



U.S. Environmental Protection Agency Applicability Determination Index

Control Number: A930025

Category: Asbestos
EPA Office: SSCD
Date: 11/06/1992
Title: Residential Structure
Recipient: Hobson, Peter James
Author: Rasnic, John B.

Subparts: Part 61, M, Asbestos

References: 61.141
61.145(b)

Abstract:

Whether or not a residential building with an addition which was used as a daycare classroom would still be considered a "residential dwelling" within the definition of "facility" as set forth in 40 CFR 61.141 as discussed. To be considered a "residential dwelling" as set forth in 40 CFR 61.141, the structure that is being abated for asbestos must have been used as a residential building. Also, the structure must not have been subjected to NESHAP regulations. Since the original part of the second structure was used for residential purposes only and was never subject to NESHAP regulations, the structure is considered to be residential.

Letter:

Mr. Peter James Hobson
Attorney at Law
606 E. Madison Street
Tampa, FL 33602

Dear Mr. Hobson:

This is in response to your letter dated October 13, 1992 requesting a clarification of the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP). Specifically, you ask whether or not a residential building with an addition, which was used as a daycare classroom, would still be considered as a "residential dwelling" within the definition of "facility" as set forth in 40 CFR 61.141.

You presented the following in your letter and phone call: 1) there are two existing structures with asbestos on the site; 2) one of the structures is a residential structure which has maintained all of the appearance of being used as a residential building upon your inspection; 3) the second structure is virtually identical to the first except that an addition was made to the second structure which resembles a classroom; 4) the renovation will only involve the original residential structures; and 5) there is no asbestos present in the addition that was added to the second structure.

To be considered a "residential dwelling" within the definition of facility as set forth in 40 CFR 61.141, the structure that is being abated for asbestos must have been used as a residential building. Also, the structure must not have been subjected to NESHAP regulations. Since the original part of the second structure that is undergoing an asbestos abatement was used for a residential purpose only and was never subjected to NESHAP, the structure is considered to be residential. It is our understanding that both residential buildings will remain as residential dwellings and that the addition to the second structure will no longer be used for commercial purposes. It is also our understanding that the addition to the second building does not contain any asbestos and that there will not be any demolition or renovation performed to the addition. Since the addition was used for commercial purposes, if a demolition is performed on the addition, the owner is subject to the notification requirements under 40 CFR 61.145(b).

This determination has been coordinated with EPA's Office of Enforcement and the Emission Standards Division of the Office of Air Quality Planning and Standards. If you have any questions, please contact Chris Oh of my staff at (703) 308-8732.

Sincerely,

John B. Rasnic, Director
Stationary Source Compliance Division Office of Air Quality Planning and Standards

cc: Sims Roy, ESD (MD-13)
Charlie Garlow, OE (LE-134A)
Tom Ripp, SSCD
Regional Asbestos NESHAP Coordinators