



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

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**Category:** Asbestos  
**EPA Office:** METD  
**Date:** 06/29/1994  
**Title:** Public Comments  
**Recipient:** Intlekofer, Stephen  
**Author:** Rasnic, John

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**Subjects:** Part 61, B-Asb, Asbestos Demolition/Renovation (Now Sub. M)

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**References:** 61.145  
61.150

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**Abstract:**

Q. What is the name of the document produced for the NESHAP standard (1984) for the comment period prior to promulgation?

A. There is no separate document for the comments. Comments were published in the preamble of the asbestos NESHAP at FR Vol. 49 No. 67, April 5, 1984.

Q. Where is "performance standard" defined?

A. It is not defined in the NESHAP or otherwise.

Q. Where in the NESHAP regulation does it provide that removal of debris from a site is an absolute standard?

A. 40 CFR 61.145(c)(1) requires removal of all RACM from a facility before demolition or renovation that would disturb the material. Section 61.145(c)(6)(i) requires that for all RACM, ensure that the material remains wet until collected and contained for disposal.

Q. Are all state employees, including state inspectors, subject to 40 CFR 763 subpart G?

A. State inspectors are not subject to this regulation because they are not directly involved in abatement. For employees involved in abatement, 27 states require compliance with this regulation, while the rest have state certification plans.

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**Letter:**

Mr. Stephen J. Intlekofer  
American Asbestos Training Center, LTD  
121 East Grand  
Monticello, Iowa 52310

Dear Mr. Intlekofer:

This is in response to your letters dated May 2, 1994 and May 27, 1994, requesting a clarification of the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP). The following are your questions from both letters and our response to each question.

Question 1: What is the name of the document (number) produced for the NESHAP standard (1984) for the comment period prior to promulgation?

Response 1: There is no separate document for the public comments generated from the promulgation of the asbestos NESHAP standard (1984). The U. S. Environmental Protection Agency (EPA) published all public comments in the preamble of the asbestos NESHAP when the final rule was published in the Federal Register (FR Vol.49 No.67 Thursday, April 5, 1984).

Question 2: Where is "performance standard" defined in NESHAP or otherwise?

Response 2: The phrase "performance standard" is not defined in the asbestos NESHAP or otherwise.

Question 3: Where in the NESHAP regulation does it refer to the notion that it is a performance standard and that standard is in an "absolute" standard in regard to debris found upon inspection after contractor has left the site?

Response 3: The asbestos NESHAP regulations, 40 CFR 61.145(c)(1), states "Remove all RACM from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the material for subsequent removal." Also 61.145 (c)(6)(i) requires that for all RACM, including material that has been removed or stripped, adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with Section 61.150. The rule clearly states that "all RACM" must be removed; not some or most. For additional information, I have include a copy of the determination to Basic Industry which addresses this particular issue.

Question 4: Are all state employees subject to 40 CFR 763 subpart G, including state inspectors

Response 4: State inspectors, who are not directly involved in abatement activities (e.g. they are only inspecting the site to determine compliance), are not subject to the 40 CFR 763 subpart G. For state employees who are involved with abatement activities, 27 states require compliance with 40 CFR 763 subpart G. The other remaining 23 states have their own certification plans. Only the State of Iowa uses the Occupational Safety and Health Administration (OSHA) plan. Please contact the appropriate state and local offices for more detailed information.

This letter 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, please contact Chris Oh of my staff at (703) 308-8732.

Sincerely,

John B. Rasnic, Director  
Manufacturing, Energy, and Transportation Division Office of Compliance

cc: Tom Ripp, METD (6306W)  
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Charlie Garlow, AED (2242)  
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