



U.S. Environmental Protection Agency Applicability Determination Index

Control Number: C55

Category: Asbestos
EPA Office: ESD
Date: 10/06/1988
Title: Notification Req. for Renovation & Demolition
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Subparts: Part 61, M, Asbestos

References: 61.141
61.145(a)
61.145(b)
61.145(c)

Abstract:

(Section 61.145 states that all demolition operations are subject to the standard if they are not single family dwelling units or 4-unit apartment buildings or less. The demolition operations that are above the quantity cutoff levels have to notify (Section 61.146) and also follow the procedures for asbestos emission controls (Section 61.147) while those demolition operations that are below the quantity cutoff levels (which also include situations in which there is no asbestos) only have to notify and are not required to follow procedures for asbestos emission control. The NESHAP does not require notification for renovation operations that are below the cutoff level.

Letter:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

06 OCT 1988

Mr. B. A. Steiner
Armco, Inc.
Post Office Box 600
Middletown, Ohio 45043

Dear Bruce:

This is in response to your letter of September 2, 1988, in which you asked for clarification of two points in the asbestos NESHAP standard relating to the requirements for demolition and renovation.

The first concern you raised involves the rationale of the differences in the notification requirements for buildings that contain more than 260 lineal feet or 160 square feet of friable asbestos material (quantity cutoff level) and those that contain less than that amount for demolition operations. The second concern you raised is whether notification is required when a demolition operation contains no asbestos.

Both of these concerns are related. The applicability of the standard (Sect 61.145) states that all demolition operations are subject to the standard (if they are not single family dwelling units or 4-unit apartment buildings or less). The demolition operations that are above the quantity cutoff levels have to notify (Sect 61.146) and also follow the procedures for asbestos emission controls (Sect 61.147), while those demolition operations that are below the quantity cutoff levels (which also include situations in which there is no asbestos) only have to notify and are not required to follow procedures for asbestos emission control.

Demolition Operations

The following discussion presents the rationale for all demolition operations to report.

Demolitions are final events and buildings are usually demolished quickly. The EPA and delegated States do not have the resources necessary to inspect every building to be demolished prior to demolition; therefore, the implementing agency prioritizes its inspections, concentrating its enforcement resources on the sites that are likely to result in significant emissions to the air if improperly demolished as well as those contractors who have not demonstrated a continuous compliance program.

In order to ensure that the building owner or demolition contractor has accurately evaluated and analyzed the site for the presence of asbestos, it is necessary that the implementing agency be notified prior to the onset of the demolition. The EPA has repeatedly discovered, after the demolition, that asbestos was present in spite of building owners' and contractors' claims to the contrary.

There is a strong economic incentive for building owners and also for contractors to claim less than the quantity cutoff levels. Therefore, if there is more than the quantity size cutoff level of friable asbestos material in the building, there is likely to be significant emission of asbestos from the demolition. The EPA wants to be able to inspect these buildings to the extent possible to prevent this from becoming a significant loophole in the rule.

A similar incentive to under report (and to not inspect) would also exist if there were no reporting requirements for facilities with no asbestos. As such, the purpose of the requirement to report even when no asbestos is found is not to identify the facilities with no asbestos; rather it is to ensure that facilities are inspected for asbestos and that removal is performed consistent with the standard.

Notification and Nonnotifiers

A failure to notify, as required by the rule, is a violation and EPA is vigorously enforcing these requirements. The asbestos NESHAP requires that each building be inspected prior to demolition. The notification that is required if a building contains less than the quantity cutoff level is simple, and the cost is low compared to the cost of inspecting the building for asbestos; therefore, we believe that this notification requirement is reasonable.

Because of the potential for confusion that the current notification requirements (10 days vs. 20 days) have caused, we are considering making these reporting requirements uniform in the asbestos NESHAP revisions that are scheduled to be proposed by the end of the year.

Renovation Operations

Renovation operations that involve less than the quantity cutoff level are significantly more numerous than similar demolition operations and may involve emergency situations such as a boiler failure in an apartment building in the winter. In such cases, EPA felt it would not be able to inspect such facilities in a short time frame (several hours) or impose a waiting period. As a result of such practical considerations, the rule does not require reporting for renovation operations that are below the quantity cutoff. Similar emergency situations do not occur frequently in normal building demolitions. However, the standard does have provisions for emergency demolitions that are ordered by local and State officials.

Our Stationary Source Compliance Division (SSCD) has answered numerous requests on these and similar questions and have made this information available to EPA Regional offices and State and local agencies. It appears to me that the State of Ohio is properly interpreting the asbestos NESHAP.

I hope this information is helpful in answering your questions. This letter will be sent to EPA Regional offices as you requested.

Sincerely,

Jack R. Farmer
Director
Emission Standards Division

cc: Jerry Emison (MD-10)
John Seitz, SSCD (EN-342)
Regional Asbestos NESHAP Enforcement
Regions 1 through X