



# ASBESTOS REGULATORY CLARIFICATIONS

---

Environmental and Consumer Safety Section  
Regulatory Services Division  
ARC – 009  
November 2001

## Subject: The Demolition of a Public Building with Asbestos Containing Materials in Place

### BACKGROUND

Uncertainty in the regulated community regarding state and federal requirements to remove asbestos-containing building material (ACBM) and asbestos-containing material (ACM) prior to demolition has prompted this regulatory clarification. In 25 TAC '295.34(a), the Texas Health Protection Rules (TAHPR) state, ... *Before performing any demolition or renovation activity public building owners are required to abate all friable and nonfriable ACBM in accordance with 40 CFR Part 61, Subpart M and these sections....* However, the demolition standards contained in the National Emission Standards for Hazardous Air Pollutants (NESHAP) allow ACBM to be demolished in place, if certain criteria are met. This document clarifies how the rules apply to demolition projects and addresses the circumstances where ACM may be left in place during demolition.

### RESPONSE

The TAHPR defaults to the NESHAP to determine if ACBM can be left in place during demolition. If abatement of ACBM is required in a public building prior to demolition, per the NESHAP, the removal must be performed according to the standards set forth in the TAHPR (25 TAC '295.58 and 60). Therefore, in a public building, the NESHAP govern the conditions and circumstances that require removal of ACBM prior to demolition, while the TAHPR govern the manner in which the removal is done in public buildings.

### DISCUSSION

The NESHAP applicability is described in 40 CFR Part 61, Subpart M, '61.145(a). If the combined amount of regulated asbestos-containing material (RACM) in the building to be demolished equals or exceeds 160 square feet, 260 linear feet, or 35 cubic feet (the NESHAP threshold), the standards for emission control contained in '61.145(c) apply, unless the structure is unsound and in danger of

---

Environmental and Consumer Safety Section • Regulatory Services Division  
P.O. Box 149347 • Austin, Texas • 78714-9347 • Mail code 1986  
Phone: (512) 834-6787 • Facsimile: (512) 834-6726

[www.dshs.state.tx.us/asbestos.com](http://www.dshs.state.tx.us/asbestos.com)



## ASBESTOS REGULATORY CLARIFICATIONS

---

Environmental and Consumer Safety Section  
Regulatory Services Division  
ARC – 009  
November 2001

eminent collapse as described in '61.145(a)(3). Therefore, if the building contains less than the NESHAP threshold, abatement is not required prior to demolition. If the NESHAP threshold is met or

exceeded, and the facility is not structurally sound in accordance with '61.145(a)(3), the conditions requiring removal of RACM are further described in '61.145(c).

Under '61.145(c), the NESHAP requires that all RACM must be removed from a facility that is being demolished in accordance with paragraph (a) of the section. It should be noted that the removal applies to all of the RACM, and is not limited just to the amounts of the subject material that exceed the threshold. Therefore, RACM may not be abated to a level less than the threshold, leaving the remainder of the RACM in place during demolition.

The NESHAP also addresses nonfriable forms of asbestos, referred to as *category I* and *category II nonfriable ACM*. In '61.141, the NESHAP define these terms as follows:

***Category I nonfriable asbestos-containing material (ACM) means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized Light Microscopy.***

***Category II nonfriable (ACM) means any material excluding Category I nonfriable ACM, containing more than 1 percent nonfriable asbestos as determined using the methods specified in appendix E, subpart E, 40 CFR part 763, section 1, polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to a powder by hand pressure.***

In sections 61.145(c)(1)(i) and (iv), the NESHAP describe conditions in which Category I and Category II nonfriable ACM may be left in place during demolition. Category I nonfriable ACM may be left in place if it is not in poor condition and has not become friable. Category II nonfriable ACM may be left in place if the probability is low that the material will become crumbled, pulverized, or reduced to a powder during demolition.

Vinyl asbestos tile (VAT) and asbestos-containing mastic are common types of Category I nonfriable ACM that are often left in place during demolition. It is understood by the EPA that such ACM will not be made regulated through the normal forces of demolition. However, waste handling and compacting

---

Environmental and Consumer Safety Section • Regulatory Services Division  
P.O. Box 149347 • Austin, Texas • 78714-9347 • Mail code 1986  
Phone: (512) 834-6787 • Facsimile: (512) 834-6726

[www.dshs.state.tx.us/asbestos.com](http://www.dshs.state.tx.us/asbestos.com)



# ASBESTOS REGULATORY CLARIFICATIONS

---

Environmental and Consumer Safety Section  
Regulatory Services Division  
ARC – 009  
November 2001

operations may create RACM, thereby subjecting the operation to the NESHAP for handling and disposal requirements. In section 61.141, RACM is defined, with reference to Category I nonfriable ACM, as follows: ... (c) ***Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading.*** Additional information on this subject may be obtained from the following EPA document: “A Guide to Normal Demolition Practices Under the Asbestos NESHAP, EPA 340/1-92-013, September 1992.”

Section 61.141 defines RACM, with respect to Category II nonfriable ACM, as follows: ... (c) ***Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to a powder by the forces expected to act on the material in the course of demolition...*** . Therefore, if Category II nonfriable ACM is left in place during demolition, and the ACM is subjected to forces that make it regulated, the owner/operator is in violation of NESHAP for failing to remove RACM prior to demolition.

## FREQUENTLY ASKED QUESTIONS

1. Is it a violation of the TAHPR or NESHAP to demolish a public building or a facility with vinyl asbestos tile (VAT) in place?

Answer: The VAT may be left in place during demolition if it is not in poor condition.

2. Is it a violation of the TAHPR or NESHAP to demolish a public building that is not structurally unsound but contains less than the NESHAP threshold of RACM, including friable ACM?

Answer: It would not be a violation of the TAHPR or NESHAP to demolish a building containing RACM (including friable ACM) if the combined amount of RACM was less than the NESHAP threshold. However, the decision to demolish a building with RACM in place may cause the subsequent cleanup operation to be subject to OSHA or EPA regulations for protecting the workers from asbestos exposure. In addition, the waste may be subject to regulations under TXDOT and TNRCC for hauling and disposal.

3. Is it a violation of the TAHPR or NESHAP to demolish a public building or a facility with Category II nonfriable ACM in place?

---

Environmental and Consumer Safety Section • Regulatory Services Division  
P.O. Box 149347 • Austin, Texas • 78714-9347 • Mail code 1986  
Phone: (512) 834-6787 • Facsimile: (512) 834-6726

[www.dshs.state.tx.us/asbestos.com](http://www.dshs.state.tx.us/asbestos.com)



## ASBESTOS REGULATORY CLARIFICATIONS

---

Environmental and Consumer Safety Section  
Regulatory Services Division  
ARC – 009  
November 2001

Answer: If the quantity of the ACM equals or exceeds the NESHAP threshold and becomes regulated through the forces of demolition, it is a violation to demolish the building with it in place. Some Category II ACM, such as transite siding, would not normally be left in place due to the high probability of it becoming pulverized during demolition.

This Regulatory Clarification preempts any previous clarification/guidance/policy letters on this subject and remains in effect until superseded in writing by the Texas Department of State Health Services. Attributed use or reproduction of this information is freely granted.