

1100601 COMMENTS FROM INDUSTRY REVIEW

Andy Clark

COMMENT:

Gentlemen:

Attached is the way I believe this portion of the propose specification change should read.

How about this:

“If it has been determined by the Department that the presence of asbestos is expected or evident in structures that are to be removed and/or renovated by the Contractor, then the Contractor will provide a schedule of his intended demolition operations to the Engineer within fifteen (15) working days prior to the commencement of those operations. It will be the responsibility of the Engineer to notify the Department of Environmental Protection (DEP) on DEP Form 62-257.900(1), “Notice of Asbestos Renovation or Demolition”.”

JC Miseroy

COMMENTS:

Hi Bob:

I agree with Randy and Keith. The contractor shall provide a schedule. FDOT is responsible for notifying DEP if any asbestos is found.

While FDOT is upgrading this specification, they should also work on sub-article 110-9.4.2. My understanding is that as long as lead painted steel is taken to a steel recycling facility, we should not need to certify the disposal. We have had to pay subcontractors with hazardous materials training to take materials off the project, so that they can deliver the steel to the recycling facility. It should be sufficient to provide weight tickets to show the material was delivered to the scrap dealer. The last time we checked, scrap dealers did not need any specific County certification for their operations. This makes it very difficult to comply with sub-article 110-9.4.1 (a). This creates a risk on projects rather than a credit for scrap, which increases the cost to FDOT.

Keith A. Waugh

COMMENT:

I agree with Randy. "Detailed" allows for individual interpretation. I would delete "even if asbestos is not found on the project" and the form number and name. Just let it be written that we supply a schedule and they notify and file appropriate DEP forms.

Randy Cropp

COMMENT:

Remove the word detailed and just say provide a schedule. Delete the form number as this may change in years to come.

Thank you for changing the spec to read the way it does now versus how it was.

Jenny Sargent

COMMENTS:

Form 62-257.900(1) should be completed and submitted by the contractor. Referring to the DEP form, information to complete paragraphs I, II and VI is supplied by the FDOT. Paragraphs III, IV, V, VII, VIII, IX is supplied by the Contractor. The demolition contractor can sign the form as Operator if there is no asbestos or no RACM.

* (1) The start date is controlled by the contractor and normally changes multiple times prior to the actual start day due to numerous factors. The NESHAP regulation requires, ten days in advance, accurate dates for starting the asbestos removal and/or for starting demolition. If asbestos removal and demolition start dates change from what is submitted, the form needs to be resubmitted. If the asbestos removal and demolition are done by separate contractors, separate notices will be needed.

Also the procedures for demolition, waste transporter, and disposal site are controlled by the contractor, paragraphs V, VII and VIII.

* (2) Attached is a draft letter to FDEP that explains why an individual trained in 40 CFR Part 61 Subpart (M) is not required to be present for bridge demolition when there is no asbestos removal. This issue is important to clarify since no one is

prepared to fund or provide trained staff to be present during demolition, (and they do not need to be).

Also - contractors that demolish bridges need to learn that these NESHAP regulations are now part of the bridge demolition process. If an owner fails to provide the notice to DEP, the contractor can still be held liable. The opposite is true, if the contractor is instructed to provide notice and fails to do so, the owner can be held liable.

There is a problem in the recently revised 110-6.6, because according to FDEP, if the company that inspects for asbestos also removes the asbestos there will be a conflict of interest as per FL Statute 255.558. All of D2 preconstruction asbestos inspections are being done by the district CAR contractor. So the CAR contractor cannot also remove the asbestos, if it is known. If it is unknown, I do not know who will remove. It may require a fast response contract.

Currently, we have two off system bridges with asbestos transite pipe for scuppers, let and to be let in May. The inspections were recently done by the D2 CAR contractor. Because the transite pipe is non-friable and the quantity is below the RACM, we MAY have two options. One is - supplement the contract and let the prime cut out the section of deck with the pipe intact and either direct the contractor where to dispose or have the CAR contractor provide for proper disposal. Two is - if the prime contractor cannot do this work because of no bonding coverage for dealing with the asbestos pipe, letting a fast response contract for a separate contractor to come in and remove and dispose. The demolition contractor (or the FDOT) will still need to submit a notice to DEP at least 10 days in advance of bridge demolition.

There are several other projects under construction that include bridge demolition where no asbestos was found. The contractor has been instructed and is doing the submittal of this form, FDOT provided the asbestos inspection report and the contractor handles the rest.

Letter to FDEP
1109 S Marion Av
Lake City, FL 32025-5874

April 19, 2006

Ms. Sheila Schneider
Florida Department of Environmental Regulation
2600 Blair Stone Rd
Tallahassee, FL 32399-2400

Dear Ms. Schneider:

Subject: NESHAP Trained Individual Requirements During Bridge Demolition

As we discussed during our phone conversation, this letter serves to explain when and when not an individual trained in the requirements of 40 CFR Part 61 Subpart (M) is required to be on-site during bridge demolition.

According to 40 CFR Part 61 Subpart (M), when there is no asbestos removal or RACM less than 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) off facility components where the length or area could not be measured previously; a requirement for a 40 CFR Part 61 Subpart (M) trained individual does not apply.

The specific reference to training is on the certification statement at the bottom of the DEP Form 62-257.900(1) –

In this certification is the statement “an individual trained will be on-site during the demolition”

According to 40 CFR Part 61 Subpart M – (a) Applicability (2) In a facility being demolished, only the notification requirements of paragraphs (b)(1), (2), (3)(i) and (iv), and (4)(i) through (vii) and (4)(ix) and (xvi) of this section apply, if the combined amount of RACM is

- (i) Less than 80 linear meters (260 linear feet) on pipes and less than 15 square meters (160 square feet) on other facility components, and
- (ii) Less than one cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously or there is no asbestos.

