

US EPA ARCHIVE DOCUMENT



January 20, 2004

Mr. John P. Suarez, Assistant Administrator
Office of Enforcement and Compliance Assurance
Environmental Protection Agency
Ariel Rios Building, Room 3204
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

Re: City of Fort Worth Project XL -- Phase 2
Demolition of Cowtown Inn, 6855 E. Lancaster, Fort Worth, Texas
With Regulated Asbestos-Containing Materials In-Situ

Dear Mr. Suarez:

The City of Fort Worth hereby makes this request for a grant of discretionary enforcement from the United States Environmental Protection Agency (EPA) in order to demolish urban structures in Phase II, in Fort Worth, Texas, utilizing the "Fort Worth Method" of asbestos abatement in building demolition. Under the Fort Worth Method, the structure is thoroughly wetted prior to and during demolition and some, but not all of the asbestos containing material is removed.

The goal of this pilot project is to determine whether the use of this method is at least as protective of human health as the Asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), which requires the Asbestos to be removed prior to demolition. The NESHAP authorizes alternative demolition methods as long as they are at least as protective of human health as the NESHAP method.

The first phase of this pilot project provided initial data sufficient to warrant further investigation into the Method. The next phase, demolition of two nearly identical facilities subject to the requirements of the NESHAP, is intended to gather further information regarding the Method's equivalency to the NESHAP. However, to acquire data to support or reject a finding of equivalency, demolition of a structure to which the NESHAPS is applicable is necessary. The first facility to be demolished is the Cowtown Inn located at 6855 E. Lancaster, Fort Worth, Texas. It was chosen, because it is the only structure that the City presently has in its control that would allow for the two demolitions necessary for the side-by-side test. The location of the second facility is to be determined in conjunction with EPA. Should test results at the Cowtown Inn indicate that the Fort Worth method is not protective, plans for further demolitions will be discontinued.

CITY MANAGER'S OFFICE

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Background

In March 1999, the City of Fort Worth Department of Environmental Management filed an application with the EPA for regulatory flexibility under Project XL. The City of Fort Worth's XL project is entitled "Asbestos Management in the Demolition of Substandard Structures as a Nuisance Abatement." The project proposes an alternative demolition method for substandard structures, called "The Fort Worth Method." As defined, the Fort Worth Method would allow only municipalities the opportunity to demolish substandard structures that are either not owned by the municipality or that have been assigned to the municipality through property tax foreclosure. These structures have been ordered, through administrative or judicial processes, to be brought up to code or demolished. Although substandard, they are not yet in danger of imminent collapse but will likely degrade to that point by the time the municipality has the money to perform the asbestos abatement and demolition.

The Fort Worth Method, simply stated, applies the EPA regulation found at 40 CFR §61.145 (a)(3)¹ to a structure:

- (1) that has been declared to be substandard by a local governmental agency (in Fort Worth this is done through an administrative process via the Building Standards Commission, or through a judicial process),
- (2) that is not yet in danger of imminent collapse, and
- (3) that will be demolished by the local governmental agency as a nuisance.

However, under the Fort Worth Method, if more than 260 linear feet of thermal system insulation (TSI) or more than 160 square feet of spray-on fireproofing (SOF) is encountered during assessment, it will be removed in accordance with state and federal law prior to demolition. Structures suitable for this demolition method range from one to three stories. Demolitions are to be performed by heavy equipment only. No explosives are to be used to explode or implode structures, and burning is not to be utilized to demolish structures.

Phase I Demolition

After the City filed its project proposal, it worked with the EPA and the Texas Department of Health (TDH) for over a year to develop a phased approach to the project. It was determined that Phase I would involve the demolition of a facility that contained RACM.

¹ This provision regulates the demolition of a facility being demolished under an order of a state or local governmental agency because it is structurally unsound and in danger of imminent collapse. RACM is left in place during demolition.

but that was either exempt from or not subject to the Asbestos NESHAP² or TDH regulations. In August 2000, a Quality Assurance Project Plan (QAPP) was completed and approved, and in September an agreement was reached among EPA, TDH, and the City. The City received approval to move forward with the Phase 1 demolition to provide a demonstration of the Fort Worth Method and provide emissions monitoring data to be used by EPA in determining whether the Fort Worth Method can be considered equivalent to the Asbestos NESHAP for the purpose of performing two additional demolitions under the second phase of the project.

