U.S. Environmental Protection Agency
Applicability Determination Index

Control Number: A070005

Category:	Asbestos
EPA Office:	CAMPD
Date:	05/08/2006
Title:	Asbestos-Containing Waste Material
Recipient:	Burnside, Marion
Author:	Alushin, Michael
Comments:	

Part 61, M Asbestos

References: 61.150
61.145(c)(6)

Abstract:

Q1: Could EPA clarify to the Iowa Department of Natural Resources at what point asbestos-containing material (ACM) becomes asbestos-containing waste material (ACWM) subject to the provisions of under 40 CFR 61.150?

A1: EPA explains that ACM becomes ACWM once the asbestos-containing material is removed from a facility component or, as part of larger facility component, a portion of the facility component is removed. The asbestos-containing material must meet one of the three regulated thresholds, i.e, the 260 linear feet threshold on pipes, the 160 square feet threshold on other facility components, or the 35 cubic feet threshold where the length or area could not be measured previously for the asbestos-containing material to become asbestos-containing waste material, as specified under the asbestos NESHAP.

Q2: Does 40 CFR 61.150(a) provide a choice between the no visible emission standard and a control or waste treatment method?

A2: Yes. EPA explains that the subject rule provision allows the owner/operator the ability to choose between two compliance alternatives, i.e., the "no visible emission" standard or the control or waste treatment methods specified in 40 CFR 61.150(a).

Letter:

Mr. Marion Burnside
Asbestos NESHAP Coordinator
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, IA 50322

Dear Mr. Burnside:

I am responding to your e-mail forwarded by our Region 7 office to Everett Bishop of my staff. You are seeking EPA's interpretation of the asbestos National Emission Standards for Hazardous Air Pollutants

(NESHAP), Part 61, subpart M regulation as to when asbestos-containing material becomes asbestos-containing waste material and when 40 C.F.R. 61.150(a) applies. I will answer each question individually.

Question 1: At what point does asbestos-containing material become asbestos-containing waste material and 40 C.F.R. 61.150 apply?

It is EPA's interpretation that asbestos-containing material becomes asbestos-containing waste material once the asbestos-containing material is removed from a facility component or, as part of larger facility component, a portion of the facility component is removed. The asbestos-containing material must meet one of the three regulated thresholds, - 260 linear feet on pipes, 160 square feet on other facility components or 35 cubic feet where the length or area could not be measured previously for the asbestos-containing material to become asbestos-containing waste material. Asbestos-containing waste material is defined, in part, at Sec. 61.141-Definitions:

. . . As applied to demolition and renovation operations, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.

Section 61.145(c)(6) instructs owners or operators of a demolition or renovation activity involving regulated asbestos-containing material, including material that has been removed or stripped to:

(i) adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with Sec. 61.150; and

(ii) Carefully lower the material to the ground and floor, not dropping, throwing, sliding, or otherwise damaging or disturbing the material.

In a majority of renovations and demolitions, the regulated asbestos-containing material will be removed while using water so that the activity does not produce visible emissions. However, under some circumstances adequately wetting regulated asbestos-containing material is not required. For example, Sec. 61.145(c)(7) of the regulations describes the steps an owner/operator must complete when the temperature at the point of wetting is below 32Â° F. Also, Secs. 61.145(c)(3)(i)(B)(3) and (c)(4) allow for large facility components to be removed without being fully wet.

In summary, for a majority of renovations and demolitions, regulated asbestos-containing material will be removed or stripped using water as the means of controlling visible emissions.

Once the regulated asbestos-containing material is removed or stripped, it is now considered asbestos-containing waste material that must be prepared for waste disposal. Section 61.150 is the standard for waste disposal including waste material from renovation and demolition operations. An owner or operator must comply with the regulations as described in Sec. 61.150(a) which specifically provides as follows:

Discharge no visible emissions to the outside air during the collection, processing (including incineration), packaging, or transporting of any asbestos-containing waste material generated by the source, or use one of the emission control and waste treatment methods specified in paragraphs (a) (1) through (4) of this section.

As described in Sec. 61.150(a), the owner or operator must discharge no visible emission to the outside air during the collection, processing, packaging or transporting of any asbestos-containing waste material. As an alternative, the owner or operator can choose one of the four control and waste treatment methods listed to in Sec. 61.150(a). They are:

1) keep the regulated asbestos-containing material adequately wet at all times as it is being sealed/bagged/containerized, labeled according to the Occupational Safety and Health Administration, and labeled with the generator's name and location of the waste generation.

2) process the asbestos-containing waste material into nonfriable pellets or other shapes, discharging no visible emissions to the outside air during the collection and processing operations and following the air-cleaning requirements of Sec. 61.152.

3) where regulated asbestos-containing materials were not removed prior to demolition according to

Secs. 61.145(c)(1)(i-iv) or for facilities demolished according to Sec. 61.145(c)(9) adequately wet the asbestos-containing material at all times after the demolition and keep wet during the handling and loading for transport to the disposal site. The material does not have to be sealed in leak-tight containers or wrapped. It can be transported and disposed of in bulk.

4) use an alternative emission control and waste treatment method that has received prior approval by the Administrator.

The disposal requirements of Sec. 61.150 allows the contractor to choose between discharging no visible emissions or using one of the four control and waste treatment methods. When submitting the renovation or demolition notification form, the contractor will describe the work practices and engineering controls to be used to comply with the requirements of this subpart [Sec. 61.145(b)(4)(xi)] including asbestos removal [Sec. 61.145(c)] and waste-handling emission control procedures [Sec. 61.150]. The inspector should refer to the notification form to determine if the contractor is complying with the appropriate control method for asbestos removal and the appropriate waste-handling emission control procedures.

Question 2: The second "or" in 40 C.F.R. 61.150(a) does seem to imply the ability to choose the no visible emission standard, or a control method. What was the intended meaning of 40 C.F.R. 61.150(a)?

The EPA intended for the owner/operator to have the ability to choose between the "no visible emission" standard or a control method. In the Background Information Document (EPA 450/3-90-017), page 11-20, EPA responded:

The EPA sees no contradiction between the two compliance alternatives, i.e., no visible emissions and the adequate wetting work practice. Choosing the visible emission limit to comply with places no restrictions on the method for achieving it. For example, at a plant manufacturing asbestos brakes, rejected brakes can be collected for disposal without producing visible emissions, even when handled dry because they are nonfriable. At the same time, choosing to comply with the adequate wetting alternative does not contradict the no visible emission limit option because the part of the defining language for "adequately wet," stating that a visible emission means the material is not adequately wet, is only a measure of how well the wetting was performed. Furthermore, the NESHAP in effect prior to the January 10, 1989, proposal prohibited visible emissions during the wetting operation, unless controlled by an air cleaning device.

Other than this, no additional documentation has been located at this time that describes the Agency?s intended meaning of 40 C.F.R. 61.150(a).

This determination has been reviewed by the Office of Civil Enforcement, the Office of Air Quality Planning and Standards, and the Office of General Counsel.

Very truly yours,

Michael S. Alushin
Compliance Assessment and Media Programs Division Office of Compliance

cc: Charlie Garlow, OCE
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