



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

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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:

We are in receipt of Assistant Secretary Peggy Hatch's letter of March 27, 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 to 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. These NAAs were issued on February 3 and 24, 2006, February 2, September 28, December 26, 2007, February 29 and August 28, 2008 (hereinafter collectively referred to as the NAAs) (Enclosures 2, 3, 4, 5, 6, 7 and 8). These NAAs are due to expire on March 31, 2009.

Although much progress has been made, EPA recognizes the ongoing challenge Louisiana faces since Hurricane Katrina made landfall on August 29, 2005. Assistant Secretary Hatch's letter notes that Orleans, St. Bernard, Plaquemines, St. Tammany, and Jefferson Parishes have completed 17,380 residential demolitions. The letter further notes that Jefferson and Plaquemines Parishes have completed their residential demolitions, but that St. Bernard and Orleans Parish, and the City of Slidell, in St. Tammany Parish, continue to need the relief set forth in the NAA letters for an additional 90 days.

EPA also received a copy of a letter dated March 27, 2009 (Enclosure 9), from Federal Emergency Management Agency (FEMA), in which it states its support for the NAA extension request 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 in recent conversations between our staffs and in Assistant Secretary Hatch's letter. 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 June 30, 2009, for St. Bernard and Orleans Parishes and the City of Slidell, in St. Tammany Parish. However, EPA does not intend to extend the NAAs beyond June 30, 2009, barring extraordinary circumstances. LDEQ and the parishes should use 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.

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 202-564-2220 or John Blevins of EPA Region 6, at 214-665-2210.

Sincerely,



Catherine R. McCabe
Acting Assistant Administrator

Enclosures

Cc: Larry Starfield, Acting Regional Administrator, Region 6