



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D C 20460

FEB 5 1991

MEMORANDUM

SUBJECT: Revised Asbestos NESHAP Implementation Strategy

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Attached is an addendum to be included with the March 31, 1988 Revised Asbestos NESHAP Strategy. This additional guidance has been developed to assist EPA Regional Offices and the States in implementing the revisions to the Asbestos NESHAP regulation.

Revisions to the Asbestos NESHAP were promulgated November 20, 1990 to promote compliance and enhance enforcement efforts. The revisions include monitoring, recordkeeping, and reporting requirements for milling, manufacturing, and fabricating. The notification requirements for demolitions and renovations were modified, and recordkeeping and reporting requirements were added for waste disposal. Also, several revisions were made that clarify the intent of the rule and implement enforcement determinations made previously.

The addendum to the Asbestos Strategy focuses primarily on requirements for waste disposal sites and waste shipment records, since they are among the more significant changes in the NESHAP. Outreach strategies for informing building owners and contractors of the revisions are discussed as are strategies for informing disposal site operators of the new requirements. Any questions or comments should be addressed to Scott Throwe or Omayra Salgado, SS CD, at (FTS) 398-8600 or Charlie Garlow, OE, at (FTS) 475-7088.

Attachment

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Implementation Strategy For Revised Asbestos NESHAP

IMPLEMENTATION STRATEGY FOR REVISED ASBESTOS NESHAP

I. INTRODUCTION

A. Background

In an effort to ensure compliance with the asbestos NESHAP, EPA developed a strategy document for the asbestos NESHAP. The asbestos strategy is intended to promote effective and uniform enforcement of the standard. It focuses on demolition and renovation because the number of demolitions and renovations greatly exceeds the number of other asbestos sources, compliance is worse than for other asbestos sources, and, because of their transitory nature, demolitions and renovations are more difficult to inspect.

Revisions to the asbestos NESHAP were promulgated in November 1990 to promote compliance and enhance enforcement efforts. The revisions include monitoring, recordkeeping, and reporting requirements for milling, manufacturing, and fabricating. The notification requirements for demolitions and renovations were modified, and recordkeeping and reporting requirements were added for waste disposal. Also, several revisions were made that clarify the intent of the rule and implement enforcement determinations made previously.

As a result of the revisions to the asbestos NESHAP, EPA has developed additional guidance to assist EPA Regional offices and the States in implementing the revisions to the NESHAP. Because the regulation of disposal sites and the addition of requirements for waste shipment records are among the more significant changes in the NESHAP, the new implementation strategy focuses primarily on requirements for waste disposal. Outreach strategies for informing building owners and contractors of the revisions are discussed as are strategies for informing disposal site operators of the new requirements.

In view of the new waste disposal requirements, suggestions are made on how to inspect waste shipment records (WSR) and adjust agency inspection schemes, including targeting, to accommodate the new requirements. Suggestions are given for using construction permits and WSR to identify non-notifiers. Data management and targeting using the National Asbestos Registry System (NARS) are discussed in general, while enforcement of the new recordkeeping and reporting requirements is covered specifically. Finally, policy and guidance documents that are relevant to the interpretation and enforcement of the asbestos NESHAP are identified.

B. Implementation Strategy Components Summary

This section provides a brief summary of the twelve strategy components contained in the current asbestos strategy. For a complete discussion of each component, refer to the Asbestos Demolition and Renovation Enforcement Strategy.

1. Outreach

Outreach efforts are aimed at increasing public awareness of the asbestos NESHAP requirements. Although owner/operators should be familiar with the NESHAP, they could benefit from EPA guidance on specific topics such as EPA applicability determinations. Outreach components of an enforcement program may include a pamphlet containing explanations of the

regulations and phone numbers of appropriate agency personnel; seminars and demonstration workshops for contractors, and owners and managers of commercial buildings; discussion forums with school district administrators, architects, lenders, real estate groups, and insurance agency representatives; and radio talk shows on the hazards of asbestos.

