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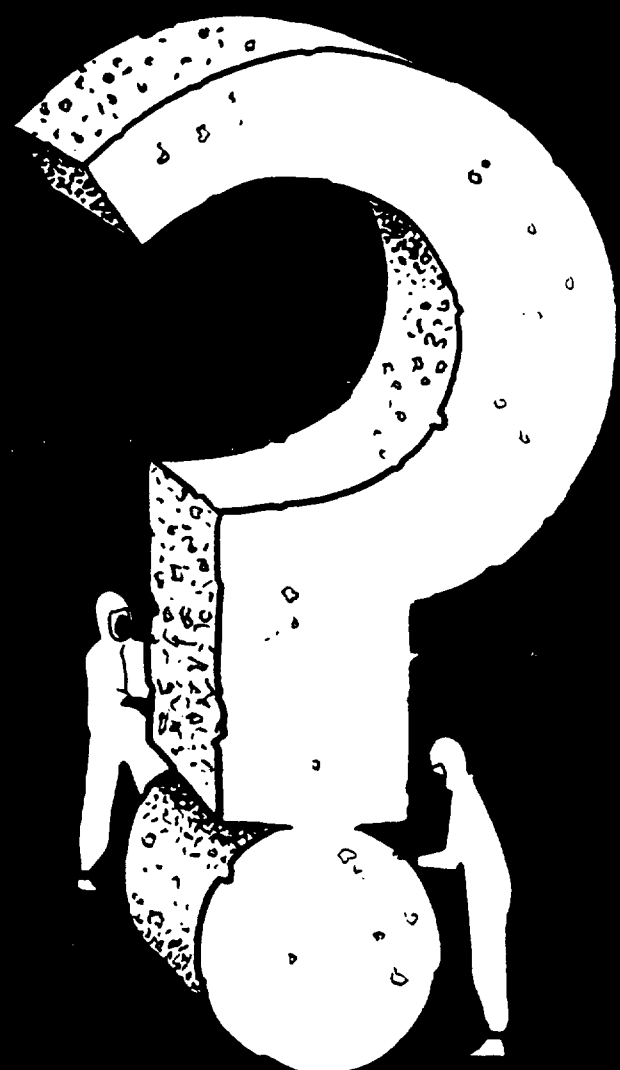
Common Questions On The Asbestos NESHAP



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Common Questions On The Asbestos NESHAP

United States
Envrionmental Protection Agency
Office Of Air Quality Planning and Standards
Stationary Source Compliance Division

December 1990

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Common Questions on the Asbestos NESHAP

Introduction

The Clean Air Act (CAA) requires the U. S. Environmental Protection Agency (EPA) to develop and enforce regulations to protect the general public from exposure to airborne contaminants that are known to be hazardous to human health. In accordance with Section 112 of the CAA, EPA established National Emissions Standards for Hazardous Air Pollutants (NESHAP) to protect the public. Asbestos was one of the first hazardous air pollutants regulated under Section 112. On March 31, 1971, EPA identified asbestos as a hazardous pollutant, and on April 6, 1973, EPA first promulgated the Asbestos NESHAP in 40 CFR Part 61.

In 1990, a revised NESHAP regulation was promulgated by EPA. Information contained in this pamphlet is consistent with the amended regulation.

This pamphlet answers the most commonly asked questions about the Asbestos NESHAP for demolitions and renovations. Many of the questions included in this pamphlet have been raised by demolition and renovation contractors in recent years. Most questions relate to how a demolition or renovation contractor or building owner can best comply with the regulation. The responses assume that the questioner has a basic understanding of the Asbestos NESHAP and demolition and renovation practices. A brief glossary of terms is also included at the back of the pamphlet.

The Asbestos NESHAP regulations protect the public by minimizing the release of asbestos fibers during activities involving the processing, handling, and disposal of asbestos-containing material. Accordingly, the Asbestos NESHAP specifies work practices to be followed during demolitions and renovations of all structures, installations, and buildings (excluding residential buildings that have four or fewer dwelling units). In addition, the regulations require the owner of the building and/or the contractor to notify applicable State and local agencies and/or EPA Regional Offices before all demolitions, or before renovations of buildings that contain a certain threshold amount of asbestos.

