



U.S. Environmental Protection Agency Applicability Determination Index

Control Number: C51

Category: Asbestos
EPA Office: SSCD
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Title: Military Installation Constitutes Facility
Recipient: Hopp, Rachel
Author: Seitz, John S.

Subparts: Part 61, M, Asbestos

References: 61.141
61.145(a)
61.145(b)
61.145(c)

Abstract:

All the small structures on a military base or installation should be considered one facility for the purposes of the NESHAP (Section 61.141.)

Letter:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

AUG 25 1988

MEMORANDUM

SUBJECT: Asbestos Demolition Determination

FROM: John S. Seitz, Director
Stationary Source Compliance Division
Office of Air Quality Planning and Standards

TO: Rachel Hopp, Assistant Regional Counsel Region I

This responds to your request for applicability of Subpart M demolition regulations to a military installation in Region I. The installation is scheduled to undergo removal of asbestos-containing materials from several small structures as part of a demolition operation.

The asbestos NESHAP applies to each owner or operator of a demolition or renovation operation pursuant to 40 CFR Section 61.145. Since this is a demolition operation, the notice requirements apply regardless of the quantity of asbestos involved. If the amount of asbestos in the facility being demolished is greater than the applicability amount, which you have indicated is the case in this instance, then the work practice requirements also apply.

The crucial issue in your question, it appears, is whether all the small structures on this military base or installation should be considered one facility, for the purposes of the NESHAP, or whether these structures should each be considered separate facilities. If they are all part of one facility, then the amount of asbestos in each small structure could be added together to determine the total quantity of asbestos in the facility, which will determine whether or not the work practice requirements apply.

According to the definition in 40 CFR Section 61.141, facility means any institutional, commercial, or industrial structure, installation or building (excluding apartment buildings having no more than four units).

It is SSCD's opinion that this installation constitutes one facility as defined in Section 61.141 of Subpart M, 40 CFR 61. Some background for this determination is given below.

1. The dictionary defines installation as "a military base or camp". (The American Heritage Dictionary, Second College Edition, 1982). When read in conjunction with the definition of a Stationary source in the NESHAP General Provisions (40 CFR 61.02), and facility at 40 CFR 61.141, it seems clear that the installation in Region I is intended to be a facility within the meaning of the Clean Air Act.

2. At a recent national meeting on asbestos demolition and renovation procedures it was agreed to interpret "installation" as "a building/structure or a group of buildings/structures at a single demolition or renovation site that are under the control of a single entity (i.e. one owner and one operator)." SSCD agrees with this interpretation.

3. In describing the national inventory of Federal facilities, the draft Federal Facility Compliance Strategy (in Red Border Review) says the following:

"The Office of Management and Budget Circular No. A-106, dated December 31, 1974 defines a Federal facility as: "Buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned by or constructed or manufactured and so leased to, the Federal government." This definition should be read in conjunction with any definitions of "facility" contained in specific environmental statutes.

Therefore Region I's interpretation of the regulation is correct. This response was made in conjunction with ESD and AED. You may call Ken Malmberg of my staff if you have any questions concerning this response.