2. Contractor Training

Contractor training is a requirement (effective, November 1991) and an effective way of educating contractors as to what is required of them under the asbestos NESHAP. Most States have established some type of training program and/or certification for asbestos removal contractors. Also, the Asbestos Hazard Emergency Response Act (AHERA) requires States to establish accreditation programs for persons who inspect, develop management plans, or design or conduct response actions in schools. States should be encouraged to extend the AHERA certification requirement to all demolition/renovation contractors.

3. Inspector Training

To increase inspector effectiveness in finding violations and documenting evidence at demolition and renovation projects, inspectors should receive training on inspection procedures, safety, the NESHAP requirements and other pertinent regulations. The Stationary Source Compliance Division (SSCD) offers a classroom training program to Region and State inspectors. Asbestos inspectors should also attend one of the Hazard Abatement Assistance Branch (HAAB) training centers at Tufts University, Medford, MA; Georgia Institute of Technology, Atlanta, GA; University of Kansas, Kansas City, KA; University of Illinois, Chicago, IL; and University of California, Berkeley, CA to become aware of what certified removal contractors are being taught about complying with the asbestos NESHAP. Delegated State and local agencies should be encouraged to send their inspectors to both the SSCD and HAAB training, as well as any contractor certification training provided at the State level.

4. Inspections

Inspections are the foundation for enforcement actions for substantive violations. In order to determine compliance and to collect evidence, inspectors must enter active removal areas. Three items identified in the list of positive inspection techniques—the inspectors' checklist, a camera, and safety gear—are especially important and are considered standard inspection gear. Whenever possible, inspectors should collect samples and observe work practices. While it is preferable to inspect a site during active removal operations, a compliance determination is possible at a removal site when no removal activity is occurring based on evidence (e.g., photographs and samples of material) collected.

5. Inspection Targeting

Because of the tremendous increase in the number of notifications received by EPA and the delegated agencies, Regions and their delegated agencies must make more efficient use of inspectors' time by implementing a targeting system that strategically identifies which notifications or contractors to follow up with inspections. A computer tracking system is available that will assist in prioritizing inspections by identifying removal sites where violations are most likely to occur. Inspection priority should be based on a simple evaluation of computer tracking data involving the assessment of contractor compliance history and on specific criteria

for notifications. In addition to inspection targeting based on computer tracking data, citizen complaints should be followed up with inspections. Special attention should also be given to demolitions and renovations for which no notification was received. Information from building permits and waste disposal site records can be used to identify these sites.

6. Program Alternatives

When delegated agencies find it difficult to maintain a high level of inspections due to funding limitations, they should adopt cost-effective, alternative mechanisms. Examples of alternatives include adoption of a state-wide contractor certification program (effective in November 1991, contractor training is a requirement of the asbestos NESHAP) or the adoption of a system of collecting fees for each removal operation to help fund enforcement programs. When combined with a penalty policy of sufficient stringency for each violation type, the adoption of one or more such alternatives would be an acceptable State asbestos NESHAP enforcement program modification.

7. Federal Enforcement Options

EPA may take administrative and/or judicial actions against a NESHAP violator. EPA can pursue administrative actions through Section 113(d) orders or Section 303 orders. Section 113 (d) administrative penalty orders may be issued to violators when they are found out of compliance with requirements or to sources which submit deficient notifications. However, the administrative penalty order authority would not be effective until EPA revises the consolidated rules of practice to incorporate hearing procedures for administrative penalties. This is expected to be completed in 1991. These administrative penalty orders may assess civil penalties of up to \$25,000 per day of violation. In general, they may be used only in cases where the total penalty does not exceed \$200,000 and the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action.

Judicial action can take the form of civil action as provided for in Section 113(b), or criminal action as provided for in Section 113(c). Procedures are available for negotiated settlement through judicial consent decrees and are designed to facilitate the settlement process and enable Regions to increase judicial enforcement without straining resources. Section 113(b) civil actions can be used to seek immediate compliance and civil penalties of up to \$25,000 per day of violation. Section 113(c) criminal enforcement actions include knowing violations of the asbestos demolition and renovation requirements.

Another enforcement option is contractor listing under Section 306. When EPA lists a contractor, that contractor cannot be awarded any contract to perform work where Federal funds are involved. Under mandatory listing, contractors convicted of criminal air Act violations are automatically listed. Under discretionary listing, contractors that have continuing or recurring violations of clean air standards may also be listed.