For more information about the Asbestos NESHAP or for answers to questions not covered in this pamphlet, contact the delegated State or local agency or the appropriate EPA Regional Office listed on page 24.

Who is responsible for enforcing the Asbestos NESHAP standards?

Under Section 112 of the Clean Air Act, Congress gave EPA the responsibility for enforcing regulations relating to asbestos renovations and demolitions. The CAA allows EPA to delegate this authority to State and local agencies. Even after EPA delegates responsibility to a State or local agency, EPA retains the authority to oversee agency performance and to enforce NESHAP regulations as appropriate.

How many States have primary responsibility for implementing the Asbestos NESHAP regulations?

As of October 1990, approximately 45 states.

NESHAP Jurisdiction

What is a "facility?"

As defined in the regulation, a "facility" is any institutional, commercial, public, industrial or residential structure, installation or building (including any structure, installation or building containing condominiums, or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; or any active or inactive waste disposal site. Any building, structure or installation that contains a loft used as a dwelling is not considered residential. Any structure, installation, or building that was previously subject to the Asbestos NESHAP is not excluded, regardless of its current use or function.

If I renovate several two-family units, are the units defined as a "facility?"

Residential buildings which have four or fewer dwelling units are not considered "facilities" unless they are part of a larger installation (for example, an army base, company housing, apartment or housing complex, part of a group of houses subject to condemnation for a highway right-of-way, an apartment which is an integral part of a commercial facility, etc.).

Are mobile homes or mobile structures regulated by the Asbestos NESHAP?

Mobile homes used as single-family dwellings are not subject to Asbestos NESHAP. Mobile structures used for non-residential purposes are subject to NESHAP.

Are homes that are demolished or renovated to build non-residential structures regulated by the Asbestos NESHAP?

Yes. For example, homes which are demolished as part of an urban renewal project, a highway construction project, or a project to develop a shopping mall are regulated by the Asbestos NESHAP.

A single home which is converted into a non-residential structure is also regulated by the Asbestos NESHAP. For example, if someone buys a house and converts it into a store, the renovation is subject to the Asbestos NESHAP.

If a renovation site is abandoned, is the site still regulated by the Asbestos NESHAP?

Yes. Even after a renovation site is abandoned, it is still regulated by the Asbestos NESHAP.

What is encapsulation, and is it regulated by the Asbestos NESHAP?

Encapsulation is the application of a material with a sealant to stop it from releasing fibers. Normally, encapsulation is not regulated by the Asbestos NESHAP unless it involves removing or stripping asbestos. However, if encapsulation is done using methods that damage asbestos and release fibers it would be covered. For example, high pressure spraying to apply encapsulant could damage asbestos. Also, if friable RACM is encapsulated, the RACM is still covered by the Asbestos NESHAP if renovation or demolition occurs.

Are offshore oil rigs regulated in terms of asbestos removal and demolition?

Yes. Federal jurisdiction extends to the continental shelf (100 miles). When EPA delegates authority to State or local agencies, the State and local agencies are usually considered to have authority only in territorial waters (12 miles). The Department of the Interior is still evaluating whether States may extend their jurisdiction beyond territorial waters. EPA currently enforces the NESHAP between territorial waters and the continental shelf.

When a condominium complex is being renovated, who as owner, is responsible for submitting a notification?

While owners and operators share responsibility for proper notification, the condominium or co-op board is responsible as the owner. The board should ensure that they are told when work takes place on individual units, so that they can comply with notification (and other EPA) requirements, especially if multiple operators are involved.

Is there a form or format for notifications?

Yes, there is a suggested form for notifications. You can obtain a form, and instructions on how to fill it out, from your delegated State or local agency or from your EPA Regional Office.

Do demolitions of facilities in which no asbestos is present require notification?

Yes. All demolitions that meet the definition of facility must notify.

When I notify regarding a renovation, what date do I consider the start date?

For a renovation, the start date is the day that the removal of asbestos-containing material, or any other asbestos-handling activities, including precleaning, construction of containment, or other activities that could disturb the asbestos, will begin.

