

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mark A. DeLisle, CEO
DeLisle Associates LTD.
5050 S. Sprinkle Road
Portage, Michigan 49002

Re: Applicability Determination on 40 CFR 61.155

Dear Mr. DeLisle:

This letter is in response to your January 5, 2010 letter to George Czerniak of the U. S. Environmental Protection Agency in which you asked for a written determination from EPA regarding the applicability of the regulations at 40 CFR 61.155 to a stator bar recycling process. Attached to your January 5, 2010 request was a document titled "Stator Bar Recycling" dated December 2009. In addition to that document, you have engaged in several telephone discussions regarding the stator bar recycling process with Jeffrey Bratko of my staff during December 2009.

According to the document you submitted and the information you provided to Mr. Bratko via e-mail messages and phone conversations, the process that you described involves the removal of asbestos containing stator bars from facilities in various locations in various States. The stator bars are removed intact and transported to a facility in Ohio where the intent is to remove the asbestos and send the remaining asbestos free copper to be recycled.

The stator bars vary somewhat in size but are typically 2 inches thick, 4 inches wide, and 33 feet long. Each stator bar is composed of a set of hollow, rectangular, copper wires and solid, rectangular, copper wires which collectively are wrapped in a tape that is covered with a nonfriable tar material. The copper wires are individually coated with a one ten thousandth of an inch thick nonfriable resin coating that contains 3 to 5% chrysotile asbestos. The tar material that covers the tape which is on the outside of the group of wires contains 3 to 5% chrysotile asbestos.

The process, described in the document you submitted and in e-mails and discussions with Mr. Bratko, is intended to separate the asbestos containing resin and tar from the copper. The intent is to recycle asbestos free copper and dispose of the asbestos containing resin and tar as an asbestos-containing waste material. The intact stator bars that are received at the facility in

Ohio will be sheared to lengths of approximately 4 feet and then the sheared bars will be processed in a hammer mill to separate the asbestos-containing tar and resin from the copper wire. The asbestos-containing tar and resin that was removed from the stator bars will be collected and will not be additionally processed in any way except to containerize it for disposal as an asbestos-containing waste material. The process includes a dust collection system which includes various dust pickup points which send dust to a cyclone which exhausts to a baghouse. Asbestos containing debris and dust captured by the dust collection system will be collected and not processed further in any way except to place it in containers for disposal as an asbestos-containing waste material. The report submitted to EPA states that all waste from this process is considered to be friable asbestos.

In your request for an applicability determination you are seeking to know whether the process summarized above and described in more detail in attachments to your letter and in discussions with, and e-mails to, Mr. Bratko would constitute a process subject to the requirements at 40 CFR 61.155 which is a standard that pertains to operations that convert asbestos-containing waste material into nonasbestos (asbestos free) material.

The requirements at 40 CFR 61.155 were included in the asbestos National Emission Standard for Hazardous Air Pollutants (asbestos NESHAP) when final amendments were published in the Federal Register on November 20, 1990. As part of the process of amending the asbestos NESHAP, EPA issued a document titled "National Emission Standards for Asbestos – Background Information for Promulgated Asbestos NESHAP Revisions", EPA-450/3-90-017, October 1990 (also known as the Background Information Document or BID). In the BID, EPA responded to questions and comments that arose when the amendments to the asbestos NESHAP were first proposed in the January 10, 1989, Federal Register.

Chapter 16 of the BID includes responses to questions and comments concerning 40 CFR 61.155. Among the questions asked was whether 40 CFR 61.155 applies to facilities that want to recycle asbestos waste material. The Agency responded that 40 CFR 61.155 applies only to recycling facilities that convert asbestos-containing waste material into nonasbestos (asbestos-free) material. The recycling of copper that you described in your correspondence would not be considered the recycling of an asbestos waste material. In the case of the process described in your letter of January 5, 2010, you did not describe any process for converting the asbestos materials removed from the stator bars into a nonasbestos material. The asbestos that was present when the stator bars arrived at the facility will still be asbestos when the process applied to the stator bars is complete. The asbestos removed from the stator bars will remain asbestos and there is no conversion of any of the asbestos that is removed into a nonasbestos material. Therefore, the process you described in your letter would not be subject to the requirements of 40 CFR 61.155.

