

**Public Justice  
Natural Resources Defense Council  
Sierra Club  
AFL-CIO  
Building and Construction Trades Department, AFL-CIO  
International Association of Heat and Frost Insulators and Allied Workers  
Physicians for Social Responsibility  
Asbestos Disease Awareness Organization**

May 17, 2010

Administrator Lisa Jackson  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Re: EPA's Dangerous Experiments on Demolishing Buildings Containing Asbestos

Dear Administrator Jackson:

During the Bush Administration, several EPA officials advocated strongly to relax restrictions on the demolition of asbestos-contaminated buildings. They wanted to replace the Clean Air Act's protective method,<sup>1</sup> which requires removal of asbestos prior to demolition, with an unprotective "wet method" or Alternative Asbestos Control Method (AACM), which leaves the asbestos in place during demolition and uses water sprays to try to suppress asbestos contamination.

When the Obama Administration took office, we expected that this misguided experiment would end. The AACM does not work, and can potentially expose workers and nearby residents to asbestos. Asbestos is a known human carcinogen. Forty countries around the world have banned its use.

For these reasons, we are deeply dismayed to learn that the AACM is still being actively pursued as a research and regulatory priority, and that EPA may soon release two final test reports that mislead decision-makers and endorse this method. We understand that EPA staff are now reviewing the draft reports. They have discovered factual errors, failures to follow EPA procedures, and apparent inconsistencies with EPA regulations and policies, but EPA's Office of Research and Development (ORD) is still pushing the AACM method. We urge you to re-evaluate the accuracy of the draft AACM test reports and stop diverting agency resources to the consideration and development of this dangerous technique.

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<sup>1</sup> The federal work practice standards for removing asbestos from demolished buildings are prescribed by EPA's National Emission Standard for Hazardous Air Pollutants (NESHAP) at 40 C.F.R. § 61.145.

Here is a brief history of what has occurred to date. From 1999 to 2003, St. Louis officials used the wet method to demolish hundreds of asbestos-laden homes and buildings near the City's airport to make way for a new runway. When EPA Region 7 belatedly discovered this illegal practice, it failed to enforce the law and instead issued an administrative consent order, without any public notice to the affected community, that allowed the illegal demolitions to continue for another year. That order was later extended for another year, in violation of the one-year statutory limit on compliance deadlines in administrative compliance orders. A federal judge ruled in 2008 that the demolitions violated the asbestos NESHAP and the Clean Air Act.

Starting in about 2004, EPA officials in Region 6 and EPA's ORD repeatedly sought to test the AACM on various buildings around the country. The first test was to be done in June 2004 on the Cowtown Inn in Ft. Worth, in the middle of a low-income residential neighborhood, but strong opposition from local residents forced EPA to abandon that plan. At the time, EPA's Asbestos Coordination Team (ACT), composed of senior EPA scientists, strongly objected to the test, stating that it rested on "numerous assumptions that are not clearly supported by scientific studies."

EPA then moved the experiment in August 2004 to the Landscape Building at the St. Louis airport. The ACT "concluded that not only did the study design of the demolition limit the ability to generalize the results, but that the data indicate statistically significant downwind asbestos release and possible exposures during and following the wet demolition of the building." EPA's final May 2005 report on that test found that downwind air monitors "captured some asbestos fibers that were obviously released during the demolition process."

In April 2006, EPA demolished two abandoned army barracks in Ft. Chaffee, Arkansas, using the wet method on one barracks and the NESHAP method on the other. EPA's report on that April 2006 test concluded that the AACM released more asbestos and particulates into the air than did the NESHAP method. AACM1 Report,<sup>2</sup> pp. 81, 85.

Despite the failure of the St. Louis and Ft. Chaffee tests, former EPA officials at Region 6 and ORD persisted, and funded two more experiments. In July 2007 EPA conducted another test demolition at Ft. Chaffee (the AACM2 test), and in December 2007 EPA managed a test demolition at an Oak Hollow Apartment complex in the midst of a low-income, densely-populated residential area in Ft. Worth, Texas (the AACM3 test). In 2008, EPA solicited public comment on draft reports on those two tests.<sup>3</sup> The same former ORD official was the lead author

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<sup>2</sup> Wilmoth, *et al.*, Comparison of the Alternative Asbestos Control Method and the NESHAP Method for Demolition of Asbestos-Containing Buildings (the "AACM1 Report"), Jan. 25, 2008, available at <http://www.epa.gov/nrmrl/lrpcd/aacm/index.html>.

<sup>3</sup> Wilmoth, *et al.*, Evaluation of the Alternative Asbestos Control Method at Site Two (AACM2) for Demolition of Asbestos-Containing Buildings, July 21, 2008 (the "AACM2 Draft Report"); Wilmoth, *et al.*, Evaluation of the Alternative Asbestos Control Method at Site Three (AACM3) for Demolition of Asbestos-Containing Buildings, July 21, 2008 (the "AACM3 Draft Report"). *See* 73 Fed. Reg. 42573 (July 22, 2008).

on both reports, and claimed that the tests were effective in preventing any significant release of asbestos.

