

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
Mar-Par, Inc.) Order No.
Marietta, Ohio) EPA-5-98-113 (a) -OH-14
)
Proceeding Pursuant to)
Sections 113(a) (3) and 114(a) of)
the Clean Air Act, 42 U.S.C.)
§§ 7413(a) (3) and 7414(a).)

STATUTORY AUTHORITY

The following Order is issued pursuant to Sections 113(a) (3) and 114(a) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a) (3) and 7414(a).

Section 112 of the Act, 42 U.S.C. § 7412, authorized the United States Environmental Protection Agency (U.S. EPA) to promulgate National Emission Standards for Hazardous Air Pollutants (NESHAPs). The asbestos NESHAP was initially promulgated on April 6, 1973, 38 Fed. Reg. 8826, and was repromulgated on April 5, 1984, 49 Fed. Reg. 13658. On November 20, 1990, the Administrator promulgated revisions to the asbestos NESHAP. The asbestos NESHAP was codified at 40 C.F.R. Part 61, Subpart M. 55 Fed. Reg. 48406.

Under Section 113(a) (3) of the Act, 42 U.S.C. § 7413(a) (3) when information becomes available to the Administrator of U.S. EPA, based upon which the Administrator finds that a person has violated Section 112 of the Act, 42 U.S.C. § 7412, relating to standards for hazardous emissions, the Administrator may issue an Order requiring the person to comply with the standards.

Under Section 114(a) of the Act, 42 U.S.C. § 7414(a), the Administrator may require any person who owns or operates any emission source or who is

subject to any requirement of the Act to provide information required by the Administrator.

ASBESTOS NESHAP REQUIREMENTS

1. The asbestos NESHAP applies to, among other things, a demolition activity at a facility. If the combined amount of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed is at least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components or at least 1 cubic meter (35 cubic feet) of facility components where the length or area could not be measured, the notification requirements and the procedures for emission control during removal and waste disposal apply. 40 C.F.R. § 61.145.
2. The asbestos NESHAP applies to, among others, the "owner and operator of a demolition." This includes any person who owns, leases, operates, controls, or supervises the facility being renovated or demolished or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both. 40 C.F.R. § 61.141. A "facility" is any institutional, commercial, public, industrial, or residential structure, installation or building. 40 C.F.R. § 61.141. "Regulated asbestos-containing material (RACM)" includes, among other things, "Category II nonfriable 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 demolition". 40 C.F.R. § 61.141.
3. The asbestos NESHAP includes notification requirements. The standard requires, among other things, that either the operator or owner of a

subject demolition or renovation activity provide U.S. EPA a written notice of intention to demolish. 40 C.F.R. § 61.145.

STATEMENT OF FACTS

4. During 1995 and 1996, Cytec Industries, Inc., Marietta, Ohio, (Cytec) was the owner and operator of an industrial installation located at and around 1405 Greene Street. The installation consisted of a number of buildings, which individually and collectively meet the definition of "facility" found at 40 C.F.R. § 61.141.
5. Sometime prior to July, 1996 Cytec decided to demolish certain buildings at its Marietta, Ohio facility. Accordingly, Cytec was the "owner or operator of a demolition or renovation activity," as that term is defined at 40 C.F.R. § 61.141.
6. The buildings Cytec decided to demolish collectively contained at least 80 linear meters (260 linear feet) of regulated asbestos containing material (RACM) on pipes or at least 15 square meters (160 square feet) of RACM on other facility components, or at least 1 cubic meter (35 cubic feet) of RACM off facility components where the length or area could not be measured previously. Accordingly, the asbestos NESHAP requirements concerning notification, emission control procedures and waste disposal standards applied to the demolition project.
7. Cytec engaged Mar-Par, Inc., Marietta, Ohio, (Mar-Par) to perform asbestos abatement activities at its Marietta, Ohio facility. Mar-par owned, leased, operated, controlled or supervised the demolition operation at the Cytec facility in Marietta, Ohio. Accordingly, Mar-Par was the "owner or operator of a demolition or renovation activity," as that term is defined at 40 C.F.R. § 61.141.

8. 40 C.F.R. § 61.145 (b) requires that the owner or operator of a demolition activity shall provide the Administrator with written notice of intent to demolish. Notifications must comply with the requirements of, inter alia, 40 C.F.R. §§ 61.145 (b) (3) and 61.145(b) (4), including but not limited to, the requirements to provide the Administrator (or his delegatee) with the scheduled starting and completion dates of the work; the location of the site; the names of the operators or asbestos removal contractors; the methods of removal; the location of disposal; and the amount of asbestos. The notices submitted by Cytec, Mar-Par, R. Baker and Son All Industrial Services, Inc., Staten island, New York, and Farley Environmental Company, Inc., Trenton, New Jersey, either did not contain all the specified information or contained incorrect information, in violation of 40 C.F.R. § 61.145 (b).