8. Choosing an Enforcement Option

Each violation, listed by contractor, should be entered into the computer tracking system to provide a record of violations for individual contractors. Instructions are provided in Tables 1 and 2 of the Asbestos Demolition and Renovation Enforcement Strategy to assist in deciding when a particular enforcement action is appropriate.

9. Assessing Penalties

The "Clean Air Act Stationary Source Civil Penalty Policy, March 1987" (see Appendix III, the Asbestos Penalty Policy) provides the framework for assessing penalties. The Region should determine a preliminary deterrence amount by assessing an economic benefit component and a gravity component. This amount may then be adjusted upward or downward by consideration of other factors as detailed in the Clean Air Act Stationary Source Civil Penalty Policy.

10. Reporting

The reporting format for STARS has been revised (see Appendix G of the Asbestos Demolition and Renovation Enforcement Strategy). Report violations in terms of substantive violations and notification violations and include the number of sources inspected. Regions must ensure that there is no double-counting of notifications.

11. Regional Oversight

Joint EPA-State inspection is the best method to review delegated agency inspections and establish the criteria for an acceptable compliance inspection. For Regions with both delegated and undelegated States, Regional inspections should be concentrated in the undelegated States. Regions should develop written inspection programs containing inspection criteria and targeting systems and should provide a written assessment of each delegated agency's compliance record.

12. Cross-Program Coordination

EPA NESHAP and TSCA inspectors and OSHA inspection programs should be coordinated to maximize information collection and sharing, consolidate compliance assistance efforts, and unify enforcement activities among all EPA and OSHA asbestos programs.

II. SUMMARY OF NEW REQUIREMENTS

A. Notices

Owners and operators of planned renovations are now required to provide EPA or the delegated authority with 10 days advance notice.

Previously, owners or operators of renovations were required to notify EPA or the delegated authority as soon as possible before renovations. In demolitions where the amount of asbestos is below the current threshold amounts of 160 square feet or 260 linear feet, including demolitions where there is no asbestos, 10-days advance notice is required; previously, 20 days notice was required. The revised asbestos NESHAP at 40 C.F.R. Section 61.145(b)(2) requires notices to be updated. For example, for planned renovations involving individual nonscheduled operations, if the total amount of asbestos to be removed is predicted to exceed the threshold amounts, the revised NESHAP specifies that EPA or the delegated authority must be notified at least 10 days before the beginning of the calendar year for which the notification is being given.

The revisions require that EPA or the delegated authority be notified whenever there is a change in the date that the demolition or renovation is to start. If the project is delayed, EPA or

the delegated authority must receive notice of the change as soon as possible before the original start date. This notification may be by telephone but must be followed by a written notification received not later than the original start date. If the start date is changed to an earlier date, EPA or the delegated authority must be notified in writing at least 10 days in advance of the new start date. In no event can an operation start unless EPA or the delegated authority has been notified. The NESHAP also requires that an updated notification be submitted to EPA if the amount of asbestos involved changes by more than 20 percent.

The information that must be included in the demolition and renovation notification has been revised. In addition to previously required information, notices must now indicate whether it is the original or a revised notice, identify procedures used to detect asbestos, provide scheduled start and completion dates of asbestos removal work, contain a certification that the project will be supervised by a trained individual, describe the nature of the emergency renovation, explain procedures for handling unexpected asbestos, and provide information on the waste hauler.

B. Definitions

As a result of revisions to the requirements for demolitions and renovations, several definitions have been added to the NESHAP and others have been modified. To help clarify the conditions under which nonfriable materials are subject to the NESHAP, several terms have been added and defined including "Category I nonfriable ACM" and "Category II nonfriable ACM," "regulated asbestos-containing material (RACM)," "cutting," "grinding," "nonfriable asbestos material," "resilient floor covering," and "in poor condition." The definition of "RACM" replaces "asbestos-containing material" and lists the four asbestos-containing materials subject to the demolition, renovation, and waste disposal provisions. The definition of "friable asbestos material" was revised to specify a method for determining the presence and quantity of asbestos in bulk material. Other new definitions include "nonscheduled renovation operations," "glove bag," "leak tight," "owner or operator of demolition or renovation operations," and "working day." Clarifying changes were made to the definitions of "emergency renovation operation," "facility," "facility component," "demolition," and "planned renovation operations."