The process described in your letter can best be characterized as the removal of regulated asbestos containing material from facility components and the subsequent disposal of the asbestos containing material that was removed. It was not the intent of the Agency to treat such

activity as being subject to the requirements of 40 CFR 61.155, in the absence of some aspect of the process that would convert regulated asbestos containing material or asbestos containing waste material into nonasbestos material through the destruction of the asbestos contained therein.

While the primary purpose of this applicability determination is to address the question of whether the process you described is subject to 40 CFR 61.155, it would be remiss of the Agency if it did not identify the regulatory requirements for your operation.

The removal of the stator bars from their original location requires a Notification be submitted pursuant to the requirements at 40 CFR 61.145, if the square footage covered or coated with asbestos material is 160 square feet or more at a facility.¹ Since the stator bars will be removed in facilities located in a number of different states, the Notification for the removal of the stator bars will have to be submitted to the appropriate Federal, State and/or local government offices responsible for receiving such notifications for renovation operations occurring in the State where the stator bars are removed. The removal of the asbestos-containing material from the stator bars will be taking place in Ohio, a copy of the Notification should be amended, as necessary, or use the Ohio Notification form, completing the form accurately and forward it to the Ohio Environmental Protection Agency (Ohio EPA) so they are aware that asbestos transferred outside of Ohio is being stripped at a location within the State. The regulations at 40 CFR 61.145(b)(4)(xi) require that the Notification include a description of the work practices and engineering controls to be used to comply with the requirements of the asbestos NESHAP including asbestos removal and waste handling emission control procedures. The work practices and engineering controls that will be used at the location where the asbestos will be removed from the stator bars is what should be reported in the notification. The regulations at 40 CFR 61.145(b)(4)(xii) require that the notification include the name and location of the waste disposal site where the asbestos-containing waste material stripped from the stator bars will be deposited.

It is important when the stator bars are removed from their original location that the bars are handled in accordance with the requirements of 40 CFR 61.145(c)(5)(i) through (iii) and (c)(6)(ii). This requires, among other things, that the stator bars be wrapped in leak-tight wrapping and labeled as specified in 40 CFR 61.149(d)(1)(i) through (iii) during all loading and unloading operations and during storage at the site in Ohio prior to the processing of the stator bars. At the time the stator bars are removed from their original location, a waste shipment record should be initiated as required by 40 CFR 61.150(d). After your company completes the separation of the asbestos-containing material from the copper, the resin and tar that was removed must be treated as asbestos-containing waste material. This entails managing the waste material according to 40 CFR 61.150 which includes the proper management and packaging of

¹ This would include batches of stator bars that do not reach the regulated threshold because the company strips the coating from the stator bars as part of their operations. Once the company exceeds the 160 square feet threshold, any additional amount of the coated stator bars would be considered regulated asbestos-containing material.

the asbestos-containing waste material and the preparation of the waste shipping papers to ship the waste material to an approved asbestos landfill operated in accordance with 40 CFR 61.154. When your company receives copies of the returned waste shipping papers, you will need to keep a copy and send a separate copy to the original owner and/or operator that initiated the renovation operation.

This determination has been reviewed by the Office of Enforcement and Compliance Assurance and the Office of Air Quality Planning and Standards.

The EPA contact in this matter is Jeffrey Bratko. If you have any questions concerning this response, you may contact him by phone at (312) 886-6816 or via e-mail to bratko.jeffrey@epa.gov.

Sincerely,

George Czerniak, Chief
Air Enforcement and Compliance Assurance Branch

cc: Tom Buchan, Ohio EPA

standard bcc's: official file copy w/attachment(s)

other bcc's:

Creation Date:	July 8, 2010
Filename:	
Legend:ARD:AECAB:AECAS(SECTION):TYPIST	