



U.S. Environmental Protection Agency Applicability Determination Index

Control Number: A930018

Category: Asbestos
EPA Office: SSCD
Date: 01/04/1993
Title: Clarification of Term "Operator"
Recipient: Deery, Brian
Author: Rasnic, John B.

Subparts: Part 61, M, Asbestos

References: 61.145
61.145(b)

Abstract:

The term "operator" relative to the responsibilities for notification under 40 CFR 61.145 in a project where there is more than one owner/operator is clarified. In the case in question, the parties involved have the following options: 1) The owner, asbestos abatement contractor or demolition company submits a single notification for the entire project which includes the abatement and demolition. 2) The owner submits a basic project notification while one operator submits a separate notification for both the abatement and demolition. 3) The owner submits a basic project notification while each operator submits a revised or amended notification for their respective activity detailing the activities, dates, etc... It is up to the parties involved to decide who will fulfill the notification requirements as required under 40 CFR 61.145.

Letter:

Mr. Brian Deery
Director
Municipal-Utilities Division
The Associated General Contractors of America
1957 E Street, N.W.
Washington, D.C. 20006

Dear Mr. Deery:

This is in response to your letter dated November 17, 1992 requesting a clarification of the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP). You requested a clarification of the term "operator" relative to the responsibilities for notification under 40 CFR 61.145. You stated that it is common practice for an owner to hire one business to undertake an asbestos abatement while hiring a separate business to undertake the demolition or renovation and want to know which "owner/operator" is responsible, in this situation, for the notification requirements.

Under the situation you described above, both the abatement and demolition companies are considered "operators". Both operators and the owner are subject to 40 CFR 61.145. In a project where there is more than one owner/operator, the parties involved have the following options:

- 1) The owner, asbestos abatement contractor or demolition company submits a single notification for the entire project which includes the abatement and demolition.
- 2) The owner submits a basic project notification while one operator submits a separate notification for both the abatement and demolition.
- 3) The owner submits a basic project notification while each operator submits a revised or amended notification for their respective activity detailing the activities, dates, etc...

Only one notification is required for the entire project; however, there can be more than one. At anytime, if any information changes or if an additional activity is performed which is not included in the original notification, then the original notification needs to be updated/revised by submitting a new notification in accordance with 40 CFR 61.145(b)(2). It is up to the parties involved to decide who will fulfill the notification requirements as required under 40 CFR 61.145 since there is more than one owner and/or operator. I have enclosed a copy of a response letter address to Mr. C. R. Sledge of Asbestos Consultant dated October 5, 1992, which may clarify other notification requirements.

This determination has been coordinated with EPA's Office of Enforcement and the Emission Standards Division of the Office of Air Quality Planning and Standards. If you have any questions, please contact Chris Oh of my staff at (703) 308-8732.

I appreciate the opportunity to be of service to you and trust this information will be helpful.

Sincerely,

John B. Rasnic, Director
Stationary Source Compliance Division Office of Air Quality Planning and Standards

Enclosure

cc: Sims Roy, ESD (MD-13)
Charlie Garlow, OE (LE-134A)
Tom Ripp, SSCD
Regional Asbestos NESHAP Coordinators