As a result of changes in the waste disposal provisions, including the addition of recordkeeping requirements for waste shipments, definitions have been added for "waste generator" and "waste shipment record." The definition of "asbestos-containing waste material" has been revised.

C. Friability

Although the NESHAP has not been revised to alter its applicability to friable and nonfriable asbestos-containing materials, several changes have been made to clarify the NESHAP as it applies to friable and nonfriable materials. The changes reflect the February 23, 1990 policy memorandum which discusses the EPA position regarding asbestos materials. The NESHAP now classifies nonfriable asbestos material as either Category I or Category II material. Category I material is defined as asbestos-containing resilient floor covering, asphalt roofing products, packings, and gaskets that are nonfriable. Category II material includes nonfriable materials other than Category I nonfriable asbestos-containing material. Nonfriable asbestos-cement products are an example of Category II material.

The NESHAP specifies that Category I materials, which are not friable prior to demolition, do

not have to be removed. Category II materials that are likely to become crumbled, pulverized, or reduced to powder as part of demolition, must be removed before demolition begins. If Category II material is not removed but becomes crumbled, pulverized, or reduced to powder, it must be removed if possible, and if not possible for safety reasons, the entire contaminated waste pile

must be kept wet during handling and loading for transport and disposed of in an acceptable landfill in accordance with Section 61.150. If a building will be demolished by burning, both Category I and II nonfriable materials must be removed.

Since the disintegration of Category II material during demolition can usually be foreseen, a contractor could be cited for failure to remove the material should it be crumbled, pulverized, or reduced to powder during a demolition where removal was feasible. For example, one would expect that striking exterior A/C sheet with a wrecking ball would cause it to be crumbled, pulverized, or reduced to powder. The additional cost of treating an entire waste pile as if it were asbestos is expected to inhibit the practice of demolishing structures without first removing Category II material.

Whenever Category I nonfriable materials are or will be subjected to sanding, grinding, cutting, or abrading, or have degraded to a friable state, they are required to be handled in compliance with all of the NESHAP requirements for notification, emission control procedures, and the waste disposal provisions of Section 61.150. Similarly, operations with Category II nonfriable materials that will be or that have become crumbled, pulverized, or reduced to powder as part of a demolition or renovation must comply with the notification, emission control, and waste disposal provisions.

D. Recordkeeping and Reporting

For both generators of asbestos waste and waste disposal sites, the NESHAP now specifies that certain records of waste shipments be kept, and that, under certain circumstances, reports be made to EPA or the delegated authority.

Generators of asbestos waste must prepare a WSR for each load of asbestos waste to be transported to a disposal site. The WSR details the amount of waste and its destination. The generator is responsible for transmitting a copy of the WSR, usually via the transporter, to the disposal site receiving the waste. If, within 45 days after the waste left the generator's site, a copy of the WSR, signed by a disposal site representative, is not received by the generator, the generator must notify EPA or the delegated authority in the form of an exception report. Sample WSR forms are included in the NESHAP.

Waste disposal sites, upon receiving a waste load, must verify and sign the WSR and return a copy to the generator. They are also required to maintain records of each waste shipment received (a copy of the WSR accompanying the waste load satisfies this requirement). If the disposal site owner or operator notices a discrepancy between the waste received and the information on the WSR or if the owner or operator notes the presence of improperly contained waste, a report must be submitted to EPA describing the problem along with a copy of the WSR. Disposal sites must also maintain records on the location and amounts of asbestos waste disposed of in the landfill. Upon closure of the site, the disposal site owner is required to put a note on the deed to the property stating that the site was used for the disposal of asbestos waste. Also,

the disposal site owner or operator must submit to EPA or the delegated authority a survey plot of the disposal site identifying where the asbestos waste is located along with information on the amount of asbestos in the landfill.

