

United States Environmental Protection Agency
Region 5

IN THE MATTER OF:)
)
) FINDING OF VIOLATION
City Demolition)
Detroit, Michigan) EPA-5-00-MI-16
)
)
Proceedings Pursuant to)
the Clean Air Act,)
42 U.S.C. §§ 7401 et seq.)

FINDING OF VIOLATION

The United States Environmental Protection Agency finds that Ferguson Enterprises, Incorporated has violated Section 112 of the Clean Air Act, 42 U.S.C. § 7412. Specifically, Ferguson Enterprises, Incorporated has violated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos at 40 C.F.R. part 61, subpart M as follows:

Regulatory Authority

1. The NESHAP for asbestos applies to the former commercial facility located at 8042 Michigan Avenue, Detroit, Michigan.
2. The NESHAP, at 40 C.F.R. § 61.145, requires the owner and operator of an affected facility to properly inspect the facility, notify of their intention to demolish or renovate the facility, and to properly remove all Regulated Asbestos-Containing Material (RACM) from the facility. Specifically:

Pursuant to 40 C.F.R. § 61.145(a), the owner or operator of a demolition or renovation activity, and prior to the commencement of the demolition or renovation, shall thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II nonfriable Asbestos-Containing Material (ACM).

Pursuant to 40 C.F.R. § 61.145(c)(1), the owner or operator of a demolition or renovation activity shall remove all RACM from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly

disturb the material or preclude access to the material for subsequent removal.

Factual Background

3. Ferguson Enterprises, Incorporated is listed as the operator for the former commercial facility located at 8042 Michigan Avenue, Detroit, Michigan.

4. The Ferguson Enterprises, Incorporated facility (listed above) is subject to the requirements at 40 C.F.R. § 61.145. Pursuant to 40 C.F.R. § 61.145(a), the asbestos NESHAP applies to each "owner or operator" of a "demolition or renovation activity" at a "facility", as those terms are defined at 40 C.F.R. § 61.141. Specifically, the owner or operator must provide written intention to demolish or renovate at least 10 working days before any activity begins, and if the combined amount of RACM in a facility being demolished 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 previously, the procedures for emission control set forth at 40 C.F.R. § 61.145 shall apply.

Violations

5. Specifically, Ferguson Enterprises, Incorporated is in violation of the asbestos NESHAP at the following facility as described below:

Former commercial facility, 8042 Michigan Avenue,
Detroit, Michigan

Ferguson Enterprises, Incorporated, the operator of the former commercial facility at 8042 Michigan Avenue in Detroit, Michigan, failed to thoroughly inspect the affected facility for the presence of asbestos, including Category I and Category II nonfriable ACM. This is in direct violation of regulation 40 C.F.R. § 61.145(a).

Ferguson Enterprises, Incorporated, the operator of the former commercial facility at 8042 Michigan Avenue in Detroit, Michigan, failed to remove all RACM from the facility being demolished before any activity begins that would break up, dislodge, or similarly disturb the

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent a Finding of Violation, No. EPA-5-00-MI-16, by Certified Mail, Return Receipt Requested, to:

Bobby W. Ferguson, President
Ferguson Enterprises, Inc.
8655 Military Street
Detroit, Michigan 48204-2947

I also certify that I sent copies of the Finding of Violation by first class mail to:

Timothy McGarry, Enforcement Unit Supervisor
Compliance and Enforcement Section
Michigan Department of Environmental Quality
Air Quality Division
P.O. Box 30260
Lansing, Michigan 48909

Gerald Krawiec, District Supervisor
Wayne County Department of Environment
Air Quality Management Division
640 Temple, Suite 700
Detroit, Michigan 48201-2599

on the 24 day of August, 2000.

Shanee Rucker
Shanee Rucker, Secretary
AECAS, (MI/WI)
(312) 886-6086

CERTIFIED MAIL RECEIPT NUMBER: 9664397121