When I notify regarding a demolition, do I give the start date of the demolition or of the asbestos removal? Which date do I use to determine whether I've met the 10-day waiting period?

For a demolition, the start date is the date that the removal or related activity begins. The date the demolition starts also must be reported. The waiting period should be calculated based on the start date of the removal or the demolition, if no removal is required. The waiting period is necessary to give inspectors time to visit the site before activity begins.

normal operations. However, renovations involving routine repairs are not emergencies.

Under what conditions must I notify for emergency renovations? When must I notify?

First, inspect the facility and determine the amount of RACM that may have to be removed or disturbed to repair the facility. (If you don't have the time to have samples analyzed, you should assume that all insulation is RACM.) Then, if the amount of RACM is in excess of the threshold amount, you should mail or deliver a notification as soon as possible, but certainly no later than the following workday. A notification which is postmarked more than one working day after the emergency will be considered in violation of the notification requirements. EPA recommends that you send the notice by overnight express mail, and that you phone in a notification as well to the delegated agency and/or EPA Regional Office.

When does a notification need to be revised?

A notification must be revised if information contained in the original notice has changed. For example, you must revise the notification if you change the start date of an operation. If the change relates to the amount of RACM involved, you need only revise the notification if the amount changes by more than 20 percent.

When do I submit a revised notification?

You should telephone EPA as soon as possible after you realize the revision is necessary, and should then mail or hand deliver a written notice. If you delay the start date of a project, EPA must receive the revised notification no later than the original start date. If you plan to begin work before the date specified in the original notice, EPA must receive the revised notice at least 10 working days before the revised start date.

Removal

Does the Asbestos NESHAP require a building owner or operator to remove damaged or deteriorating asbestos-containing material?

No. Not unless a renovation of the facility is planned which would disturb the ACM and it exceeds the threshold amount.

All contaminated debris which cannot be segregated and cleaned should be disposed of as asbestos waste.

Friable and Non-Friable Asbestos

What is friable asbestos-containing material?

Friable ACM is any material containing more than one percent asbestos (as determined by Polarized Light Microscopy) that, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure.

What is non-friable ACM?

Non-friable ACM is any material containing more than one percent asbestos (as determined by Polarized Light Microscopy) that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure. Under the Asbestos NESHAP, non-friable ACM is divided into two categories. Category I non-friable ACM are asbestos-containing resilient floor coverings (commonly known as vinyl asbestos tile (VAT)), asphalt roofing products, packings and gaskets. These materials rarely become friable. All other non-friable ACM are considered category II non-friable ACM.

Must I remove category I non-friable material prior to demolition or renovation?

Under normal circumstances, category I non-friable materials need not be removed prior to demolition or renovation, because generally these materials do not release significant amounts of asbestos fibers, even when damaged. This is not, however, a hard and fast rule. If category I materials have become friable or are in poor condition, they must be removed. Also, if you sand, grind, abrade, drill, cut or chip any non-friable materials, including category I materials, you must treat the material as friable, if more than the jurisdictional amount is involved.

Must I remove category II non-friable materials prior to demolition or renovation?

These materials should be evaluated on a case-by-case basis. If category II non-friable materials are likely to become crushed, pulverized or reduced to powder during demolition or renovation, they should be removed before demolition or renovation begin. For example, A/C (asbestos cement) siding on a building that is

How should I label asbestos-containing waste that is being taken away from the facility?

You should label the containers or wrapped materials with the name of the waste generator and the location at which the waste was generated. An OSHA warning label must also be used.

Does EPA license landfills for asbestos waste?

The EPA does not license asbestos landfills under the Clean Air Act.. However, it has established asbestos disposal requirements for active and inactive disposal sites under the NESHAP, and general requirements for solid waste disposal under the Resource Conservation and Recovery Act (RCRA). In addition, State and/or local agencies usually require asbestos landfills to be approved or licensed.

Where can I obtain a list of licensed landfills?

State and local agencies which require handling or licensing procedures can supply a list of "approved" or licensed asbestos disposal sites upon request. Solid waste control agencies are listed in local telephone directories under State, county or city headings.