The paragraph in 40 CFR Part 61 Subpart M that requires an individual trained is paragraph (4) (xiii).

“(xiii) A certification that at least one person trained as required by paragraph (c)(8) of this section will supervise the stripping and removal described by this notification. This requirement shall become effective 1 year after promulgation of this regulation.”

Because Paragraph (4) (xiii) is not referenced in paragraph (a) (2), a trained individual/person is not required when asbestos is not present or less than the stated quantities for RACM.

Pat McCann

COMMENTS:

1. Subarticle 110-6.1 is not on page 148, it's on 141.
2. We're not sure about the intent here. If the bridge has ACM, this should have been determined during design, not during a project.
3. Suggest deleting "even if asbestos is not found on the project,". My point is the intent sounds like we're to notify DEP of ANY bridge demo. Let's just state this

Terri Newman

COMMENTS:

In our Contamination Coordinators meeting earlier this year (which Dean Perkins attended) it was agreed that the best possible scenario was for the contractor to notify FDEP somehow I think he got it backwards. Again they set the schedule and should be tasked with the notification.

Vincent Fusconi

COMMENTS:

I do not see the benefit to the Department by creating an extra step in the notification process. The Contractor is in full control of the schedule, subcontractors, and personnel on the project and should therefore submit the DEP form to the proper receiving authority. Including the Department Engineer in the process creates a potential information "bottle-neck" which could delay the notification submittal. Changing the Spec only creates additional work for the Department (Districts).

You may want to have the Contractor copy the Engineer on all Notification submittals 15 working days prior to commencement of work - thus allowing the Engineer to track whether the Notification has been properly submitted.

Ray Nottingham

COMMENTS:

I disagree with the revision. This just adds one more layer of bureaucracy into the mix, which increases the likelihood of an error or omission. I further believe asbesto abatement should be the responsibility of the Contractor, by sub-contracting with a Licensed Asbestos Contractor. Asbestos abatement is a straightforward item to quantify and specify, unlike the typical contamination problems we deal with.

Rick Adair

I support Vincent's position as stated below. We've had enough problems already in trying to integrate our efforts with those of our contractors and the burden of performing the scheduling and noticing process should be on their shoulders. We should just expect to receive a copy of what they send to the appropriate entity. The schedule and noticing copy(ies) could go to the construction engineer and our office for record keeping purposes only.

Alan Hagans

It appears to me that we are dealing with two subject matters, the removal of Structures with and without Asbestos. I really can't see a need for us to have to assume responsibility for submitting a Notice of Asbestos to DEP for removal of **all** structures. If we have previously Identified the Structure to contain Asbestos, this would be stated in the Contract Documents and be a part of the Contract that the Contractor would Bid on, thus making it the Contractors responsibility. If for some reason that it is discovered after Construction begins, then the responsibility then would lie with the Department and may then be submitted by the Project Manager, Engineer, DCIC or Remediation Contractor. The 15 day notification should still be given for investigation for Asbestos if suspected in a structure after construction begins to provide for the safety of workers like we handle other Contamination issues.

Or maybe I am interpreting the intent of the Specification Change?

David Maloney

COMMENT:

I agree with Vince's comments! Why add an extra step in the already complicated communication system and document trail.

Daniel R. DeForge

COMMENTS:

I do not believe the proposed change is in the best interest of the Department.

I offer the following comments regarding the proposed specification change:

1. During a construction project, scheduled activities are commonly rescheduled with limited notice. A more complex notification process increases the potential for costly errors and delays. Rescheduling of asbestos work and/or demolition work is usually initiated by the Contractor, or a Subcontractor hired to perform Asbestos Abatement, or Demolition work for the Contractor. Generally, the Contractor is responsible for scheduling work. The Contractor is the professional/licensed entity hired by FDOT to complete the project in accordance with all applicable rules, codes, laws, regulations, etc. It is my opinion that the Contractor should be responsible for NESHAP notification(s), and revisions to NESHAP notification(s).

2. I am concerned the following might occur: The Contractor provides detailed schedule information to the Engineer. The Engineer submits the NESHAP notification listing the

start date. The Contractor gets a day or two ahead of schedule and directs workers or subcontractor(s) to begin demolition or abatement. This would result in a NESHAP violation according to most of the regulatory staff administering the FDEP program.

3. When discussing who is to receive the notification I would caution against only referencing FDEP because in two counties (Pinellas and Hillsborough) in District 7 the NESHAP notification(s) are to be sent to designated local government agencies and not FDEP. If notifications were sent to FDEP the local agency administering the program would likely claim a violation had occurred. Furthermore, FDEP does not want to receive forms for work in Pinellas and Hillsborough Counties.

4. I understand that DEP Form 62-257.900(1) is used in most every county throughout Florida. However, one county in District 7 (Pinellas) has made their own forms, one for abatement and one for demolitions.

Terry Phillips

COMMENTS:

Structures to be removed – Provide detailed schedule information to the Engineer 15 working days prior to the commencement of any demolition...

A detailed schedule is already required in the form of a CPM schedule for the removal or demolition of structures. Another schedule would be redundant...even if asbestos is not found on the project... If asbestos is not on the project then DEP form 62-257.900(1) is not needed. If asbestos is found on the project complete the form as required. There is a DEP permit for the project in place for all projects and all requirements for the permit, is listed along with the permit.