E. Training

The NESHAP requires that there be at least one on-site supervisor at a demolition or renovation operation who is trained in the applicability, notification, and emission control provisions of the NESHAP. This training requirement becomes effective in November 1991. In addition, refresher training is required every 2 years. EPA-approved certification courses meet this requirement.

III. NEW OUTREACH

Focusing on public education and awareness can increase understanding of the NESHAP among the regulated community and thereby benefit the enforcement effort. Suggestions for increasing awareness among building owners, removal contractors, and disposal site operators are listed below.

A. Strategy to Inform Owners/Contractors

State and local enforcement agencies usually have information on removal contractors including their addresses. This information can be used to mail information documents directly to contractors. Where NESHAP enforcement personnel have cooperative agreements with building inspection departments, information can be made available to contractors when they apply for construction permits. Where there are State or local associations of building owners/managers and asbestos abatement groups, printed material should be provided to allow these associations to inform their membership of the NESHAP revisions. Enforcement personnel may want to be certain that previous NESHAP violators are aware of the revisions. Violators can be identified by using Agencies' files on non-notifiers and other NESHAP violators. State or local air pollution and environmental associations should be provided with information on the asbestos NESHAP that can be shared with their membership. In addition to disseminating information that explains the rule, enforcement officials should always provide phone numbers of appropriate agency personnel who can provide further assistance.

Another outreach approach includes the use of training programs. Courses are available for contractors and building owners/managers that cover the hazards of asbestos as well as the various regulatory requirements of OSHA and EPA, including the NESHAP. Building owners should be encouraged to attend courses that cover their responsibilities in managing asbestos in buildings. A list of available courses could be provided to State or local associations of building owners and asbestos abatement groups as well as to State and local air pollution and environmental associations.

B. Strategy to Inform Waste Disposal Operators

Information documents that explain the waste disposal requirements (such as the Field Guide: Reporting and Recordkeeping Requirements for Waste Disposal) should be provided to waste disposal site operators and asbestos waste haulers. Mailing addresses of waste disposal operators

and haulers should be available from State solid waste agencies. Any State or local solid waste association should also be contacted and provided with copies of information documents. During their first inspection of a disposal site, enforcement officials should take the time to explain to site owners or operators the waste disposal requirements and answer any questions they may have.

IV. INSPECTION SCHEME

This section addresses the inspection of waste disposal sites.

A. Resource Allocation

In addition to demolitions and renovations, enforcement personnel also must inspect waste disposal sites where asbestos-containing waste material is disposed of. Disposal site inspections are expected to take more time than previously since they now involve recordkeeping. Because of the additional inspection requirements, agencies may have to adjust inspection priorities in order to make the necessary time available for waste site inspections. For example, if an agency was formerly able to inspect some low priority removal sites, it may now be limited to inspecting only high and top priority work sites.

B. Targeting Waste Disposal Sites

In the two (2) years following promulgation of the accelerated rule, all waste disposal sites should be visited for a baseline inspection. In some cases, the delegated agency may be unable to complete the baseline inspection within 2 years due to a large number of disposal sites. If that should occur, the delegated agency should attempt to complete the baseline inspection in as timely a manner as possible. The baseline inspection will be part of the outreach to the regulated community, providing disposal site operators an opportunity to learn about reporting and recordkeeping requirements. Further, it will provide evidence of EPA's intention of enforcing the waste disposal requirements, while collecting information necessary for inspection targeting. Until experience with the waste disposal requirements accumulates and site histories emerge, targeting of waste disposal sites should be based on their size and the amount of asbestos waste accepted for disposal, other enforcement actions (i.e., RCRA) exception reports, etc.

Waste disposal sites that receive waste from demolitions and renovations performed out of compliance should be targeted for inspection in order to confirm substantial contractor violations or to monitor problem contractors.

V. RECORDKEEPING INSPECTIONS

This section provides guidance for enforcement personnel inspecting records at waste disposal sites and contractor's offices.

A. How to Inspect Records at a Waste Site

The records of interest at a waste disposal site are (1) WSRs for each shipment of asbestos-containing waste disposed of at the site, and (2) up-to-date records that indicate the location, depth and area, and quantity of asbestos-containing waste within the site on a map or diagram.

