



U.S. Environmental Protection Agency Applicability Determination Index

Control Number: C19

Category: Asbestos
EPA Office: SSCD
Date: 04/09/1985
Title: Architect as Operator
Recipient: Duncan, David
Author: Reich, Edward E.

Subparts: Part 61, M, Asbestos

References: 61.141

Abstract:

EPA does not consider an architect as an operator subject to the standard unless the architect either owns or leases the building where the project is performed, is involved as a contractor or subcontractor responsible for asbestos removal, or supervises the removal project. Architects are encouraged to notify federal or state authorities of asbestos projects as a matter of course.

Letter:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

APRIL 9, 1985

Mr. David Duncan
Government Affairs Department
American Institute of Architects
1735 New York Avenue, N.W.
Washington, D.C. 20006

Dear Mr. Duncan:

This is in response to your February 25, 1985 request for an interpretation of the term "operator" as used in EPA regulations at 40 CFR Part 61, Subpart M, the National Emission Standard for the Hazardous Air Pollutant asbestos. You wish to know if an architect who is not supervising a project is still considered an operator, and so subject to the notification requirement.

The demolition/renovation provisions at .61.145-.147 apply to each owner or operator. Owner or operator is defined at .61.02 as "any person who owns, leases, operates, controls, or supervises a stationary source." The preamble to the asbestos regulations (49 FR 13659, April 5, 1984) explains this definition:

The stationary source in this case is the demolition or renovation operation. The demolition or renovation contractor would clearly be considered an owner or operator by "operating" the stationary source. The facility owner or operator, by purchasing the services of the demolition or renovation contractor, acquires ownership and control of the operation and would, therefore, be the "owner" for purpose of this standard. Therefore, the standard applies to both the contractor and the facility owner or operator.

Accordingly, EPA does not consider an architect as an operator subject to the standard, unless the architect either leases the building where the project is performed, is involved as a contractor or subcontractor responsible for asbestos removal, or supervises the removal project. Although architects are not, therefore, necessarily considered to be owners or operators, I encourage you to suggest to all architects that they notify federal or state authorities of asbestos projects as a matter of course.

This response has the approval of EPA's Office of General Counsel. If you have any additional concerns, please contact Robert Myers at (202) 382-2875.

Sincerely yours,

Edward E. Reich, Director
Stationary Source Compliance Division
Office of Air Quality Planning and Standards

cc: Earl Salo
Elliott Gilberg
Sims Roy

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