After several months of searching, a building that met the approval of the agencies was found, public notice was issued, and a public meeting was held. The demolition took place in April 2001. The building selected for the Phase 1 demolition was chosen based on its size, substandard status, and type and quantity of asbestos-containing materials. A 1,126 square foot residential duplex, it contained the following RACM:

- 2,618 square feet of wall texture/joint compound - 2% Chrysotile
- 820 square feet of ceiling texture - 2% Chrysotile
- 265 square feet of linoleum flooring - 55% Chrysotile

Meteorological data was collected during demolition and landfill operations, with primary focus on wind speed and direction. Air sample locations were chosen in reference to wind direction on the day of the sampling. The air samples were analyzed using ISO Method 10312:1995 - Ambient Air - Determination of Asbestos Fibers - Direct-Transfer Transmission Electron Microscopy Method. Under this method the samples are reviewed under low magnification (10X) and under high magnification (20X). One downwind sample from the demolition site (day one) contained one Amosite structure and thus under low magnification contained 0.00010 structures per cubic centimeter (str/cc) and under high magnification contained 0.00050 str/cc. All other samples from the demolition site were below laboratory detection limit including the blanks. One downwind sample from the landfill site (day two) contained one Tremolite structure and thus under low magnification contained less than 0.00010 str/cc and under high magnification contained 0.00049 str/cc. All other samples from the landfill site were below laboratory detection limit including the blanks. (It should be noted that neither Tremolite nor Amosite were identified in the house during the asbestos assessment.) This information was provided by the City to the EPA in a report dated October 17, 2001, and an addendum report dated April 9, 2002. Because airborne concentrations of asbestos upwind at the demolition site were not significantly different than those concentrations downwind, the objectives of the Phase 1 demolition were clearly met.

² A residential structure containing four or fewer dwelling units, or a facility in danger of imminent collapse.

Phase 2 Demolition

The City now hopes to move into Phase 2, in which it will conduct demolition activities at two separate facilities. At each facility, the City will demolish two similar structures. One building will be demolished in accordance with the Asbestos NESHAP, and the second building will be demolished using the Fort Worth Method. Air monitoring and other sampling during both demolitions will allow a true comparison of the two methods. The first site targeted for this phase of the project is the Cowtown Inn. Before the demolitions can occur, the QAPP must be revised, and go through peer review as set out in the EPA Peer Review Policy. The document setting out a description of the Fort Worth Method is being amended based on comments from EPA and will also be included in the peer review. As a result of recommendations from EPA, a remediation plan is also being developed for the project. Stakeholder meetings must also be held to provide the community and other interested parties an opportunity to comment. Last, after the peer review and stakeholders meetings, if amendments to the documents are requested, they will be considered in conjunction with EPA and TDH.

As was discussed at the September 29, 2003, meeting in Washington, D.C. between EPA and City of Fort Worth officials, a means to expedite the approval process for the Phase 2 demolitions, would be to step outside of Project XL, and for the EPA to provide the City with an assurance that the agency will exercise its discretionary enforcement authority and take no enforcement action for violations of the asbestos NESHAP. It would still be necessary for the City to gain approval from TDH once the EPA had provided this assurance. Therefore it will be imperative for the EPA to provide notice to TDH that an assurance of no action under discretionary enforcement has been granted to Fort Worth.

Following the completion of the Phase 2 demolitions, the City will review analyses of the samples submitted to the laboratory, and will provide a report to the EPA and TDH on its findings. This will be done for each facility demolished under Phase II as the data becomes available. The emissions data from the Phase 2 demolitions will provide a basis for EPA to determine whether the Fort Worth Method is equivalent to the Asbestos NESHAP for the purpose of demolishing additional substandard structures utilizing the Fort Worth Method.

Public Interest

The Cowtown Inn is an abandoned motel in the east Fort Worth neighborhood of Handley. Built in the early 1960s, it consists of nine buildings totaling 65,692 square feet on approximately four acres. The motel has been abandoned for approximately 15 years, and has been subjected to extreme degradation through weather, neglect, and vandalism. Although it fronts on E. Lancaster (old U.S. Highway 80), its other three sides are adjacent

to modest, well-kept homes and a church with a private school. Since taking control of the property in January 2001 through property tax foreclosure², the City has drained and filled in the pool to prevent mosquito breeding, has boarded up doors and windows and erected a chain link fence to deter vandals and vagrants, and has kept the property mowed to prevent high grass and weeds. However, the presence of this dilapidated facility remains a constant threat to the health and safety of the neighborhood, and a source of fear for residents and students who want it demolished as soon as possible. Unfortunately the City has not been able to accommodate their wishes because asbestos removal from the facility, estimated at over \$1 million dollars, has proven to be cost prohibitive. It is, therefore, in the best interest of the public that Fort Worth be allowed to utilize the "Fort Worth Method" to demolish the Cowtown Inn, pursuant to an EPA-approved QAPP. It is on this basis that Fort Worth requests an assurance of no action from the EPA. The second site for Phase 2 has not been chosen. Information on this site will be given to EPA well in advance of demolition activities.

We appreciate your attention to this matter, and hope for a swift resolution of our request.

Yours very truly,



Gary W. Jackson
City Manager

cc Mike Moncrief, Mayor
Becky L. Haskin, City Council District 4
Franklin D. Moss, City Council District 5
Libby Watson, Assistant City Manager
Brian Boerner, Director, Environmental Management
Carl Smart, Director, Code Compliance
Kathryn A. Hansen, Regulatory & Environmental Coordinator, Environmental
Management

² Fort Worth holds the property in trust for the other taxing entities: Tarrant County, Tarrant County Hospital District, Tarrant County College District, Fort Worth Independent School District, and the Tarrant Regional Water District.