Before visiting a disposal site, check the files to determine if any reporting or recordkeeping problems have been reported for the site, (e.g., an unexpectedly large number of exception reports). (If the removal jobs and the disposal site are in the same regulatory jurisdiction this will be easy to do; otherwise, it may not be possible. Cross-jurisdiction issues are discussed on pp. 22-24) Also, since many disposal sites only accept asbestos on certain days, you should contact the site in advance of your visit by telephone so that you can schedule your visit for a day when the site is receiving asbestos.

Upon arrival at the disposal site, introduce yourself and explain that the purpose of the visit is to inspect the records that are required by the NESHAP and to determine compliance with the waste disposal requirements in Section 61.154. Ask the site operator to describe the recordkeeping procedures they follow for WSRs and asbestos deposited at the site.

In inspecting the WSR file, you should note how the file is maintained and if the WSRs have been filled out completely, including all of the required signatures. Note any WSRs that have an entry pertaining to discrepancies or improperly contained waste (item 12 on the example WSR in the revised NESHAP) and ask the operator if discrepancy reports or reports of improperly contained waste were submitted to the responsible agency for the WSRs in question.

Ask the site operator for the most recent tally of the total quantity of asbestos-containing waste deposited at the site. The operator should be able to provide you with a total that includes all but the most recent shipments. Examine the records showing the location, depth and area, and quantity of asbestos-containing waste within the site to determine that they are up-to-date. Check to see that the proper information is being collected and that the backlog of information to be added to the records is only for current waste shipments.

B. How to Inspect Contractors/Transporters

The records of interest at a contractor's office are WSRs for each shipment of asbestos-containing waste turned over to a transporter for delivery to a waste disposal site. Usually, the inspection will be conducted at the contractor's field office at an ongoing demolition or renovation job site. WSRs for prior shipments can be obtained by a Section 114 information request directed to the contractor's permanent address. On occasion it may be necessary to visit the contractor's permanent office to inspect the file of WSRs which must be kept for 2 years.

Also, at the demolition or renovation site, evidence that the required training has been completed should be posted and available for inspection.

Before visiting the contractor's office, check the files to determine if the contractor has been the subject of discrepancy or improperly contained waste reports.

Upon arrival at the contractor's office, introduce yourself and explain that the purpose of the visit is to inspect records required by the NESHAP. Ask the contractor to describe the procedures they follow in using the WSR and their recordkeeping system.

In inspecting the WSR file, you should note how the file is maintained and if the WSRs have been filled out completely, including all of the required signatures. Note any WSRs that have not been returned by the disposal site and ask the contractor if exception reports have been submitted

for these shipments.

If reports of improperly contained waste or discrepancy reports have been submitted for shipments originated by the contractor and the contractor asserts that the waste shipment was properly contained and that the information on the WSR was complete and correct when it was turned over to the transporter, inform the contractor that he is responsible for complying with

these NESHAP requirements and that it is his responsibility to select a transporter who will transport the waste in such manner that it arrives at the disposal site in compliance with the NESHAP.

At the demolition or renovation site, ask to see a certificate or other evidence that the supervisor training required by the NESHAP has been completed.

VI. NON-NOTIFIERS

This section discusses the identification of non-notifiers through construction permits and waste site records.

A. How to Identify Using Construction Permits

Many local governments require individuals to obtain a construction permit before they demolish or renovate a building. A permit is issued upon completion of a permit application which identifies the name and location of the structure, intended construction activity, etc. Typically, these permitting programs are administered by a building inspection department.

Personnel engaged in enforcing the NESHAP can make use of construction permits to audit past compliance with the NESHAP by comparing permits issued with notifications received, or pro-actively to identify current jobs that may involve the removal of asbestos for which no notification has been received. Since a notification is required for all demolitions—even those where no asbestos is present—review of construction permits will as a minimum help identify demolition non-notifiers. Use of construction permits will be especially useful for local air pollution control agencies, since they are often located conveniently near the building inspection departments where the permits are issued. Review of permits can be readily accomplished by State and local enforcement personnel who will be able to identify buildings where asbestos is likely to be present and an inspection is indicated.

