



## U.S. Environmental Protection Agency Applicability Determination Index

**Control Number: A960004**

**Category:** Asbestos  
**EPA Office:** SSCD  
**Date:** 04/19/1994  
**Title:** Amount of RACM Stripped Annually  
**Recipient:** Carmine, B.C.  
**Author:** Rasnic, John

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**Subparts:** Part 61, A, General Provisions  
Part 61, B-Asb, Asbestos Demolition/Renovation (Now Sub. M)

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**References:** 61.05  
61.145

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**Abstract:**

Q. Is a source subject to the asbestos NESHAP under 40 CFR 61.145(a)(4) if its individual nonscheduled maintenance activities involve stripping less than 35 cubic feet of RACM per year, or 1000 square feet per year?

A. No, If the length or area of RACM to be stripped can be measured, using the volumetric equivalent is not allowed. If a source can measure its stripping activities under the 160 square feet or 260 linear ft thresholds, it cannot use the 35 cubic feet threshold.

Q. Is a source entitled to an exemption from the asbestos NESHAP under 40 CFR 61.05 if, since 75% of the time spent on a project is required for setting up and breaking down the engineered controls, this exemption would reduce worker exposure to radiation?

A. The Administrator has not delegated the authority to grant an exemption; our office would not recommend an exemption. While section 61.145(c)(3)(B) applies to dry removal of RACM, a source is not required to use all three emission control methods listed. Local exhaust ventilation does not require any special site preparation and should not significantly add time to abatement work. Therefore, the emission control method of paragraph (1) should not increase worker exposure to radiation doses when 75% of the time spent on a project is for setting up and breaking down the controls.

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**Letter:**

Mr. B. C. Carmine, P.E.  
Manager, Air Resources Division  
Houston Lighting & Power  
P.O. Box 1700  
Houston, Texas 77251-1700

Dear Mr. Carmine:

This is in response to your letter dated March 14, 1994, and our March 28 conference call with you and the Texas Department of Health and the Environmental Protection Agency's (EPA) Region VI Office. In your letter, you question whether the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) applies to the maintenance activities at Houston Lighting & Power's (HL&P) Southern Texas Project since the amount of asbestos involved is less than 35 ft<sup>3</sup> per year. Additionally, to reduce worker radiation doses, you request that EPA waive the requirements of the asbestos NESHAP as authorized under 40 CFR 61.05 if EPA should determine that HL&P's maintenance activities are subject to the asbestos NESHAP.

You believe that HL&P is not subject to the asbestos NESHAP under 40 CFR 61.145(a)(4) since its individual nonscheduled maintenance activities involve stripping less than 35 ft<sup>3</sup> of regulated asbestos-containing material (RACM) per year. However, the volumetric equivalent threshold measurements (1 cubic meter or 35 cubic feet) were added to the asbestos NESHAP in the 1990 revision at the request of enforcement officials because they often arrive at asbestos removal operations after the asbestos has already been stripped and at that point, it is often difficult to determine if the 160 ft<sup>2</sup> or 260 linear feet thresholds were exceeded. Using a volumetric equivalent threshold measurement where the length or area of RACM to be stripped can be measured is not allowed. Therefore, since HL&P strips over 1000 ft<sup>2</sup> of RACM during the course of the year, you are subject to the requirements of the asbestos NESHAP.

In your letter, you also state that "Because the asbestos NESHAP requires engineering controls (i.e., construction of negative air pressure enclosures) and other measures to comply with applicable regulations, compliance with the NESHAP results in increased worker exposure to occupational radiation doses." Additionally, you state that "HL&P has calculated that waiving the requirements of the asbestos NESHAP will decrease worker exposure to radiation doses by approximately 75% since three-quarters of the amount of time spent on a coating removal project is required for setting up and breaking down the engineered controls." The above two statements are the basis for your requesting an exemption of the asbestos NESHAP under 40 CFR 61.05 if EPA determines that the asbestos NESHAP is applicable.

Since we have determined that the asbestos NESHAP does apply to your case, your request for an exemption under 40 CFR 61.05 has been taken under consideration. As stated in our conference call, the authority to grant an exemption under 40 CFR 61.05 has not been delegated by the Administrator. However, the Administrator would seek a recommendation from our office before acting on any waiver request. Based on the information presented in your letter and during the conference call, we would not recommend an exemption from the requirements of the asbestos NESHAP for the following reasons:

The asbestos NESHAP does not require construction of negative air pressure enclosures. That is a requirement of the Occupational Safety and Health Administration's (OSHA) regulation 29 CFR 1926.58. It is also our understanding that OSHA has exempted your operation from this requirement.

As discussed during the conference call, while section 61.145(c)(3)(B) applies to dry removal of RACM, a source is not required to use all three emission control methods listed under paragraphs (1), (2), and (3) on the same job. The requirements should be to use local exhaust ventilation, or a glove bag system, or leak-tight wrapping. The control method in paragraph (1) (local exhaust ventilation) does not require any special site preparation and should not significantly add time to the abatement work. Therefore, the emission control method specified in paragraph (1) should not increase worker exposure to radiation doses since as you state, threequarters of the time spent on a coating removal project is required for setting up and breaking down the engineered controls.

This determination has been coordinated with EPA's Office of Enforcement and the Emission Standards Division of the Office of Air Quality Planning and Standards. If you have any questions or would like to raise this issue to the Administrator, please contact Tom Ripp of my staff at (703) 308-8727.

Sincerely,

John B. Rasnic, Director  
Stationary Source Compliance Division  
Office of Air Quality Planning and Standards

cc: Sims Roy, ESD (MD-13)  
Charlie Garlow, OE (LE-134A)  
Chris Oh, SSCD  
Tom Ripp, SSCD  
Martian Brittain, Region VI  
Terry Collins, Texas Department of Health  
Todd Wingler, Texas Department of Health