



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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MAR - 6 2003

Joel Shufro, Executive Director
NY Committee for Occupational Safety and Health
275 Eight Avenue - 8th Floor
New York, NY 10001- 6708

Dear Mr. Shufro:

I am writing in response to your letter of January 21, 2003 concerning the Environmental Protection Agency's (EPA) Indoor Air Residential Assistance Program that the EPA is jointly conducting with the City of New York's Department of Environmental Protection (DEP), using disaster funding provided by the Federal Emergency Management Agency (FEMA). In particular, you sought information about several aspects of the Program.

As you are aware our goal is to protect lower Manhattan residents from potential exposures to residual dust that may contain pollutants from the collapse of the World Trade Center (WTC) and to provide residents with information that will help them feel comfortable in their homes. EPA has received approximately 5,300 requests for cleaning and testing of apartments and an additional 1,241 requests for testing only. As you note in your letter, we have begun work on both categories of requests. To date, over 1,353 apartments have been cleaned and tested, and 392 have been tested. Testing of 1589 residences addressed either by testing alone or cleaning and testing have revealed results below the EPA clearance level (see Note 1, Enclosure 1). Seventeen residences had samples that exceeded the clearance level, and an additional fifty-five had results that could not be determined because of filter overload or other testing related problems (see Note 2, Enclosure 1).

One area you of specific concern to you is personal protective equipment (PPE) for cleanup workers. I note that all work performed under the Program is being performed in compliance with applicable laws and regulations, including but not limited to regulations issued by EPA, the United States Department of Labor Occupational Safety and Health Administration (OSHA), the New York State Department of Labor (NYSDOL), and DEP. The contract entered into by DEP for cleaning requires that only a NYSDOL-licensed asbestos contractor and only DEP- and NYSDOL-certified workers would be allowed to perform any of the cleaning activities under this contract. This requirement also applies to any subcontractors involved in the cleaning. The contract entered into by DEP for the project monitors (who are responsible for, among other things, overseeing the cleaning work and insuring that that work is satisfactorily completed) requires the use of experienced project monitors certified by New York State. I also note that we have worked with OSHA to assure that contractors meet OSHA regulatory requirements. For instance, pursuant to our discussions with OSHA, we have implemented personal air monitoring for a specified number of the cleaning employees (see Note 3, Enclosure 1).

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Under the contracts for the Program, residences and common areas (including elevator shafts) of residential buildings which appear to have been minimally impacted by dust and debris from the collapse of the WTC are addressed using different procedures than those required in the event visual inspection indicates the presence of significant accumulations of WTC dust and debris. In the former instance, procedures referred to in the contracts as "Scope of Work A" apply; in areas of significant accumulation "Scope of Work B" is utilized. Under Scope of Work B, PPE is utilized. As you point out, the use of PPE by cleanup and monitoring workers is not required under Scope of Work A.

There were reasons for this. On June 14, 2002, Patricia K. Clark, the Regional Administrator of OSHA Region 2, issued a Negative Exposure Assessment (NEA), consistent with their regulations, based on sampling in the immediate vicinity of the WTC (Enclosure 2). Regional Administrator Clark indicated that her assessment included both the workers directly involved in WTC debris removal and those exposed to heavy settled dust accumulations in buildings immediately bordering Ground Zero.

On August 5, 2002, Christopher Ward, the DEP Commissioner, wrote to Regional Administrator Kenny concerning whether DEP and NYSDOL requirements apply to Scope A work (Enclosure 3). In his letter, Commissioner Ward said that Scope of Work A situations are not "asbestos projects" or "minor asbestos projects" under DEP's Asbestos Rules, and further, with regard to Article 30 of the New York State Labor Law, which DEP enforces in New York City, such cleanings are not "abatement projects." By its letter, DEP confirmed that it would not require PPE in the Scope A scenario (see Note 4, Enclosure 1). Of course, should the personal air monitoring of workers indicate risks to the workers, we would immediately consult with OSHA and revisit this decision. In addition, the federal Occupational Safety and Health Administration (OSHA) will investigate worker complaints related to the World Trade Center cleanup.