As we show below, that claim is disproved by the data cited in the reports themselves. But the data are buried in the reports beneath complex statistical calculations that falsely seek to claim success. The Ft. Chaffee and Ft. Worth data show that each demolition released asbestos to the air, water and soil. It is the official EPA position that there is no known safe level of asbestos exposure, and all exposures must be avoided. However, in situations where EPA has had to clean up existing asbestos contamination, such as Libby, Montana, EPA has set the action level for settled dust in residential structures at 5,000 asbestos structures per cubic centimeter ( $s/cm^2$ ).

- At the Ft. Chaffee site, 70% of the settled dust samplers detected asbestos releases. The contaminated water was found to contain 130 billion asbestos structures per liter (s/L). A pavement sample measured 19,400  $s/cm^2$ .
- At the Ft. Worth site, 16 of the 18 perimeter air monitors were positive for asbestos. On balconies adjacent to the test, dust monitors measured over 5,000  $s/cm^2$ , which exceeds the Libby action level. After demolition and “decontamination,” the building slab contained 1,100,000  $s/cm^2$ .

In addition to these significant contamination levels, the AACM tests raise troubling issues about quality control and scientific integrity:

- Human Experimentation. EPA violated its own rule requiring informed consent and Institutional Review Board approval before experiments are conducted which obtain data through interaction with human subjects. 40 C.F.R. § 126.102(f)(1). The demolition workers wore personal monitors and EPA collected and used that monitoring data in its reports.
- OSHA Noncompliance. Photographs in the draft reports show workers without any protective gear standing near the air monitors and sampling the soil and contaminated slab, in violation of OSHA standards. E.g., AACM3 Draft Report 33, 34, 49, 51, 53; AACM2 Draft Report 17. Photographs also show workers doing Class 1 work (removing popcorn ceilings) with Class 2 protective gear (half-masks instead of full masks with supplied air). Id. at 52, 57, 60. All of the filter masks worn by workers during cleanup/equipment decon were overloaded, thereby preventing an accurate measure of asbestos exposure. Id., Table 13-11. Nothing in the report indicates that EPA conducted required short-term excursion monitoring. EPA also violated its own procedures because the Health and Safety Plans for both the Ft. Chaffee and Ft. Worth tests were unsigned and not reviewed by responsible officials.

- Unpermitted Discharges. At Ft. Chaffee, EPA discharged asbestos-contaminated waste water to a public sewer system without a permit and without first measuring the amount of contamination. Prior to discharge the water contained 130 billion s/L. EPA filtered the water but does not know if the filters worked.
- Averaging Lab Data. Air sampling data from the Ft. Chaffee test was sent to three different labs, which obtained inconsistent results. Rather than relying on EPA's primary lab or the highest result, the results from all three labs were "averaged" together. AACM2 Draft Report 79-82, 88. This has the effect of smoothing out and therefore understating the risks.

We believe that it is urgent to conduct an objective analysis of the data before the reports are finalized and before they represent the Obama administration's endorsement of a dangerous change in asbestos removal practices in this country. The draft reports released to the public are designed to mislead and are based on shoddy science. EPA knocked down little buildings with little asbestos and got big releases. Using these reports to change the asbestos rules would endanger workers and families and other residents of American communities, especially low-income and minority communities with higher relative concentrations of older housing and commercial buildings more likely to contain asbestos. EPA's own Office of Air and Radiation has strongly opposed the AACM's weakening changes to the current NESHAP standard, but other offices are still pushing for a change.

As you are aware, there are bills pending in Congress to ban, and reduce human exposure to, asbestos. We do not believe that the AACM and related efforts to weaken the asbestos NESHAP can be reconciled with the Congressional motivations for this legislation. We are certain that Congress and the public would be deeply concerned to learn that EPA could be endorsing a practice riven with the shoddy practices and notorious history of the AACM, an experiment savaged by external peer reviewers and internal criticism alike, while still resulting in exposure levels higher than EPA's own action level for the infamous Libby, Montana asbestos tragedy.

We therefore request that you investigate and prevent these misleading reports from being released with the endorsement of the Obama administration. As a first step, to maximize transparency, we respectfully ask that you release for public review and comment all internal EPA and external peer review comments concerning the AACM, its various tests and reports, before any final report is issued. If the few proponents of the AACM inside EPA stand by the experiment, then they should have no concerns with the public release of internal and external peer review discussions of the method; there should be nothing to hide.

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We sincerely appreciate your attention to these very important matters, and continue to be grateful for your stewardship of EPA and the country's public health and environmental laws.

Sincerely,

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