that is in good condition and non-friable would fall under Category I material.

3. If nonfriable mastics are Category II nonfriable ACMs, then how are non-exempt flooring mastics to be handled when they occur beneath exempt resilient flooring?

Mastics would be Category I material and could be demolished in place if in good condition prior to the demolition. Any friable material must be removed prior to a demolition. The only exception NESHAP allows for friable asbestos material to be demolished in place is when the material is "on a facility component that is encased in concrete or other similarly hard material and is adequately wet whenever exposed during demolition".

4. Do renovation and demolition projects involving facilities with no known ACMs or with exempt Category I nonfriable ACM's required to comply with Notification requirements?

The NESHAP does not require notification of renovation activities where asbestos materials are not being disturbed. If Category I materials are kept in a non-friable condition during removal, transport, and disposal, notification of renovation is not required. If the material is made friable during any stage of the removal, transport, or disposal, a renovation notification is required. NESHAP Notification is

required for any demolition of a NESHAP asbestos facility, regardless as to whether any asbestos containing material is present.

5. Does the use of standard demolition procedures and equipment (ie: wrecking ball and crane, bulldozer wrecking, heavy equipment loading or material handling...) constitute sanding grinding cutting or abrading?

The NESHAP specifically allows such standard demolition procedures for Category I material and states: "RACM need not be removed before demolition if: (i) It is Category I nonfriable ACM that is not in poor condition and is not friable. (ii) It is on a facility component that is encased in concrete or similarly hard material and is adequately wet whenever exposed during demolition". Standard demolition procedures may cause Category II ACM to become crumbled, pulverized, or reduced to powder. If so, the techniques may not be used or the material should be removed prior to demolition.

If you have any questions on the revised NESHAP regulation, please feel free to contact me at (415) 744-1135.

Sincerely,

Robert Trotter
Enforcement Officer