

any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control).

Furthermore, in the Preamble of the revised asbestos NESHAP regulations published November 20, 1990 (55 FR 48412), the Agency responded to a question regarding whether a group of residential buildings at one location being demolished by one developer should be subject to the asbestos NESHAP regulations. The Agency responded:

a group of residential buildings under the control of the same owner or operator is considered an installation according to the definition of "installation" and is, therefore, covered by the rule. As an example, several houses located on highway right-of-way that are all demolished as part of the same highway project would be considered an "installation," even when the houses are not proximate to each other. In this example, the houses are under the control of the same owner or operator, i.e., the highway agency responsible for the highway project.

In the July 28, 1995 Federal Register (60 FR 38725), EPA issued a Notice of Clarification addressing the scope of the residential home exemption. EPA once again clarified that demolitions of residential buildings under the control of the same owner or operator as part of a larger demolition project (i.e., in connection with the construction of public facilities such as highways, sports arenas, or shopping malls) are not excluded from the asbestos NESHAP. (60 FR 38726).

With respect to your issue, residential structures demolished as part of a larger project are subject to the asbestos NESHAP if the demolition of the residential structures is under the control of the same owner or operator and is part of the same project. In the case of a highway expansion, one entity, e.g., the state highway department and/or the demolition contractor owns or has control over the residential structures to be demolished. These residential structures are subject to the asbestos NESHAP regulations. Please note, if one residential structure is the only structure demolished during the project, the one residential structure is not subject to the asbestos NESHAP regulations. [60 FR 38726, See EPA Interpretation]. At a minimum, the residential structures are subject to the "thorough inspection" and notification requirements under the Applicability section - SS 61.145. If the amount of regulated asbestos-containing material found in all the residential structures subject to the demolition project exceeds the regulatory threshold, then all the residential structures are subject to the full regulatory authority of the asbestos NESHAP.

The Office of Civil Enforcement, the Office of Air Quality Planning and Standards, the Office of General Counsel and Region 7 have reviewed this determination.

Very truly yours,

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