IT IS ORDERED AND AGREED THAT:

COMPLIANCE PROGRAM

9. This Administrative Order resolves the liability of Mar-Par, Inc. related to the allegations set forth in the above Statement of Facts and that, without any admission of liability by Mar-Par, Inc., and without the waiver of any defenses available to Mar-Par, Inc., Mar-Par, Inc., agrees to comply with the terms of this Administrative Order.
10. Mar-Par shall hereafter fully maintain compliance with the requirements of the asbestos NESHAP, at 40 C.F.R. Part 61.
11. Prior to commencing a demolition or renovation operation at any facility, Mar-Par shall ensure that a complete survey and inspection of the relevant section(s) of the facility for the presence of RACM and suspect RACM has been conducted by a person who is trained and is certified and

licensed by the Ohio Department of Health or other proper state authority in asbestos abatement procedures.

NOTICE AND REPORTING

12. Mar-Par Company shall follow the notice procedures below:
 - a. Mar-Par shall notify Region 5 and relevant State and local (if applicable) environmental agencies of all subject demolition or renovation operations it conducts.
 - b. Such notification shall include the information specified in 40 C.F.R. § 61.145 (b).
13. Mar-Par shall provide a report listing all its unsuccessful bids on demolition or renovation operations. The report shall provide the following information to the extent that it is reasonably available to Mar-Par.
 - a. The name and addresses of parties soliciting bids (including public and private entities);
 - b. The specific street addresses of the facility;
 - c. The planned dates of the demolitions or renovations;
 - d. The approximate amount of RACM (in linear feet on pipe or square feet on other facility components) present in the facilities; and
 - e. The name and addresses of the successful bidders.
14. If Mar-Par engages in a demolition or renovation operation involving RACM for which Mar-Par is the contractor or subcontractor, Mar-Par shall certify the following in quarterly reports:
 - a. The name and position of the person responsible for supervising all work involving RACM and suspect RACM.

- b. A description of the procedures and equipment used to decontaminate workers.
 - c. A description of the location and amount of RACM (friable and nonfriable) in the facility demolished or renovated.
 - d. The name of the person who determined whether RACM was located at the site and the basis on which such determination was made.
 - e. That Mar-Par has fully complied with the provisions of this Order during the previous calendar quarter; or that Mar-Par has failed to comply with a provision of this Order during the previous calendar quarter, giving a detailed description of each and every such failure to comply.
15. Submission of reports shall be done in accordance with the following schedule:
- a. All submissions required by Paragraph 13 of this Order shall be submitted within 30 days after the end of the month in which Mar-Par learns it is an unsuccessful bidder on an asbestos demolition or renovation operation.
 - b. All submissions required by Paragraph 14 of this Order shall be submitted within 30 days after the end of the calendar quarter in which the renovation or demolition operation occurred. If Mar-Par does not engage in any asbestos demolition or renovation operation then it shall submit a report stating such within the time allowed by this sub-paragraph.
 - c. If Mar-Par does not engage in any asbestos demolition or renovation operation then it shall submit a statement of that fact within 30 days of the end of the calendar quarter.

16. All submissions required by this Order shall be submitted to:

Nancy A. Mugavero
Air and Radiation Division
United States Environmental Protection Agency
Region 5 (AE-17J)
77 West Jackson Street
Chicago, Illinois 60604

17. Any report or notice submitted by Mar-Par pursuant to this Order, shall be certified by a responsible official of Mar-Par. The certification of such responsible official shall be in the following form: "I certify that the information contained in or accompanying this submission is true, accurate and complete."

GENERAL PROVISIONS

18. This Order in no way affects Mar-Par's responsibility to comply with other local, State and Federal laws and regulations, including other applicable provisions of 40 C.F.R. Part 61.
19. Nothing in this Order shall be construed to be a waiver by the Administrator of the U.S. EPA of any rights or remedies under the Clean Air Act including, but not limited to, Section 303 of the Act, 42 U.S.C. § 7603.
20. Nothing in this Order shall be construed to restrict in any way U.S. EPA's authority under Section 114 of the Act, 42 U.S.C. § 7414.
21. The provisions of this Order shall apply to and be binding upon Mar-Par, its agents, servants, employees and any successor(s) in interest. Mar-Par shall give written notice of this Order to any successor(s) in interest prior to transfer of ownership, and shall verify simultaneously to the Director, Air and Radiation Division of U.S. EPA, Region 5, that such notice has been given.

22. This Order is effective on the date of signature by the Air and Radiation Acting Division Director. The Order will expire one year from the effective date, provided that all terms of the Order have been met.

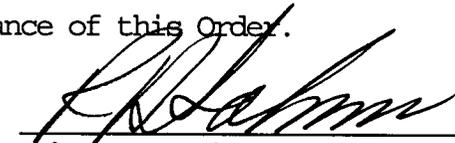
11/2/98
Date



Stephen Rothblatt, Acting Director
Air and Radiation Division

Mar-Par, hereby consents to the provisions of this Order and believes it to be a reasonable means by which Mar-Par can achieve and maintain compliance with Section 112 of the Clean Air Act, 42 U.S.C. § 7412 and applicable regulations promulgated thereunder. Mar-Par waives any and all rights under any provisions of law to challenge the issuance of this Order.

10/15/98
Date



Robert D. Johnson
President