You also request information concerning the focus of the Program solely on residential spaces. I note that EPA has been providing information and advice regarding educational spaces in lower Manhattan. The cleanup program in the New York City public schools has been implemented by the New York City Department of Education, which has taken primary responsibility for testing and cleaning the schools. FEMA is providing financial support for this effort. Some parents of students expressed great concern about the appropriateness of the cleanup being done. As part of our ongoing efforts, EPA agreed to organize and facilitate a meeting with appropriate agencies and interested and involved parents regarding details of the Department of Education's cleanup program. EPA also has reviewed the sampling results obtained through private contracting by the Department of Education for Stuyvesant High School. EPA's review found that the air sampling results at all locations in the school meet the clearance criteria set forth in the Asbestos Hazard Emergency Response Act (AHERA) for re-entry into schools following an asbestos abatement project.

The authorities under which the Program is operated and funded clearly state that the response actions undertaken/to be undertaken are discretionary functions. While the owners and occupants of commercial spaces have been able to rely on commercial insurance resources and on other governmental programs, tenants and residence owners have not had the same degree of

resources available to address testing and cleanup (see Note 5, Enclosure 1). EPA remains confident that the cleaning procedures recommended to the public for residential and commercial spaces following the collapse of the World Trade Center are effective. Our view has been confirmed by data from the Program. While the recommended cleanup methods may, in some cases, have to be applied more than once, they are effective. We are continuing to evaluate the monitoring results and how they may apply to cleanup efforts previously undertaken in non-residential buildings. We will keep you informed of our progress.

There remains much to be accomplished; however, I believe that with the cooperation and assistance of all our partners and with input from the public we will achieve our goal, protecting the public from potential exposure to residual dust that may contain pollutants and providing them with information that will help them feel comfortable in their homes.

I look forward to continuing to work with you, as well as other members of the community, as we address the indoor air concerns of the residents of lower Manhattan. If you have any concerns please contact Peter Brandt, Chief, Intergovernmental Affairs Branch at 212 637-3654.

Sincerely,



Kathleen Callahan
Assistant Regional Administrator for New York City
Response and Recovery Operations

cc: P. Clark, OSHA Region 2
J. Picciano, FEMA Region 2
C. Ward, DEP

Enclosures

Enclosure 1
Notes

- Note 1: We have developed the clearance level (that is, the risk-based cleanup goal) to determine when cleaning is effective in a residence participating in the Program. For the Program, there are not any directly applicable standards that have broad scientific support which correlate airborne exposure to dust containing hazardous substances. Accordingly, as is common practice in removal actions under the National Oil and Hazardous Substances Contingency Plan, we have developed a risk-based clearance number for asbestos in air, taking into consideration other standards. We have consulted with peers in the scientific community to confirm that the chosen clearance level is a protective long-term risk guideline.
- Note 2: Initial personal air monitoring was performed by the Cleaning Contractors, in accordance with OSHA requirements, at a minimum of one employee per shift per residence per quadrant for the first 10 weeks of cleaning operations. Currently samples are being taken at one sample per quadrant per day. Results of this sampling are being provided to both the EPA and OSHA and are also available to the employees or their designated representative in accordance with 29 CFR 1910.1020 and 29 CFR 1926.1101.
- Note 3: In a residence not meeting the clearance level where only testing was conducted, EPA recommends that the home be cleaned and re-tested. In a residence where both cleaning and testing were done, EPA attempts to identify potential sources of pollutants and then re-clean and re-test the home to meet the clearance level.
- Note 4: I am informed that under New York State law, the use of PPE in asbestos projects is addressed in the New York State Labor Law and its implementing regulations, and in the Rules of the City of New York. PPE is required only for workers involved in "asbestos projects" or "minor asbestos projects" under DEP's Asbestos Rules, and involved in "asbestos projects" under the New York State Labor Law.
- Note 5: For instance, governmental financial assistance, including but not limited to grants and low interest loans for commercial property owners, was and still is available through the Small Business Administration, New York State Economic Development, New York City Economic Development Corporation, and FEMA. For further information on governmental funding for commercial and business properties, you may contact Joseph Picciano, Acting Regional Director, FEMA Region 2 at (212) 680-3609.