NESHAP enforcement personnel should meet with the heads of local government offices that issue construction permits to discuss the hazards of asbestos and the NESHAP requirements and explore ways in which they could cooperate. For example, in addition to sharing construction permit information, some building inspection departments may be willing to give permit applicants information on the NESHAP if handouts were provided for that purpose.

B. How To Identify Using Waste Site Information

While it seems unlikely that an owner/operator would willfully fail to submit a notification and then complete a WSR for the waste generated by the demolition or renovation, instances of owners/operators forgetting to submit a notification and notifications

mailed but not reaching the agency have occurred.

Reports of improperly contained waste and discrepancy reports submitted to the enforcement agency identify the owners/operators of demolitions and renovations. A Section 114 letter can be sent to the owner/operator requesting a list of the jobs that contributed waste to the shipment for which a discrepancy or improperly contained waste report was submitted. By comparing the list of jobs with notifications received, non-notifiers can be identified.

VII. Data Management and Targeting

This section discusses the current status of NARS as it relates to incorporating waste shipment information into the database and plans for the future.

A. How to Update and Use NARS

While the reporting structure is in place to collect waste shipment information from the States, the software for electronic transmission of the information has not been prepared and arrangements have not yet been made with the States. Approximately two years will be required to get everything in place to use NARS for targeting inspections on the basis of waste shipment information.

B. How to Integrate NARS and Targeting Scheme

When the reporting system is in place and NARS includes waste shipment information, a number of useful reports can be generated. For example, NARS will be able to produce a history of exception reports submitted for each disposal site as well as a history of discrepancy reports and reports of improperly contained waste for each generator. In addition, inspection and violation histories for waste disposal sites can be generated. It also will be possible to compare the amounts of asbestos material given in the notification with those shown on the WSR. Such histories are expected to assist in targeting waste sites in much the same way as they currently contribute to targeting inspections of demolitions and renovations.

VIII. Enforcement

Violations associated with the recordkeeping and reporting requirements of waste handling and disposal are discussed in this section.

A. Recordkeeping and Reporting Requirements

The types of violations that are associated with recordkeeping and reporting requirements are similar for the waste generator and the waste disposal site, with a few differences.

Violations of the recordkeeping and reporting requirements for waste generators will fall into one of the following categories:

- **Recordkeeping**

- Failure to keep records (WSRs) of waste shipments (61.150 (d))
- Incomplete information on WSRs (61.150 (d)(1))

- Failure to provide copy of WSR to disposal site (61.150 (d)(2))
- Failure to maintain records for sufficient time (61.150 (d)(5))

- **Reporting**

- Failure to file exception reports (61.150 (d)(4))
- Failure to file exception reports within required time (61.150(d)(4))
- Inadequate information on exception reports (61.150 (d)(4)(i) and (ii))

Violations by disposal site owners or operators may be for any of the following:

- **Recordkeeping**

- Failure to maintain records of waste shipments (61.154(e)(1))
- Failure to record information on location and amount of asbestos in disposal site (61.154 (f))
- Failure to return a signed copy of the WSR back to the generator (61.154 (e)(2))
- Failure to maintain records for sufficient time (61.154 (e)(4))

- **Reporting**

- Failure to file discrepancy reports (61.154 (e)(3))
- Failure to report uncontained waste (61.154 (e)(1)(iv))
- Failure to file reports within required time (61.154 (e)(1)(iv) and (e)(3))
- Upon closure, failure to provide information to EPA on location and amount of waste (61.154(g))
- Upon closure, failure to place a notification on deed to property concerning presence of asbestos waste (61.151 (e))
- Failure to notify EPA prior to excavating or disturbing buried asbestos-containing waste material (61.154 (j))

B. Notification Violations

Violations of the new notification requirements fall into the same categories as those contained in Table 1 of the existing "Asbestos Demolition and Renovation Enforcement Strategy." Table 1 lists as notification violations the following:

- No notification,
- Late notification, and
- Incomplete notification.