What should the owner or operator of a waste disposal site do if it is determined that there is a discrepancy between the amount of waste that left the facility and the amount of waste that was delivered to the site?

The waste site owner or operator must contact the demolition/renovation owner or operator, and attempt to reconcile the discrepancy. If they cannot do so within 15 days after the waste was received, the waste site owner or operator must notify both the delegated agency responsible for the facility from which the waste was removed, and the delegated agency responsible for the area in which the waste was disposed.

Can water be considered "six-inch compacted non-asbestos cover"? In other words, could asbestos covered components be dropped in the ocean?

Does EPA accredit laboratories that test for asbestos?

No. EPA, under CFR Part 763, requires local education agencies to use laboratories accredited by the National Institute of Standards and Technology (NIST) in its National Voluntary Laboratory Accreditation Program (NVLAP). It is recommended for NESHAP related projects that NIST accredited laboratories be used.

How do laboratories analyze bulk samples?

Laboratories analyze bulk samples a number of ways. Most laboratories use Polarized Light Microscopy (PLM). Some laboratories use Transmission Electron Microscopy (TEM). However, there is currently no published method for bulk analysis using TEM.

How much does it cost to have a bulk sample analyzed?

The cost varies with the method. The cost of PLM analysis ranges from $20.00 to $100.00. The average cost is $30.00. TEM analysis is more expensive.

Inspections

Does an inspector have the right to enter any facility and the containment area?

Yes. All inspectors have the right under the Clean Air Act to inspect any facility and the containment area. Inspectors are trained and equipped to do this safely.

If I can see ACM dust inside the containment area or inside a glovebag, is this a violation of the Asbestos NESHAP?

The observation of ACM dust will be used as evidence of a violation of the "adequately wet" requirement. This is consistent with the definition of adequately wet that requires enough wetting "to prevent the release of particulates."

Is visible asbestos-containing debris on the ground outside a removal job considered a "visible emission," and a violation of the NESHAP?

Yes. Dry friable asbestos insulation on the ground violates the "adequately wet" requirement, and can be considered evidence of a visible emission.

Training

Do contractors and employees need to be accredited?

As of November 20, 1991, the Asbestos NESHAP requires a person trained in the provisions of this rule and the means of complying with them to be on-site when asbestos-containing material is stripped, removed, or disturbed. Under AHERA, all contractors and employees involved in the removal and disposal of asbestos-containing material from schools must be accredited. Additionally, many States require that all workers be accredited before they remove asbestos from any facility.

How can I qualify as an asbestos contractor/worker/consultant under AHERA?

You must attend and pass an EPA accredited training course. A list of training courses approved by EPA is published quarterly in the Federal Register, and is available through the TSCA hotline. The TSCA number is printed at the end of this pamphlet, along with other contact numbers. Contact your State or local agency for more information.

Do supervisors need to be trained?

Beginning on November 20, 1991, the Asbestos NESHAP requires at least one trained supervisor to be present at any site at which RACM is stripped, removed, or otherwise disturbed at any facility which is being demolished or renovated and is regulated by NESHAP. Evidence of the training must be posted and made available for inspection at the demolition or renovation site. Training includes, at a minimum: applicability, notification, material identification, control procedures, waste disposal, reporting and record keeping, asbestos hazards and worker protection. Completion of an AHERA accredited course constitutes adequate training. Every 2 years the trained individual is required to receive refresher training. Information about both the training and refresher courses is available through EPA or delegated State or local agencies.

Violations and Penalties

What will happen if I violate the Asbestos NESHAP?

Sanctions vary. In some cases, Notices of Deficiency (NOD) -- written warnings -- or Notices of Violation (NOV's) are issued to owners or operators who violate notification requirements. Or, depending upon the offense, EPA recommends fines up to $25,000 per day per violation.

NARS

What is NARS?

NARS stands for "National Asbestos Registry System." NARS is a computerized database established by EPA in April, 1989. NARS stores data on the compliance history of firms doing demolition or renovation work subject to the Asbestos NESHAP.

