



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, DC 20460

AUG 15 2016

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

Mr. Kary S. Amin  
Vice-President  
NOVA Environmental, Inc.  
5300 Plymouth Road  
Ann Arbor, MI 48105

Dear Mr. Amin:

This letter provides a response to your January 14, 2016, letter to the U.S. Environmental Protection Agency (EPA) seeking clarification on the type of documentation required to identify building materials as non-asbestos containing material (non-ACM), in accordance with the Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 C.F.R. Part 61, Subpart M.

For any facility, irrespective of the date when the facility was constructed<sup>1</sup>, the Asbestos NESHAP requires the owner/operator, prior to a renovation or demolition operation, to conduct a thorough inspection either of the whole facility or the portion of the facility that will be affected by the renovation or demolition operation. See 40 C.F.R. §61.145(a). The definitions for owner/operator, facility, renovation and demolition can be found at 40 C.F.R. §61.141.

The definitions for friable asbestos, non-friable asbestos, Category I non-friable asbestos and Category II non-friable asbestos all have one common requirement.<sup>2</sup> Each of the definitions identify Polarized Light Microscopy (PLM)<sup>3</sup> as the test method to determine if building materials contains greater than one percent asbestos. In order to perform the PLM test, the owner/operator requires samples from building material(s) found in the facility that will be subject to the renovation or demolition operation.

<sup>1</sup> See 40 C.F.R. 763, Subpart I—Prohibition of the Manufacture, Importation, Processing, and Distribution in Commerce of Certain Asbestos-Containing Products; Labeling Requirements for the few building materials banned in the United States. There is no complete ban on all asbestos-containing materials.

<sup>2</sup> See 40 C.F.R §61.141 under Definitions

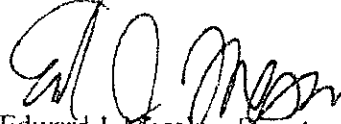
<sup>3</sup> The test method, Polarized Light Microscopy, is found at 40 C.F.R. Part 763, Appendix E to Subpart E of Part 763—Interim Method of the Determination of Asbestos in Bulk Insulation Samples.

Q2. If not, exactly what type of documentation would be acceptable to the EPA for each building component to be impacted by renovation or demolition in order to comply with Section 61.145(a) of the NESHAP standard?

R2. Depending on the circumstances, there may be appropriate documents that show the asbestos-content or lack of asbestos-content for each building material. The documentation should provide information on how the asbestos-content was determined. However, for compliance purposes, PLM is the test method recognized in the regulatory definitions for asbestos-containing materials. EPA has elsewhere discussed how the procedures in EPA/600-93/116 ("Method for the Determination of Asbestos in Bulk Building Materials") can be consistent with the PLM procedures. See 60 Fed.Reg. 65243. One example where documentation would be acceptable is found in a school building's Management Plan. Under the Asbestos Hazardous Emergency Response Act (40 C.F.R. Part 763), school buildings are required to prepare a Management Plan that requires the local education agency to identify where asbestos-containing and suspect asbestos-containing materials are located within a school building. Samples of building materials are collected and analyzed using PLM. The results of those samples are placed in the Management Plan.

This response has been drafted in consultation with the EPA Office of General Counsel, and the Office of Air Quality Planning and Standards. EPA does not consider this response to be a final Agency action in response to a source's request for rule applicability. If you have further questions, contact Everett Bishop of my staff at (202) 564-7032 or at [bishop.everett@epa.gov](mailto:bishop.everett@epa.gov).

Sincerely,



Edward J. Messina, Director  
Monitoring, Assistance, and Media Programs Division  
Office of Compliance

cc: Steve Anderson, OGC  
Susan Fairchild, OAQPS  
Gregory Fried, OCE



January 14, 2016

Mr. Edward Messina  
Director of Monitoring, Assistance and Media Programs Division  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington DC, 20460

RE: Clarification Regarding Non-Asbestos Containing Material (non-ACM) Documentation

Dear Mr. Messina:

The intent of this correspondence is to request written clarification on the type of documentation necessary to identify building components as non-ACM.

Over the past two decades, many building owners have required contractors and subcontractors on new building/new addition construction projects to provide documentation of non-ACM building component installation. This documentation has included the following:

- Material Safety Data Sheets (MSDSs) for installed products;
- Letters from the manufacturers stipulating that their products do not contain asbestos;
- Letters from the installers stipulating that the products that they have installed do not contain asbestos.

At the completion of the construction project, a binder of the above noted documentation would be provided to the building owner. With this binder in hand, the building owner would expect that when conducting renovation or demolition in the future, that the requirements to perform a thorough inspection for the presence of friable and non-friable asbestos under Section 61.145 (a) of the NESHAP Standard would be waived.

After conversations with a variety of EPA officials at both the EPA Region V and Washington DC, it appears that there is no consensus as to what type of documentation, short of conducting bulk sample collection and laboratory analysis, would be necessary to identify newly installed building components as non-ACM. Therefore, my questions are as follows:

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1. When planning a renovation or construction project, is the collection and analysis of bulk samples using Polarizing Light Microscopy (PLM) the only way to comply with the requirements of a thorough inspection under Section 61.145 (a) of the NESHAP Standard?
2. If not, exactly what type of documentation would be acceptable to the EPA for each building component to be impacted by renovation or demolition in order to comply with Section 61.145 (a) of the NESHAP Standard?

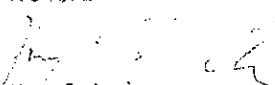
Nova Environmental Inc. strongly believes that, since asbestos is no longer mined in Canada, this is the right time for the EPA to re-introduce a ban on asbestos for use in building component products. Until there is a ban, a clarification on this issue will aid building owners in complying with the EPA's NESHAP Standard in the future.

I look forward to hearing from you soon.

Thank you for your time.

Sincerely,

NOVA ENVIRONMENTAL, INC.



Kary S. Amin  
Vice President