

Municipal Demolitions and the Asbestos NESHAP

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Problem

- Tens of thousands of vacant and abandoned homes
- Tens of thousands of homes in foreclosure which may end up abandoned
- Limited resources, knowledge, and appreciation of the asbestos issue





- National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos in effect on April 6, 1973
- Regulated the demolition of buildings that contained more than four dwelling units and installations

Revisions to the Asbestos NESHAP

- October 14, 1975, - the regulation was expanded to cover renovations and to exempt certain demolitions
- November 20, 1990, - the regulation is clarified to enhance enforcement and promote compliance without altering the stringency of existing controls.

EPA's 1990 Clarification

“A group of residential buildings under the control of the same owner or operator is considered an installation and is, therefore, covered by the rule”



EPA's 1990 Clarification

- “...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 though the houses are not proximate to each other”
- Installation was defined to mean any building or structure or any group of buildings at a single demolition or renovation site that are under common control

Further Clarification Requested

- 1-23-1993 - Region 5 requests applicability determination on scattered single family residence demolitions. Requested due to increase in complaints and claims that such demolitions were exempt
- Municipalities, including several in Florida, sought a clarification regarding nuisance abatement demolitions

Congress Orders a Clarification

House Report 103-555, reported by the Appropriations Committee directed EPA to issue a clarification that a nuisance abatement demolition or renovation does not subject an otherwise exempt structure to the asbestos NESHAP



EPA's 1995 Clarification

- State and local Air Directors were given a chance to comment on the clarification before it was issued
- EPA sought informal input from environmental and environmental justice organizations before issuing the clarification
- The Clarification was published in the Federal Register on 7-28-95

EPA's 1995 Clarification



Applies to isolated residential buildings having four or fewer dwelling units that have been declared safety hazards or public nuisances by local government

1995 Clarification

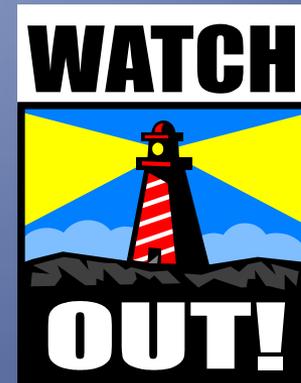
Did not apply to:

- Demolition of multiple small residential buildings on the same site by the same owner or operator
- Demolition by fire
- Demolitions that are part of larger projects, urban renewal projects, private development, or demolition of residential installations

Early Letters Concerning Municipal Demolitions

- 5-9-1973 – Minneapolis Housing and Development Authority notes it has 17 contracts with 6 contractors to demolish dilapidated structures at the rate of 25 to 40 per month. 20 day notice is cited as a problem
- 5-16-1973 – Region 5 responds that EPA needs 20 days notice of scheduled date

Applicability Determinations



Determinations made Before the 1990 NESHAP Revisions

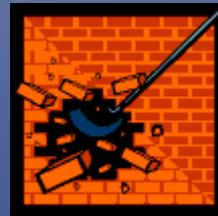
C61 6-29-89 - One demolition or renovation operation involving a group of residential and/or commercial structures under the control or supervision of a single entity (i.e., one owner and/or one operator) is one "facility."

Demolition of a group of residential or commercial buildings or structures on a highway right-of-way is subject to the NESHAP if under control or supervision of one entity.

Determinations made Before the 1990 NESHAP Revisions

C66 11-13-89

If a demolition operation involving a group of residential structures is under the control or supervision of a single entity (i.e., the City), then the owner or operator is subject to the asbestos NESHAP.



Determinations made Before the 1990 NESHAP Revisions

C69 4-11-1990

An individual residential structure which is acquired by a state or local government through the process of eminent domain for institutional, commercial or industrial purposes becomes an institutional, commercial or industrial building. Therefore, the building would be subject to the NESHAP requirements.

Determinations made After the 1990 Revisions but Before the 1995 Clarification

C103 8-7-1991



Residential buildings acquired and demolished for the purpose of an urban renewal project are considered institutional buildings and are not exempt from the asbestos NESHAP.

Determinations made After the 1990 Revisions but Before the 1995 Clarification

A930028 7-15-1993



The city ordered demolition of a single residential dwelling for public safety is a demolition for "institutional, commercial, public or industrial" purposes. EPA believes that these demolitions should be treated in the same manner as urban renewal projects.

A930028 Continued

...over the course of the year, a city may demolish a significant number of buildings
...Typically these houses are in run-down or poor neighborhoods, and the question of environmental equity arises. However, it was not EPA's intent to allow for the mass demolition or continuing demolition of vacant or dilapidated houses without such demolitions being subject to the requirements of the NESHAP. ...

Post 1995 Determinations

A960022 6-11-1996

City X periodically orders a demolition due to the fact that the building constitutes a public nuisance or is in danger of collapse. If the buildings are residential buildings having four or fewer dwelling units, are geographically dispersed throughout the city, and are not being removed for public improvements such as roadways, parks, or airport expansion, they are exempt from the NESHAP standards.

Post 1995 Determinations

- AO90003 7-3-2008 Where numerous residential buildings, e.g., 20 to 100 homes as discussed in the incoming letter, are being demolished as part of one project (for reasons of public health, welfare and safety), it is EPA's position that the demolitions are subject to the asbestos NESHAP requirements.



Post 1995 Determinations

A110001 12-22-2010

The government entity should know which homes will be part of the demolition project before it begins. There may be instances, where additional homes may be added or subtracted from the final list of homes scheduled for demolition under the project. In the end, all homes scheduled for demolition under the project are subject to the asbestos NESHAP demolition requirements.

A110001 Continued

The fact that demolitions might be spread out over multiple fiscal or calendar years or even multiple contracts, however, does not necessarily mean they are not occurring as part of the same planning period. It is not unusual for large scale demolition projects to take place in phases that may include more than one fiscal year, calendar year, or contract.

Region 5's Recent Efforts to Address this Issue

- 12-1-2010 – Region 5 hosts workshop and roundtable discussion: Crossing the Hurdles to Large-Scale Building Demolition
- Workshop participants identify problems and needs
- Regional EPA team develops recommendations for addressing problems and needs

Region 5 Municipal Demolition Web Page

Currently under development.

- Will include links to state and local agency information
- Will include links to guidance
- Will include information on regulatory requirements and voluntary programs
- Will include information on best practices

Continuing Issues

- How does one determine if a demolition is part of a project and subject to the NESHAP?
- How does one determine that multiple contractors are all working on the same project?
- How does one determine if a residence is isolated?
- How should notifications for projects be handled when there are multiple contractors, residences, and uncertain dates?
- Circumvention?