

Nelson, Richard

From: Nelson, Richard
Sent: Wednesday, November 19, 2008 5:06 PM
To: 'McIlvaine.Pam@epamail.epa.gov'
Cc: Greco, Chuck; Liu, Joan
Subject: RE: As you requested - Davidson County TOMORROW

Pam,
Thank you for your response. We have reviewed the regs some more and agree with you that NESHAP is not applicable. 40CFR61.151 clearly states that "each owner or operator of any inactive waste disposal site that was operated by sources covered under 61.142, 61.144, or 61.147 and received asbestos-containing waste material (ACWM) generated by the sources shall comply..." The owner/operator, an asbestos manufacturing facility, was not "covered" at the time of burial of the waste in the 1930s-1940s. Also, ACWM by definition is asbestos waste generated by a source subject to the provisions of the NESHAP. Again, the source was not subject at the time of burial.

We will, however, be involved in some fashion (plan review or oversight?) to assure that people and the environment are protected if and when the work is done. Because plans for remediation are specific to the site and there is no specific plan for removal yet submitted, we cannot comment on what we do not know. Consequently, we have agreement from the community group to reserve any comments until actual plans are developed and submitted.

We will keep this email in the project file for future reference.

Richard

-----Original Message-----

From: McIlvaine.Pam@epamail.epa.gov [mailto:McIlvaine.Pam@epamail.epa.gov]
Sent: Wednesday, November 19, 2008 3:19 PM
To: Nelson, Richard
Subject: As you requested - Davidson County TOMORROW
Importance: High

Richard,

We discussed the following scenario on the phone on the 13th. This is the written e-mail that you requested that documents our discussion. I have discussed this response to you with our Headquarters office, and they are in agreement with it.

The standing buildings are subject to the Asbestos NESHAP demolition provisions. Even if they do not contain asbestos, they are subject to the thorough inspection and notification provisions. Other provisions such as the work practice and disposal provisions will apply if threshold quantities are met.

As far as the asbestos-containing debris currently buried on the site - sorry, no NESHAP applicability. Buried debris is not considered to be a facility component. Also, the debris would not qualify as an inactive landfill since it never qualified as an active landfill (i.e., the demolition preceded the promulgation of the NESHAP). It is nice that they want to remove this debris and dispose of it as ACWM. You have no regulatory hook under the NESHAP, however, regarding how this must be done. Perhaps, you can require wetting or some other means of emissions suppression under your dust regulations. Maybe your solid waste regulations could be applied here.

It sounds like they are willing to do the environmentally-correct thing. Let me know if you have any further questions.

Also, you might have some CAA 303 or CERCLA 7003 authority if they mess up and make an imminent endangerment.....call if you want to discuss.