What is the purpose of NARS?

NARS is used by EPA Regional Offices as well as State and local agencies to "target" inspections of contractors with poor compliance histories, and to monitor activity subject to the NESHAP regulations.

Can I get NARS information?

Yes. NARS information is available through EPA Regional Offices under the provisions of the Freedom of Information Act.

Are there any penalties for being listed in NARS as a violator?

No. NARS is only an information system. Contractors who have violations listed in NARS may, however, be inspected more frequently than contractors who have no violations.

Why does EPA recommend inspection targeting?

Delegated agencies receive over 60,000 notifications of planned renovation or demolition projects each year. Because all projects cannot be inspected, EPA recommends targeting inspections so that agencies can make better use of their inspection resources.

Can firms avoid future inspections based on past good performance?

Past performance is an important criterion for targeting inspections; however, other criteria are also used. As a result of EPA guidance to State and local air pollution agencies, many asbestos removal contractors will be inspected at least once per year.

Additional Information

You can obtain more information about the Asbestos NESHAP by contacting your EPA Regional Office's NESHAP coordinator. You can obtain more information about AHERA by contacting your Regional Asbestos Coordinator (RAC). The addresses and phone numbers of both the RAC and NESHAP coordinators are listed at the end of this pamphlet.

You may also call the EPA Toxic Substances Control Act (TSCA) Hotline to ask general questions about asbestos, or to request asbestos guidance documents. The Hotline number is (202) 554-1404. The EPA Public Information Center can send you information on EPA regulations. You can reach the Center at (202) 382-2080 or (202) 475-7751.

The EPA has an Asbestos Ombudsman to provide information on the handling and abatement of asbestos in schools, the workplace and the home. Also, the EPA Asbestos Ombudsman can help citizens with asbestos-in-school complaints. The Ombudsman can be reached toll-free at (800) 368-5888, direct at (703) 557-1938 or 557-1939.

To obtain a current listing of accredited labs contact NIST NVLAP at (301)975-4016.

	ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by the Asbestos NESHAP.
RCRA	Resource Conservation and Recovery Act
TSCA	Toxic Substances Control Act
Visible Emissions	Any emissions, which are visually detectable without the aid of instruments, coming from RACM or asbestos-containing waste material, or from any asbestos milling, manufacturing, or fabricating operation.

AHERA and NESHAP Coordinators

Region	NESHAP	AHERA
Region 6 AR, LA, NM OK, TX	Asbestos NESHAP Coordinator Air, Pesticides & Toxics Div. US EPA 1445 Ross Avenue Suite 1200 Dallas, TX 75202-2733 (214) 655-7233	Regional Asbestos Coordinator US EPA 1445 Ross Avenue Suite 1200 Dallas, TX 75202-2733 (214) 655-7244
Region 7 IA, KS MO, NE	Asbestos NESHAP Coordinator Air & Toxics Division US EPA 726 Minnesota Avenue Kansas City, KS 66101 (913) 551-7618	Regional Asbestos Coordinator US EPA 726 Minnesota Avenue Kansas City, KS 66101 (913) 551-7020
Region 8 CO, MT, ND SD, UT, WY	Asbestos NESHAP Coordinator Air & Waste Management Div. US EPA One Denver Place 999 18th Street Suite 500 Denver, CO 80202-2405 (303) 294-7685	Regional Asbestos Coordinator US EPA One Denver Place 999 18th Street Suite 500 Denver, CO 80202-2405 (303) 293-1442
Region 9 AS, CA, HI, NV, AZ, GU, TT	Asbestos NESHAP Coordinator Air Management Division US EPA 75 Hawthorne Street San Francisco, CA 94105 (415) 744-1135	Regional Asbestos Coordinator US EPA 75 Hawthorne Street San Francisco, CA 94105 (415) 744-1128
Region 10 AK, ID OR, WA	Asbestos NESHAP Coordinator Air & Toxics Management Div. US EPA 1200 6th Avenue Seattle, WA 98101 (206) 442-1757	Regional Asbestos Coordinator US EPA 1200 6th Avenue Seattle, WA 98101 (206) 442-4762