



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

Control Number: A070002

Category: Asbestos
EPA Office: CAMPD
Date: 02/16/2006
Title: Residential Homes Demolished for Highway Expansion
Recipient: Kavanaugh, James
Author: Alushin, Michael
Comments:

Part 61, M Asbestos

References: 61.141
 55 FR 48412
 60 FR 38725

Abstract:

Q: Could EPA clarify to the Air Pollution Control Program in Jefferson City, Missouri whether single family residences are subject to the Asbestos NESHAP, 40 CFR part 61, subpart M, if they are being demolished as part of a highway expansion?

A: EPA explains that a group of residential buildings under the control of the same owner or operator is considered an installation according to the definition of "installation," and thus is covered by the asbestos NESHAP. As an example, several houses located on a highway right-of-way that are all demolished as part of the same highway project would be considered an "installation," even when the houses are not proximate to each other. In this example, the houses are under the control of the same owner or operator, that is, the highway agency responsible for the highway project.

Letter:

Mr. James L. Kavanaugh
 Interim Director
 Air Pollution Control Program
 P.O. Box 176
 Jefferson City, MO 65102-0176

Dear Mr. Kavanaugh:

This regulatory determination is in response to your letter of November 4, 2005 in which you describe a discrepancy in a previous applicability determination concerning residential structures targeted for demolition in connection with a highway expansion project. Your request seeks clarification as it applies to the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), 40 C.F.R. Part 61, subpart M.

In the November 20, 1990 Final Rule revising the asbestos NESHAP (55 FR 48412), EPA addressed the scope of the term "installation" which was being added to the asbestos NESHAP. The Agency stated:

a group of residential buildings under the control of the same owner or operator is considered an installation according to the definition of "installation" and is, therefore, covered by the rule. As an example, several houses located on highway right-of-way that are all demolished as part of the same highway project would be considered an "installation," even when the houses are not proximate to each other. In this example, the houses are under the control of the same owner or operator, i.e., the highway agency responsible for the highway project.

In the July 28, 1995 Federal Register (60 FR 38725), EPA issued a Notice of Clarification addressing the scope of residential home exemption. EPA once again clarified that demolitions of residential buildings under the control of the same owner or operator as part of a larger demolition project (i.e., in connection with the construction of public facilities such as highways, sports arenas, or shopping malls) are not excluded from the asbestos NESHAP. (60 FR at 38726.

I appreciate the opportunity to clarify a past applicability determination discrepancy. The Office of Civil Enforcement, the Office of Air Quality Planning and Standards, and the Office of General Counsel have reviewed this determination.

Very truly yours,

Michael S. Alushin
Compliance Assessment and Media Programs Division Office of Compliance

cc: Charlie Garlow, OCE
Susan Fairchild, OAQPS
Chris Kaczmarek, OGC