



## U.S. Environmental Protection Agency Applicability Determination Index

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Control Number: C39

Category: Asbestos  
EPA Office: OPTS  
Date: 02/12/1988  
Title: Regulation of Nonfriable Asbestos Material  
Recipient: Gradison, Bill,  
Author: Moore, John A.

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Subparts: Part 61, M, Asbestos

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References: 61.141

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### Abstract:

If non-friable materials such as asbestos transite pipe and asbestos floor tiles become friable in the process of removal, they are subject to the NESHAP requirements.

Document also answers questions pertaining to definitions, CERCLA, hazardous waste, licensing, and AHERA.

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### Letter:

Honorable Bill Gradison  
Member, United States House of Representatives  
8010 Federal Office Building  
550 Main Street  
Cincinnati, OH 45202

Dear Mr. Gradison:

This is in response to your letter of January 12, 1988 on behalf of Mr. Eugene B. Rose, Vice President of the Cleveland Wrecking Company in Cincinnati, Ohio. Mr. Rose has questions regarding the handling of asbestos under certain Environmental Protection Agency (EPA) and Department of Transportation (DOT) regulations. DOT is providing a separate response. Following are responses to his questions:

1. How does EPA define "friable asbestos" and "asbestos"? Does EPA have regulations that govern the handling of non-friable asbestos? Must non-friable asbestos be dumped in an asbestos-approved landfill?

EPA's asbestos National Emission Standards for Hazardous Air Pollutants (NESHAPS) regulations govern the handling and disposal of friable asbestos. The rules do not cover non-friable asbestos. It

should be pointed out, however, that if non-friable materials such as asbestos transite pipe, asbestos floor tiles or other examples cited in Mr. Rose's letter become friable in the process of removal, these materials are also subject to the rules. The definitions of friable asbestos and asbestos appear on page 41847 of the October 30, 1987 final rules for the Asbestos Hazard Emergency Response Act (AHERA) of 1986 (enclosed). In addition, all solid waste, including both friable and non-friable asbestos, is regulated by EPA under the non-hazardous wastes regulations contained in 40 CFR Part 257 (enclosed).

A response to Question 2 is being provided by DOT.

3. What does a release of "one or more pounds of friable asbestos" mean under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)? Is a "level of concentration of (friable) asbestos" considered in this criteria?

This regulation applies to friable asbestos, not to non-friable asbestos. Level of concentration can be factored into the total weight. However, in Mr. Rose's example of removed materials, he did not calculate the friable asbestos that would be in all of the categories such as the water, transite siding, and disposable clothing. It is quite possible that the total friable asbestos would exceed one pound when the friable asbestos from those items is calculated and consequently would have to be regulated under the reportable quantities provisions of CERCLA. When there is doubt about whether or not material meets the reportable quantity threshold, the owner or operator should take prudent measures to avoid liabilities under CERCLA.

4. Does EPA have a list of states that consider asbestos or friable asbestos "hazardous waste"? Is there a list of states requiring licensing of contractors?

There is no list of states that consider asbestos or friable asbestos "hazardous waste." We know that California and New Mexico have listed asbestos as a hazardous waste. For other states, you can contact the State Solid and Hazardous Waste Agency in each state. This list of Agencies is enclosed for your reference.

Regarding the licensing of asbestos contractors, EPA has approved the programs in Kansas and New Jersey as specified in the AHERA rules. There is a list of EPA-approved State Accreditation Programs and Training courses in the AHERA rules on page 41900. The National Conference of State Legislatures is preparing a report on all state contractor certification programs. For more information on this report, Mr. Rose may contact Mr. Doug Sacarto, National Conference of State Legislatures, 1050 17th St., Suite 2100, Denver, CO 80265, telephone: (303) 623-7800.

5. Does EPA have a definition of what a "school" is with regard to AHERA? Are there other laws that govern asbestos removal from non-school buildings? Would AHERA apply to the removal of asbestos from an office building containing an art school?

AHERA does contain a definition of "school" on page 41847 of the AHERA rules. All asbestos removal (regardless of whether it is in a school or any other building) must be in compliance with CERCLA, NESHAPS, and the Occupational Safety and Health Administration (OSHA) asbestos worker standards. EPA is not able to determine if AHERA applies to the removal of asbestos from an office building with an art school based on the limited information in Mr. Rose's letter. I suggest he contact the Regional Asbestos Coordinator, Mr. Tony Restaino, at EPA Region V in Chicago, IL at (312) 886-6879.

6. If a contractor is not engaged in the removal of friable or non-friable asbestos from school buildings would the contractor in his removal operations fall under AHERA requirements?

No, if the contractor is removing materials other than asbestos, AHERA does not apply. However, if the building contains asbestos (friable or non-friable) it must remain intact and undisturbed.

7. Who may Mr. Rose contact regarding further questions on asbestos?

EPA has established regional contacts across the country to provide assistance on asbestos matters. For future questions, we encourage Mr. Rose to contact the following people:

For AHERA rules, he may contact Mr. Tony Restaino mentioned earlier. The regional asbestos coordinators for the country are listed on page 41902 in the AHERA rules.

For the asbestos NESHAPS rules, he may contact Mr. Bruce Varner, the Region V NESHAPS coordinator at (312) 886-6793.

For more information on OSHA standards, he may contact Ms. Cynthia Weaver, OSHA Region V, 230 S. Dearborn St., Chicago, IL 60604, telephone: (312) 353-2220. In addition, OSHA has a Cleveland office, telephone: (216) 522-3818.

Sincerely yours,

John A. Moore  
Assistant Administrator  
for Pesticides  
and Toxic Substances

Enclosures

cc: Mr. Jackson, DOT  
Mr. Tucker, Ohio EPA  
Mr. Restaino  
Mr. Varner  
Mr. Sacarto

Region V

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