



# U.S. Environmental Protection Agency Applicability Determination Index

**Control Number: C71**

**Category:** Asbestos  
**EPA Office:** SSCD  
**Date:** 04/19/1990  
**Title:** Applicability to Condo., Co-ops, & Loft  
**Recipient:** Division Directors Regions 1-10  
**Author:** Seitz/Alushin

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**Subparts:** Part 61, M, Asbestos

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**References:** 61.141  
61.145

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**Abstract:**

Condominiums, cooperatives and lofts which exceed four dwelling units are subject to the NESHAP regulation. With regard to work in individual units, the responsibility is on the condominium or co-op board to ensure that it is notified, in advance, when renovation or demolition involving asbestos will occur within a unit.

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**Letter:**

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

Apr 19 1990

MEMORANDUM

SUBJECT: Applicability of the Asbestos NESHAP Regulation to "Condominiums, Cooperatives and Lofts"

FROM: John S. Seitz, Director  
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TO: Air Management Division Directors  
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This is in response to inquiries concerning the applicability of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos to "condominium, cooperatives and lofts." The purpose of this memorandum is to ensure that these buildings, which would have clearly been subject to the NESHAP prior to the ownership or use conversion, continue to be regulated.

Regional Offices have experienced problems applying the Asbestos NESHAP due to the dramatic increase of apartment building conversions to cooperative and condominium ownership. Even when such buildings contain more than four dwelling units, there is confusion as to the validity of the argument that ownership of each unit is separate and, therefore, is arguably within the four or fewer dwelling unit exclusion. A similar problem occurs when a portion of a commercial building is converted to residential use (the "loft" issue).

EPA adopted the exclusion based on a finding by the National Academy of Sciences that single-family residential structures contain only small amounts of asbestos insulation. EPA concluded that "apartment houses with four dwelling units or less are considered to be equivalent to single-family residential structures". 38 Fed. Reg. 8821. In other words, EPA determined that threshold amounts of asbestos were not likely to be found in apartment buildings with four or fewer dwelling units. Therefore, condominiums, cooperatives and lofts which exceed four dwelling units, are subject to the NESHAP regulation. With regard to work in individual units, the responsibility should be on the condominium or co-op board to ensure that it is notified, in advance, when renovation or demolition involving asbestos will occur within a unit. This will enable the board to comply with the annual notification requirements in the regulations, as would a rental apartment building owner, when it appears that over a course of one year the requisite amount of asbestos will be removed from the building as a whole, or to notify EPA or delegated agency when demolition occurs regardless of the amount of asbestos involved.

New condos or co-ops built now, although it is not very likely that they would contain friable asbestos materials, are covered by the regulation the same as any apartment building with more than four dwelling units.

If there are further questions on this matter, please contact Charlie Garlow at FTS 475-7088 or Omayra Salgado at FTS 382-2835

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Regions I - X