

Removal Branch comments on the draft NYC Scope of Work (SOW) document for the asbestos project monitor and air sampling contract. These comments mostly pertain to the process that is being proposed for the asbestos cleanups. Comments on the clean up process are included separately:

Background:

- My understanding is that NYC will be executing contracts with asbestos cleanup contractors to perform the cleanups and with A/E firms to schedule and monitor the cleanups and to conduct asbestos sampling after the cleanups are complete. The SOW states that there are three classes of worker in the A/E contract, (1) Technicians to conduct the air monitoring, (2) Project Monitors to schedule the cleanups (based on the requests received by the hotline), to perform final inspections then sign a project completion report and to ensure that the clean up activities comply with the scope of work and a (3) Project Manager (not listed in the Qualifications section but mentioned in the Post Cleaning Air Sampling Procedures section, item e)) who will advise the occupants about the advantages and disadvantages of conducting aggressive air monitoring. The process, in summary, requires the monitor to schedule the cleanup, to ensure that the cleanup complies with attached Scope of Work (the document doesn't say how), to schedule the Technicians to perform sampling and to conduct the final inspection.

- The EPA role that is explained in the NYC SOW includes maintaining the hotline and providing appropriate procedures for cleaning up building apartments where there are large debris accumulations. An EPA coordinator provides the appropriate procedures for cleaning up apartments with large debris.

My concerns are as follows:

- 1) The NYC SOW does not include any provisions for EPA monitoring the work activities, assuming that EPA wants to provide such monitoring. My understanding is that NYC will execute contracts with cleanup contractors to provide the cleanups (in accordance with the attached Scope of Work) and with A/E firms to monitor the cleanup contractors and to do the asbestos sampling. The contracts will be controlled by NYC Contracting Officers and Project Officers (or whatever they call them), who will be responsible for determining if the work performed meets the contractual requirements and if payments should be made. They will also make judgements (presumably based upon the representations of the Project Monitors) of any failure to perform and the associated corrective actions. Although we have not seen the contract documents, the SOW clearly places responsibility for the determination of proper performance in the hands of the Project Monitors.

- If EPA wants to assume an oversight role that is in any way similar to the role that is performed in the monitoring of our own cleanup contractors, we would have to change the NYC Scope of Work to assign compliance assurance responsibilities to EPA employees rather than the Project Monitors (the contract documents would also have to be changed accordingly to empower the EPA people with the necessary authorities, such as the Contracting Officer authorities that are given to OSCs through their OSC Warrants e.g. to stop work, to approve

invoices etc.).

- Alternatively, the EPA employees could assume other roles such as that of a general oversight function where their specific authorities would be spelled out (to ensure that a certain number of crews are working, that occupants are present at all work sites visited, etc.). The EPA employees could not interact with the NYC contractors (either the clean up contractors or monitoring/sampling contractors) but would have to pass any comments along to an individual (similar to an EPA Project Officer) in NYC, who could then interact with the contractors. The EPA representatives could advise the residents about the contractual relationships and the appropriate contacts for discussing issues.

2) The NYC SOW does not provide any specific information about how the oversight process will work, most particularly, how the Project Monitors will ensure that clean up activities comply with the Clean Up Scopes of Work.

- Will a monitor be available at each clean up site to ensure that the work is being done properly? What authority do the monitors have to ensure compliance (can they stop work for health and safety violations - Can they make the clean up contractor clean more thoroughly or use proper equipment or any other needed corrective actions)?

- Can the monitor deal directly with the clean up contractors or do they have to work through the NYC contract people?

3) The Project Manager is designated as the person who explains the need for aggressive air sampling. The occupant must sign an agreement that authorizes aggressive sampling.

- Assuming that EPA believes that aggressive sampling should be conducted to determine if any asbestos has been removed (all information available to date indicates that aggressive sampling is required), we have concerns about what information the manager will present. Will they tell the resident that it is not needed or otherwise downplay the need? Will the signed agreement release the contractors from any damage caused by the use of air blowers, thereby discouraging aggressive sampling?

- EPA employees, regardless of the type of oversight role, would be expected to fully explain the need for aggressive sampling. If the NYC contractor and the EPA oversight employees provide contrary information to the residents, we could expect that conflicts might develop between NYC and EPA

4) The NYC SOW requires that the occupant of the apartment be present during the clean up activities. Although the SOW does not require that PPE be worn by the contractors, it does not prohibit wearing respirators or other equipment. We would need to provide information to the Regional H & S Officer, and Rod Turpin, the National Superfund Health and Safety Officer to ensure that PPE will not be required for EPA employees.

- Scenarios where NYC contractors or EPA employees may be using respirators while homeowners, perhaps with young children, would be going about their normal activities without

any respiratory protection, would be expected to create somewhat uncomfortable situations.