



U.S. Environmental Protection Agency Applicability Determination Index

Control Number: C91

Category: Asbestos
EPA Office: Region 2
Date: 01/02/1991
Title: Responsibility for Waste Disposal
Recipient: Stufano, Frank
Author: Kivowitz, Sharon E.

Subjects: Part 61, M, Asbestos

References: 61.141
61.150
61.154

Abstract:

EPA intended for the owners and operators of asbestos renovation and demolition activities, as well as owners and operators of waste disposal facilities, to be responsible for proper disposal of waste generated during a demolition or renovation. Any person who leases, operates, controls or supervises either the facility being renovated or demolished or the renovation or demolition operation, is an operator. The contractor at an asbestos renovation or demolition responsible for generating asbestos waste must affix the contractor's name to the waste container's label.

Letter:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
JACOB K. JAVITZ FEDERAL BUILDING
NEW YORK, NEW YORK 10278

Frank X. Stufano
President
EWT Contracting Inc.
Asbestos Abatement Services
575 Washington Street
Second Floor
New York, New York 10014

Dear Mr. Stufano:

I am writing in response to your letter to Douglas R. Blazey, dated February 28, 1991, wherein you requested a clarification of your responsibilities as an asbestos abatement contractor with regard to disposal of asbestos waste. You specifically questioned whether the owner of the facility or the contractor who removed the asbestos retains liability for the asbestos waste, whether the contractor must include its name to the label affixed to the asbestos bag, and whether the contractor is classified as the responsible person for waste disposal liability.

EPA intended for owners and operators of asbestos renovation and demolition activities, as well as owners and operators of waste disposal facilities, to be responsible for the proper disposal of all asbestos waste generated during a demolition or renovation operation, 54 FR-912 (January 10, 1989). The asbestos NESHAP, 40 CFR Part 61, Subpart M, as amended on November 20, 1990 at 55 FR 48406, clearly states that any person who leases, operates, controls or supervises either the facility being renovated or demolished or the renovation or demolition operation, is an operator. If an operator's act or process produces asbestos-containing waste material, then the operator is also a waste generator. 40 C.F.R. Section 61.141.

40 C.F.R. Section 61.150 sets forth the disposal requirements which owners as well as operators must comply with to dispose of asbestos waste material. 40 C.F.R. Section 61.150(a)(l)(v) requires, among other things, that the name of the waste generator and the location at which the waste was generated be included on the label to be affixed to each container of asbestos-containing waste material transported off-site. Therefore, if your acts as a contractor of an asbestos renovation or demolition operation produce asbestos-containing waste material, then you are a waste generator and must affix your name to the label.

As regards your concern about future liability for asbestos waste which has been disposed of, I direct you to Section 107 of CERCLA and any other relevant federal, state or local statute or regulation for clarification.

If you have further questions, please do not hesitate to call me at 212-264-2211.

Very truly yours,

Sharon E. Kivowitz
Assistant Regional Counsel
Office of Regional Counsel