



U.S. Environmental Protection Agency Applicability Determination Index

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Category: Asbestos
EPA Office: Region 3
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Title: Leak-Tight Container
Recipient: Fahey, Timothy J.
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Subparts: Part 61, M, Asbestos

References: 61.150(a)(1)(iii)

Abstract:

Q. Do the Asbestos NESHAP regulations allow RACM (regulated asbestos containing material) to be placed in a leak-tight dumpster?

A. Section 61.150(a)(1)(iii) states "after wetting, seal all asbestos containing waste material in leak-tight containers while wet." The regulations do not specify or define what a "leak-tight" container is, but the regulations do repeatedly stipulate that no visible emissions may occur during the disposal process. Accordingly, a dumpster can be considered a container as long as there are no visible emissions from the RACM within it.

Q. Do the Asbestos NESHAP regulations specifically require that asbestos be placed in smaller bags prior to being placed in the leak-tight dumpster?

A. Industry practice has been to seal the asbestos-containing material in plastic bags for transportation and disposal. However, the regulations do not require the use of plastic bags or smaller bags prior to RACM being placed in a leak-tight container.

Letter:

Mr. Timothy J. Fahey, President
LVI Environmental Services, Inc.
436 Creamery Way, Suite A
Exton, PA 19341

Re: Applicability Determination Request - Leak Tight Container (40 C.F.R. Part 61, Subpart M)

Dear Mr. Fahey:

This letter is the Environmental Protection Agency Region III response to your correspondence dated July 25, 1997, requesting an applicability determination under the Clean Air Act. Specifically, your letter asked for an interpretation of the National Emission Standard for Hazardous Air Pollutants for Asbestos (Asbestos NESHAP) on the following questions: 1) Do the Asbestos NESHAP regulations allow RACM (regulated asbestos containing material) to be placed in a leak-tight dumpster? and 2) Do the Asbestos NESHAP regulations specifically require that asbestos be placed in smaller bags prior to being placed in the leak-tight dumpster?

Pursuant to 40 CFR Part 61.150(a), the standard for waste disposal requires that there be no discharge of "visible emissions to the outside air during the collection, processing (including incineration), packaging, or transporting of any asbestos-containing waste material...." That point is further clarified at 40 CFR Part 61.150(a)(1)(I) which requires that asbestos-containing waste be made adequately wet without discharging "visible emissions to the outside air from collection, mixing, wetting, and handling operations...." Additionally, 40 CFR Part 61.150(a)(1)(iii) further describes the requirements for controlling emissions by stating that adequately wetted asbestos-containing waste material should be sealed "in leak-tight containers while wet...." Collectively, these regulations require that asbestos-containing material must be disposed of in a manner which prevents visible emissions to the outside air at any time during the entire disposal process, including collection, handling and packaging at the abatement site, transportation from the abatement site to the disposal facility, and receipt and processing at the disposal site, whether that be a landfill or a conversion process.

Although the regulations do not specify or define what a "leak-tight" container is, the regulations do repeatedly stipulate that no visible emissions may occur during the disposal process. Accordingly, industry standard has been to seal the asbestos-containing material in plastic bags for transportation and disposal. However, the regulations do not require the use of plastic bags, per se. Accordingly, the regulations would allow the use of any other type of container which can be accurately described as "leak-tight", including lined, sealed dumpsters, if they are designed to prevent visible emissions or leaks (for example, to prevent material from drying out) during the loading operations at the abatement site, during transportation between the abatement and disposal sites, and during the unloading and processing operations at the disposal site.

The Region III office has coordinated this response with our headquarters' Office of Compliance (OC) within the Office of Enforcement and Compliance Assurance (OECA). OECA agrees that from the perspective of a strict interpretation of the Asbestos NESHAP regulations, RACM waste material must be placed in a leak-tight container and that the regulations do not further specify or stipulate what form a leak-tight container must take. Keep in mind, however, that state and local asbestos regulations may be more stringent and more specific than federal regulations and that those regulations must be followed in addition to the Asbestos NESHAP.

The U.S. EPA Administrator has delegated the authority to make applicability determinations to the Regional Administrators. The Regional Administrator redelegated this authority to the Director of the Air, Radiation and Toxics Division (ARTD) and the ARTD Associate Director for Air Programs. Under that authority, EPA hereby determines that the Asbestos NESHAP at 40 CFR 160.150 requires that RACM material be placed in "leak-tight" containers but does not stipulate what type of containers might be considered "leak-tight."

I hope this information is helpful in clarifying the applicability of the Asbestos NESHAP to the abatement activities being performed by LVI Environmental Services. If there are any additional questions regarding this matter, please feel free to contact Donald J. Lott, Chief of the Pesticides and Asbestos Enforcement Section, at (215) 566-2041.

Sincerely,

Marcia L. Spink
Associate Director for Air Programs

cc: Donald J. Lott, EPA-Region III
Racine Leonard, EPA-Region III
Tom Ripp, EPA-HQ