



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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Mr. Rick Butler, Asbestos Coordinator
Florida Department of Environmental Protection
2600 Blair Stone Road
Mail Station #5510
Tallahassee, Florida 32399-2400

Dear Mr. Butler:

You recently requested that the Environmental Protection Agency (EPA) Region 4 provide clarification on the "residential building exemption" as it applies to the National Emission Standard for Hazardous Air Pollutants for Asbestos (asbestos NESHAP), 40 C.F.R. Part 61, Subpart M. You specifically inquired as to whether or not the demolition of isolated residential buildings with four or fewer dwelling units ("small residential buildings"), performed as part of a FEMA flood mitigation project, is covered under the asbestos NESHAP.

The "residential building exemption" exempts small residential buildings from the requirements of the asbestos NESHAP. EPA based this exemption on a National Academy of Sciences' Report which stated that generally, single-family residential structures contain only small amounts of asbestos insulation. EPA believes that the "residential building exemption" applies to an **individual** small residential building regardless of whether a municipality is an "owner or operator" for the purposes of the demolition.

The 1990 revisions to the asbestos NESHAP clarified the definition of "facility" to include:

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).

The 1990 revisions to the asbestos NESHAP included the following definition of "installation":

Installation means any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control).

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The "facility" definition excludes only "residential *buildings* having four or fewer dwelling units." The "facility" definition does not exclude residential "installations" from the requirements of the asbestos NESHAP.

In the case of Walton County, the homes subject to the FEMA revitalization project are not subject to the asbestos NESHAP because the homes are not considered a residential "installation." The homes are not located on the same site. The "site" must be a relatively compact area, i.e., on the same block. If the site can not be defined as a city block, it should be as compact and contiguous as possible. EPA believes the residential exemption is based on the type of building being demolished/renovated and the type of demolition/renovation project being undertaken, not the entity performing or controlling the demolition/renovation.

The residential building exemption would not apply when **multiple** (more than one) small residential buildings on the same site are demolished/renovated by the same owner/operator as part of the same project or where a single residential building is demolished/renovated as part of a larger project that includes demolition/renovation of nonresidential buildings. The residential building exemption was not designed to exempt larger demolitions/renovations on a particular site, even where residential buildings are involved.

Enclosed is a copy of the July 28, 1995, Federal Register notice which discusses the residential building exemption (60 FR 38725). Please contact Pamela McIlvaine of my staff at (404) 562-9197 if you have any questions pertaining to this matter.

Sincerely yours,



Richard S. DuBose, Chief
Air Enforcement Section

Enclosure

cc: Mr. Phil W. Worley
Florida Department of Community Affairs
Division of Emergency Management
Bureau of Recovery and Mitigation
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100