



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Ms. Kaaren Cambio
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Dear Ms. Cambio:

I am responding to your letter of March 16, 2006 in which you identify several issues regarding coated pipelines, the recycling of such pipelines, and the asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAP), 40 C.F.R. Part 61, subpart M.

Are the pipelines subject to the asbestos NESHAP? Under the asbestos NESHAP, pipelines are considered a facility component of the oil refinery, natural gas processing plant or other commercial, industrial or institutional operation with which they are associated. Under 40 C.F.R. 61.141, facility component means any part of a facility, including equipment. When a pipeline is removed from the ground, it is considered a renovation operation. A renovation means "altering a facility or one or more facility components in any way, including the stripping or removal of regulated asbestos-containing material (RACM) from a facility component." [40 C.F.R. 61.141]. Nonetheless, the pipes must contain at least 260 linear feet of RACM that will be stripped, removed, dislodged, cut, drilled, or similarly disturbed for the asbestos NESHAP regulations to apply. [40 C.F.R. 61.145(a)(4)(i)]. One of the materials defined in the asbestos NESHAP regulations as RACM is "Category II nonfriable asbestos-containing material (ACM) that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of the . . . renovation operations." [40 C.F.R. 61.141]. Category II nonfriable ACM is defined as "any material, excluding Category I nonfriable ACM, containing more than 1 percent asbestos . . ." Id. Category I nonfriable ACM specifically means "asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos," none of which apply here. Id.

Based on these regulatory provisions, if the pipes at issue are wrapped either in asbestos-impregnated tar or asbestos paper, and the tar or paper contains greater than 1% asbestos, then the tar or paper are considered Category II asbestos-containing material (ACM). Furthermore,

EPA believes that when the pipes are removed during a renovation operation, there is a high probability that the asbestos-impregnated tar or asbestos paper will become friable (i.e., crumbled, pulverized, or reduced to powder). Accordingly, where these conditions exist, the pipeline renovation operation is subject to the asbestos NESHAP renovation regulations. See 40 C.F.R. 61.145.

As an example, assume a pipeline owner will renovate one mile of pipeline. The pipeline will be cut into 20 foot sections to allow the pipe to be removed safely from the ground and readied for transport. One mile of pipe cut into 20 foot sections yields 264 sections of pipe. To cut those pipes, six inches of tar/paper on each side of the cut will be made friable to allow the cutting device access to the pipe. Therefore, one foot of tar/paper per section of cut pipe will be crumbled, pulverized or reduced to powder. With 264 sections of cut pipe yielding one foot of damage each, the result is an exceedance of the asbestos NESHAP's regulatory threshold of 260 linear feet on pipes for renovations. This example excludes other damage to the tar/paper that could occur during the renovation operation as a result of using heavy machinery to excavate the pipe. For instance, as the heavy machinery removes the surrounding soil, the equipment can damage the tar/paper covering, adding additional friable material to the overall linear footage.

If the pipeline renovation is subject to the asbestos NESHAP, the "owner/operator" of the renovation operation is responsible for handling, transporting, and disposing of the RACM in accordance with the asbestos NESHAP. The asbestos NESHAP defines owner or operator of a demolition or renovation activity to mean:

any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both. [40 C.F.R 61.141].

In your situation, as I understand it, the company that is cutting the pipes and removing them from the ground is an owner/operator of the pipeline renovation operation. (Again, this assumes that the pipeline renovation operation is subject to the requirements of the asbestos NESHAP, as discussed more fully above). As such, that company is responsible for complying with all applicable asbestos NESHAP requirements governing the handling, transportation, and disposal of the RACM. Should that owner/operator choose to sell or auction the pipe to a third party, they still are liable under the asbestos NESHAP for ensuring that the asbestos-containing waste material is disposed of in accordance with the asbestos NESHAP's requirements. It is EPA's interpretation of 40 C.F.R. 61.145(b)(4) that the original owner/operator of the renovation operation that submits the renovation notification is required to include in the original or amended notification the name(s) and address(es) of the third party companies that acquired the renovated pipe.

As contemplated by the definition of "owner or operator of a demolition or renovation activity," which is quoted in full above, there can be more than one owner/operator in connection with any given renovation operation. In the case of a pipeline renovation operation that already

is subject to the asbestos NESHAP, such as the example provided above, if the “original” owner/operator sells or auctions the cut pipe to a company, such as SouthWest Pipe Services (SouthWest), who will in turn strip the tar or paper off the cut pipe sections, then that entity also becomes liable under the asbestos NESHAP as an owner/operator. This is because (1) the definition of renovation includes “the stripping or removal of RACM from a facility component” [40 CFR 61.141], which is precisely what SouthWest would be doing, and (2) the definition of owner/operator includes “any person who owns, leases, operates, controls, or supervises the demolition or renovation operation” [40 C.F.R. 61.141], which covers SouthWest under the circumstances laid out in this letter because SouthWest would be operating, controlling, and/or supervising that aspect of the renovation operation in which they are engaged. Once such an entity is an owner/operator in connection with a pipeline renovation project that is subject to the asbestos NESHAP, then that entity, along with the “original” owner/operator, also is responsible for complying with all applicable asbestos NESHAP requirements governing the handling, transportation, and disposal of the RACM.

