



U.S. Environmental Protection Agency Applicability Determination Index

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Title: Residential Dwellings for Fire Training
Recipient: Valentine, Tim
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Abstract:

The issue raised is EPA's position that residential dwellings which are used for live fire training exercises are institutional structures. When a structure is intentionally burned for the purpose of fire training, the structure is being used for institutional purposes and is therefore considered an institutional building subject to the requirements of the asbestos NESHAP. Other areas related to burning residential buildings are addressed. These include: training an inspector, fiber release from a burning building, legal support for EPA's position, protective equipment, exposure of asbestos to the surrounding community, and exemption of residential dwellings from the asbestos NESHAP.

Letter:

Honorable Tim Valentine
House of Representatives
Washington, DC 20515

Dear Mr. Valentine:

This is in response to your October 20, 1992 letter requesting that the Environmental Protection Agency (EPA) review the concerns outlined in Mr. Miller's letter regarding the requirements of 40 CFR Part 61, Subpart M, the Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP).

The Agency has responded previously to letters addressing the issue of burning residential dwellings for live fire training purposes. The response to Congressman Howard Coble (see Enclosure I) stated that when a structure is intentionally burned for the purpose of fire training, the structure is being used for institutional purposes and is therefore considered an institutional building and is subject to the requirements of the Asbestos NESHAP.

This letter also explains the requirements for the inspection of the building and notification of the intent to demolish the building.

Mr. John B. Rasnic's June 11, 1992 letter to Mr. Miller (see Enclosure II) clarified the requirements for training an inspector, the reporting procedure, and the procedures to be followed if asbestos were found, and conversely, if no asbestos were found. Mr. Rasnic's letter stated that "The Asbestos NESHAP does not specify any requirements for training the person who thoroughly inspects the affected facility. However, EPA recommends that the person who conducts the inspection of the facility attend and pass the 3-day Building Inspectors Course developed under the Asbestos Hazard Emergency Response Act (AHERA) program."

My August 7, 1992 letter to Mr. Timothy L. Bradley of the North Carolina State Fire and Rescue Commission stated that "EPA has reviewed the institutional ruling and considers it to be reasonable and necessary" (see Enclosure III). I expressed concern about the great potential for significant fiber release if the building were demolished by burning.

Legal support for EPA's position was established in a case filed in the United States District Court, Northern District of Ohio, Eastern Division. In that case, Judge Paul R. Matia ruled that, although the City of Lorain did not own the buildings that were burned, it did control or supervise them when it conducted fire training exercises and burned them down and therefore was an operator as defined in the rule (see Enclosure IV).

Mr. Miller's current letter states that "live training burns take place under stringently controlled conditions. Participants are closely monitored by experienced personnel who see that those involved in the evolution are protected by using all of the proper protective equipment. The whole purpose of the training burn is to focus attention on safety and proper use of equipment." We commend his concern for the safety of the participating firemen. To ensure protection of the firefighting personnel, they would need to wear respiratory protective equipment that prevents the inhalation of asbestos fibers.

However, if asbestos is in any of the dwellings that are used for training purposes, there are no controls for preventing potential asbestos fiber release into the ambient air. Anyone in the surrounding community risks exposure to asbestos fibers released from the "controlled" burning. Our objective is to prevent any unnecessary exposure to asbestos fibers since EPA does not know what is a safe level of exposure to asbestos. Inspections of buildings (and removal of asbestos when required) before burning can reduce if not eliminate this unnecessary risk.

Training for asbestos inspections is not a requirement, but it is recommended. Since Mr. Miller states that live burns for training purposes quite often take place on a county-wide basis including all departments in the area, each department would not need a trained inspector. One firefighter in each county could be trained, or if they plan their training burns in advance, and since most departments only hold one or two training burns a year, someone from a central office could possibly handle inspections for the entire State.

Finally, Mr. Miller states that if residential dwellings were demolished, they would be exempt from the Asbestos NESHAP. This is not true in all cases. On page 48412 of the November 20, 1990 Federal Register, Revision to the Asbestos NESHAP, EPA clarifies what is meant by the definition of a facility. "The owner of a home that renovates his house or demolishes it to construct another house is not to be subject to the Asbestos NESHAP." Where a fire department burns a residential structure for training purposes, that structure is considered to be an institutional building under the definition of facility. In addition, the building is under control of a commercial or public entity and as stated in the preamble, "EPA does not consider residential structures that are demolished as part of a commercial or public project to be exempt from this rule."

I appreciate the opportunity to be of service to you and trust this information will be helpful to you.

Sincerely,

John S. Seitz
Director
Office of Air Quality Planning
and Standards

Enclosures

cc: Administrator
Deputy Administrator
Region IV
Office of Prevention, Pesticides and Toxics
CLA/Quinn

bcc: Tom Ripp
Chris Oh