



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

Bureau of Air Monitoring  
& Mobile Sources

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Mr. Michael G. Cooke, Director  
Division of Air Resource Management  
Florida Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Dear Mr. Cooke:

This letter responds to your May 20, 2004, letter in which you requested the Environmental Protection Agency Region 4 (EPA) to provide clarification regarding the applicability of 40 C.F.R. Part 61, *National Emission Standards for Hazardous Air Pollutants*, Subpart M, *National Emission Standard for Asbestos* (Asbestos NESHAP), to the removal of asbestos-containing, resilient floor coverings. Specifically, you inquired as to whether or not the notification requirements contained in 40 C.F.R. § 61.145(b) are applicable to the removal of Category I nonfriable asbestos-containing material (ACM) that is in good condition and that has not become regulated asbestos-containing material (RACM).

The notification requirements contained in 40 C.F.R. § 61.145(b) are applicable to renovations involving the specified threshold amounts of RACM. Category I nonfriable asbestos-containing materials (packings, gaskets, resilient floor coverings and mastic, and asphaltic roofing materials) are considered RACM only when: (1) they will be or have been subjected to sanding, grinding, cutting, or abrading; (2) they are in poor condition and hence friable; or (3) they are located in a structure to be demolished by burning. When determining the condition and friability of Category I nonfriable ACM, it should be determined if the ACM can be crumbled by hand pressure. Crumbling refers to an action that occurs essentially in one effort and not in repeated attempts to crumble the material. For example, floor tile in good condition can be broken by hand into a few large pieces, but it is not easily broken in one effort into many small pieces. On the other hand, floor tile that is in poor condition and has lost its structural matrix can be broken into many small pieces in one effort.

Under most common removal scenarios identified in EPA's *A Guide to Normal Demolition Practices Under the Asbestos NESHAP*, resilient floor tile should not be rendered friable if it was in good condition before the renovation. Some removal techniques which would not render the tile to be friable include the use of solvents or water in conjunction with long-handled scrapers or gas- or electrically-powered mechanical chisels, dry ice, and infrared machines. If the tiles are extensively damaged prior to removal, the aforementioned removal

techniques could render the floor tile to be RACM. Furthermore, any removal method that will cut, grind, sand or abrade the tile as described in 40 C.F.R. § 61.141 will cause the tile to become RACM. Also, pulling the VAT off of the floor, if still attached to the subfloor by mastic, may tear VAT making it become RACM.

The applicability of the Asbestos NESHAP to the removal of Category I nonfriable asbestos-containing materials (ACMs) depends on the following: (1) the condition of the material at the time of renovation, (2) the nature of the operation to which the material will be subjected, and (3) the amount of ACM involved. The notification requirements contained in 40 C.F.R. § 61.145(b) are only applicable to renovations involving threshold amounts of VAT when such VAT is considered to be RACM, or considered to be friable, or considered to be rendered RACM by the removal procedures being employed. An inspector would have to be on-site to examine the debris to determine if the method used to remove the floor tile rendered it friable.

EPA realizes that without being provided with a notification, an inspector is often unable to observe the floor tile removal. Without observing the removal, the inspector is unable both to make a case-by-case determination of the condition of the Category I nonfriable ACM and to verify whether the removal techniques have rendered the material RACM. Without notification, an inspection is not possible to confirm that the floor tile removal is being handled properly. A state or local regulatory agency could adopt notification regulations with more stringent requirements than the Asbestos NESHAP. Such regulations could require notification for every VAT removal in order to provide inspectors with an opportunity to inspect each removal.

In a recent conference call that EPA held with the Miami-Dade Department of Environmental Resources Management (DERM) and the Florida Department of Environmental Protection (FDEP) on May 25, 2004, Mr. Patrick Wong of DERM pointed out a statement in the preamble to the November 20, 1990, Asbestos NESHAP Revision published at 55 Federal Register 48406. The statement located on page 48408 of the Federal Register notice states, "This policy determination stated in essence that any ACM, whether originally friable or nonfriable that become (or are likely to become) crumbled, pulverized, or reduced to powder are covered by the NESHAP." Mr. Wong pointed out this statement as a basis for DERM to regulate resilient floor tile removals under the Asbestos NESHAP since the tile is "likely to become" friable. Further down on the final column of page 48408, the following statement is made:

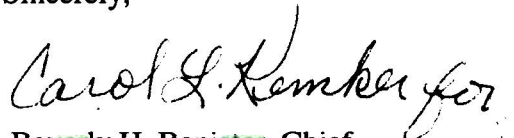
A statement in the determination to the effect that some nonfriable materials may remain nonfriable throughout demolition and renovation is evidence that this determination was intended to be narrowly interpreted and not used to require removal of all nonfriable materials. For example, materials such as resilient floor covering, asphalt roofing products, packings, and gaskets would rarely, if ever, need to be removed because, even when broken or damaged, they would not release significant amounts of asbestos fibers.

This statement demonstrates that EPA did not intend to regulate the removal of nonfriable VAT under the Asbestos NESHAP. EPA believes that the aforementioned removal techniques do not render the VAT "likely to become" friable.

In summary, EPA provides the following answers in response to the specific questions contained on page three of your letter. An owner or operator is required by the Asbestos NESHAP to submit an asbestos notification for the removal of Category I nonfriable ACM only when: (1) the ACM will be or has been subjected to sanding, grinding, cutting, or abrading; (2) the ACM is in poor condition and hence friable; or (3) the ACM is located in a structure to be demolished by burning. The ten (10) working day waiting period does not apply to the removal of Category I nonfriable ACM that is not RACM. The amount of sanding, grinding, cutting, or abrading that would make the Category I nonfriable ACM become RACM depends on the current condition of the Category I nonfriable ACM. The change from Category I nonfriable ACM to RACM would need to be determined by an inspector on a case-by-case determination of friability. Since no notification is typically required when a project involves the removal of Category I nonfriable ACM, inspectors are often unable to inspect to determine if Category I nonfriable ACM has become RACM. A state or local regulatory agency could adopt regulations with more stringent requirements than the Asbestos NESHAP. Such regulations could require notification for all ACM removals to allow inspectors the opportunity to verify whether Category I nonfriable ACM has become RACM.

I hope this letter adequately addresses your concerns regarding the removal of resilient floor coverings pursuant to 40 C.F.R. Part 61, Subpart M. If you have any questions, please contact Pamela McIlvaine of my staff at (404) 562-9197.

Sincerely,



Beverly H. Banister, Chief  
Air, Pesticides and Toxics  
Management Division

cc: Joe Kahn, FDEP  
Patrick Wong, DERM