

any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal. "RACM" is defined in 40 CFR Sec. 61.141 as: "(a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable material 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 this subpart."

Environmental Consultants, LLC ("Environmental Consultants") is involved in a demolition activity at a vacant commercial building located at 1701 West US Highway 50, O'Fallon, Illinois (the "facility"). During a recent phone conversation with Ms. Linda H. Rosen, of my staff, and in the July 30, 2008 letter, you explain that there is friable asbestos-containing vermiculite material within the concrete block walls of the facility. According to Environmental Consultants, this RACM cannot be safely removed prior to the walls being demolished because the walls are load-supporting. Your July 30, 2008 letter explains that in addition to the asbestos-containing vermiculite material, there is also asbestos in the facility's roofing system and window caulk/glazing. According to you, the asbestos-containing roofing material is Category I nonfriable ACM and the asbestos-containing window caulk/glazing is Category II nonfriable ACM. Your letter requests that the asbestos-containing vermiculite material be left in place during demolition.

The asbestos NESHAP does not allow a variance to be granted under any circumstance. According to 40 CFR Sec. 61.145(c)(1), RACM need not be removed before demolition if: (i) It is Category I nonfriable ACM that is not in poor condition and is not friable; (ii) It is on a facility component that is encased in concrete or other similarly hard material and is adequately wet whenever exposed during demolition; (iii) It was not accessible for testing and was, therefore, not discovered until after demolition began and, as a result of the demolition, the material cannot be safely removed. If not removed for safety reasons, the exposed RACM and any asbestos-contaminated debris must be treated as asbestos-containing waste material and adequately wet at all times until disposed of; or (iv) They are Category II nonfriable ACM and the probability is low that the materials will become crumbled, pulverized, or reduced to powder during demolition.

EPA has determined that the exceptions in 40 CFR Sec. 61.145(c)(1)(i), (ii), and (iv) noted above, do not apply to this demolition. The asbestos-containing vermiculite is not Category I or Category II ACM. Rather, it is a friable ACM. The exception in 40 CFR Sec. 61.145(c)(1)(ii) does not apply because the material is not on a facility component which is encased in concrete. It is loose between the walls.

The exception noted in 40 CFR Sec. 61.145(c)(1)(iii) applies in this specific instance because the asbestos-containing material ("ACM") cannot be safely removed. In order to remove the material, the walls would need to be taken down and because they are load-supporting, the ceiling or roof would collapse. Therefore, in accordance with 40 CFR Sec. 61.145(c)(1)(iii), Environmental Consultants can leave the vermiculite ACM material in place between the walls during demolition. However, all exposed RACM and all asbestos-contaminated debris must be treated as asbestos-containing waste material and kept adequately wet at all times until disposed of in accordance with 40 CFR Secs. 61.145(c) and 61.150.

In addition, all other RACM in the facility must be removed prior to the facility being demolished. RACM includes, among other things, Category I nonfriable material that will be or has been subjected to sanding, grinding, cutting or abrading and Category II nonfriable material 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 the demolition. It is EPA's view that the Category II nonfriable window caulking has a high probability of becoming crumbled, pulverized or reduced to powder by the forces expected to act on it during a normal demolition and therefore should be removed prior to demolition.

This response has been reviewed by the Office of Enforcement and Compliance Assurance. If you have any questions regarding this letter, feel free to contact Linda H. Rosen, of my staff, at (312) 886-6810.

Sincerely yours,

George T. Czerniak
Chief
Air Enforcement and Compliance Assurance Branch

EPA Applicability Determinations Index

cc: Ray Pilapil, Manager
Bureau of Air - Compliance and Enforcement Section
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