If, however, the asbestos NESHAP is not triggered by the initial actions of the owner/operator cutting the pipe into sections and removing those sections from the ground (for instance, the tar or wrap, as Category II nonfriable ACM, was kept in a nonfriable state during the renovation operation), then an entity such as SouthWest is not entering into a situation where the sections of pipe they might be obtaining already are covered by the asbestos NESHAP provisions. However, as I hope is clear above, the recycling operation that you describe in your March 16, 2006 letter nonetheless could trigger the asbestos NESHAP requirements to the extent such activities, which again appear to implicate the asbestos NESHAP’s definitions of renovation and owner/operator, result in generating RACM that exceeds the asbestos NESHAP’s regulatory threshold for pipe. At this time, however, EPA does not have enough information to determine whether the recycling process you describe would trigger the asbestos NESHAP provisions in this way.

Following are answers to your remaining questions and observations:

Question #1: The recycling operation reclaims pipe, are there guidelines under the asbestos NESHAP for a recycling operation?

There are no guidelines that apply to the type of recycling you described. However, as noted above, the asbestos NESHAP regulations themselves may apply to such activities.

Question #2: The recycling process as described does not cause the tar/paper removal to be made friable, so is the waste material considered not to be regulated asbestos-containing material?

If the pipe came from an asbestos NESHAP regulated renovation operation, the pipe is already regulated. In light of this, and as already pointed out above, the activities you propose appear to make you an owner/operator and, therefore, along with the “original” owner/operator,

fully responsible for complying with all applicable asbestos NESHAP requirements governing the handling, transportation, and disposal of the RACM. If, however, the pipe does not come from an asbestos NESHAP regulated renovation operation, but your process in fact causes the tar or paper to become pulverized, crumbled or reduced to powder, your process will have caused Category II non-friable material to become friable. This too would subject your operations to all the applicable asbestos NESHAP requirements, including those relating to notification, air emissions, handling, transportation, and disposal. At this time, however, EPA does not have enough information about your recycling process to determine whether it will or will not cause the tar or paper to become friable.

Question #3: The Company proposes to handle disposal issues depending upon how it acquires the pipe. Are these correct assumptions?

- a) SouthWest purchases the pipe, retrieves and loads the pipe as company operations. SouthWest is the owner.
- b) SouthWest purchases the pipe but accepts it when loaded on their trucks. SouthWest becomes the owner once the trucks are loaded.
- c) SouthWest cleans the pipe for the owner/operator as a service. Pipe ownership remains with the owner/operator.

If SouthWest acquires renovated pipe that is subject to the asbestos NESHAP regulations, SouthWest will be considered an owner/operator and must comply with the renovation regulations of the asbestos NESHAP. If SouthWest obtains non-regulated pipe and during the recycling process and will cause or causes the tar or paper to become friable, then SouthWest is subject to the renovation requirements of the asbestos NESHAP.

Question #4: Is leaving the pipe in the ground acceptable?

If the pipe simply is left in the ground (i.e., abandoned in place), the requirements of the asbestos NESHAP are not triggered and, therefore, do not apply. However, in the future, should a company cause the ACM pipe to become friable during an excavation, that operation and that company could be subject to the asbestos NESHAP regulations.

Question #5: What is the process for having EPA recommend our solution for recycling old pipelines?

Generally, the EPA does not endorse a specific process. Instead, it encourages companies to develop solutions to address environmental and regulatory needs. As you've described your process, it could be one solution that addresses the regulatory requirements of managing regulated asbestos-containing material under the asbestos NESHAP. However, EPA would need additional information before deciding whether that is the case.

Finally, in the course of preparing this response, it was brought to my attention that another potentially hazardous material could impact your operations. Specifically, I am informed that some pipe coatings contain Polychlorinated biphenyls (PCBs) in concentrations greater than 50 ppm. If this is the case, EPA's PCB regulations at 40 C.F.R. Part 61 do apply. The PCB program requires materials with greater than 50 ppm PCBs to be managed and disposed of in a responsible manner. For more information about the PCB program, please visit www.epa.gov/pcb.

The Office of Civil Enforcement, the Office of Air Quality Planning and Standards and the Office of General Counsel have reviewed this determination.

Very truly yours,



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