C. Cross-Jurisdiction

The issue of cross-jurisdiction is relevant to the enforcement of the waste disposal requirements, especially in enforcement procedures to be used to follow-up on exception reports from waste generators and reports from disposal sites of discrepancies or improperly contained waste. In some instances, both the waste generator and the disposal site will be located in the same enforcement jurisdiction and covered by one regulatory agency. In this situation, the follow-up on reports from either waste generator or disposal site is straight forward. However, there will be many occasions when the waste generator is located in a jurisdiction different from

the disposal site. For example, waste may be transported across State lines, or even into another Region, for disposal. When this happens, the NESHAP requires that the disposal site send copies of reports of discrepancies or improperly contained waste to the agency responsible for the disposal site in addition to the agency responsible for the waste generator. The agency responsible for the waste generator is identified on the WSR. Depending on the apparent severity of the problem and/or the frequency with which a particular generator is identified in reports of discrepancies or improperly contained waste, enforcement personnel in whose jurisdiction the generator is located may want to inspect the generator to observe waste handling practices and make inquiries regarding the reported waste shipments.

When an exception report is filed by a waste generator (where a signed WSR from the disposal site has not been received within the allotted time), only the agency responsible for NESHAP enforcement in the generator's jurisdiction receives a copy of the report. If that agency wants additional information on the disposal site, they can contact the agency responsible for the NESHAP enforcement in the jurisdiction where the disposal site is located and request that the disposal site be inspected. Because one agency will not have authority in another's jurisdiction, cooperation would be voluntary. Another approach, where more than one jurisdiction is involved, would be to request the assistance of the Region.

Another situation in which regulatory cross-jurisdiction may be important involves enforcement of the NESHAP by different branches of the same government. This occurs for example when the program responsible for solid waste has responsibility for enforcing the NESHAP's waste disposal requirements while the air program enforces the other parts of the NESHAP.

In the interest of making the most efficient use of personnel, States may assign enforcement of the NESHAP waste disposal site provisions to staff members who regularly visit landfills to enforce other solid waste rules. It is important that these programs cooperate and share information, including exception reports and reports for discrepancies or improperly contained waste. Even where the solid waste program does not enforce any part of the NESHAP, they may inspect disposal sites that accept asbestos waste as part of their normal enforcement activities. The NESHAP enforcement program may benefit by discussing with the solid waste program inspectors the NESHAP disposal requirements. Cooperation between these programs could help to extend enforcement resources for both programs.

Training also has cross-jurisdiction aspects. For example, asbestos training courses accredited by one State as meeting AHERA guidelines may be attended by demolition and renovation contractor personnel from a second State. If the accredited State training course includes material on the NESHAP, it will satisfy the NESHAP requirement for training.

IX. POLICY AND GUIDANCE DOCUMENTS

Several applicability and policy determinations have been made recently that have important implications for interpreting and enforcing the asbestos NESHAP. Officials carrying out compliance inspections of asbestos NESHAP sources and considering enforcement actions must be aware of and understand these documents.

A memorandum issued jointly by the Emission Standards Division, SSCD, and Air Enforcement Division on February 23, 1990 clarifies EPA's policy regarding applicability of the

NESHAP to nonfriable asbestos-containing materials. Additional guidance on this issue is contained in the EPA document, "Asbestos NESHAP Regulated Asbestos-Containing Material Guidance."

In response to questions concerning the applicability of the asbestos NESHAP to condominiums, cooperatives, and lofts, a determination was issued jointly by SSCD and Air Enforcement Division. This determination was issued in a memorandum date October 19, 1989.

Guidance has also been developed to assist generators of asbestos waste and operators of asbestos disposal sites in complying with the new asbestos waste recordkeeping and reporting requirements. This guidance is contained in the EPA document, Field Guide for Asbestos Waste Disposal Recordkeeping and Reporting Requirements (EPA 340/1-90-016).

Another EPA document, A Guide to the Asbestos NESHAP as Revised November 1990 (EPA 340/1-90-015), is intended to assist regulated sources by providing a simply stated version of the asbestos NESHAP. These guidance documents, as well as the applicability determinations identified above, should be available to all asbestos NESHAP enforcement officials. If you do not have any of these documents, they may be obtained from SSCD.