40 CFR Part 61

Asbestos NESHAP Clarification Regarding Analysis of Multi-Layered Systems

AGENCY: Environmental Protection Agency.

ACTION: Notice of clarification to the final rule.

SUMMARY: This document provides clarification regarding the requirements of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos. It is intended to address common questions regarding situations where one or more layers which may contain asbestos are present, and supplement the January 5, 1994 Federal Register clarification (59 FR 542).


FOR FURTHER INFORMATION CONTACT: For copies, contact Mr. Larry Tessier at 1-800-368-5888 or at (703) 305-5938.

SUPPLEMENTARY INFORMATION: On November 20, 1990, the Federal Register published the Environmental Protection Agency’s (the Agency’s) revision of the National Emission Standards for Hazardous Air Pollutants for Asbestos (asbestos NESHAP), 40 CFR part 61, subpart M, 55 FR 48406. The asbestos NESHAP applies to any facility which may contain asbestos-containing joint compound systems where asbestos-containing joint compound is used only at the joints and nail holes. The Agency has learned that some of the regulated community have further questions concerning the analysis of samples which may contain multiple layers, any or all of which may contain asbestos-containing joint compound (ACM) under the asbestos NESHAP. Because these questions are frequently asked, the Agency is making this clarification.

I. Clarification of Multi-Layered ACM System

At the time the original asbestos NESHAP was promulgated (April 6, 1973), a standardized reference method had not been developed to determine quantitatively the content of asbestos in a material. The definition for “friable asbestos material” was added in the October 14, 1975 asbestos NESHAP, but still did not specify an analytical method. EPA’s unwritten policy based on the definition of “friable asbestos material” was that each layer in a multi-layered system was to be analyzed as a separate material (no averaging or dilution by combining layers of asbestos-containing material with nonasbestos-containing material was allowed). The November 20, 1990 revision of the asbestos NESHAP finally specified that Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy (PLM) method be used to determine whether or not a material contains greater than one percent asbestos. Section 1.7.2.1 of the PLM method states that “When discrete strata are identified, each is treated as a separate material so that fibers are first quantified in that layer only, and then the results for each layer are combined to yield an estimate of asbestos content for the whole sample.” This language has led to considerable confusion as to how to analyze multi-layered samples for NESHAP purposes. EPA published a clarification regarding the analysis of multi-layered systems in the January 5, 1994 Federal Register. This clarification basically stated that all multi-layered systems except for wall systems where joint compound was used only at the joints and nail holes must be analyzed as separate materials, and results were not allowed to be combined to determine average asbestos content (continuing the policy that dilution of an asbestos-containing material is not allowed).

The Environmental Protection Agency has received many questions about analyzing multi-layered systems for asbestos content to determine the applicability of the asbestos NESHAP due to its January 5, 1994 clarification (59 FR 542). This clarification reiterates EPA’s position for analysis of multi-layered samples for applicability of the asbestos NESHAP. This clarification applies to all multi-layered systems (other than wall board systems where asbestos-containing joint compound is used only at the joints and nail holes) under both the NESHAP and the Asbestos Hazard Emergency Response Act (AHERA) (40 CFR Part 763) programs.

Any source sending multi-layered bulk samples to a lab may request that certain sample(s) or portions of sample(s) be composited for analysis first (to potentially reduce time and cost of sampling).

(Note: A composite sample does not mean that multiple samples may be composited into one sample. It means that multiple layers of one core sample may be composited for analysis.)

If this alternative method is chosen, then the following requirements must be followed: To analyze the composite sample, the procedures in EPA/600-93/65243 “Method for the Determination of Asbestos in Bulk Building Materials” ("the Method"), specifically Section 2.3 “Gravimetry,” must be used.

Additionally, for the composite sample, the recommendations in Appendix D of the method must be followed. This procedure is consistent with the procedures outlined in 40 CFR Part 763, Appendix E to Subpart E (formerly Appendix A to Subpart F), which is referenced in the asbestos NESHAP (40 CFR 61.141 and 61.146), but the procedures in the new method are more clear. EPA finds that this method is an acceptable alternative method of compliance under section 61.13(h)(1)(ii). EPA intends to amend the asbestos NESHAP in the near future to refer specifically to these procedures. When using the gravimetric procedures, the result may be recorded as percent asbestos by weight.

If the result of the composite analysis shows that the average content for the multi-layered system (across the layers) is greater than one percent, then the multi-layered system must be treated as asbestos-containing and analysis by layers is not necessary. If the result of the composite sample analysis indicates that the multi-layered system as a whole contains asbestos in the amount of one percent or less, but greater than none detected, then analysis by layers is required to ensure that no layer in the system contains greater than one percent asbestos. If any layer contains greater than one percent asbestos, that layer must be treated as asbestos-containing. This will have the effect of requiring all layers in a multi-layered system to be treated as asbestos-containing. Once any one layer is shown to have greater than one percent asbestos, further analysis of the other layers is not necessary if all the layers will be treated as asbestos-containing. If several of the layers will be removed without removing the entire system, then all layers that will be disturbed must be analyzed. This includes the material being removed; however, the material being removed may be analyzed using the composite analysis procedures. Please note that the same requirements to perform point counting as stated in our May 8, 1991 clarification (see enclosed memorandum) still apply for any layers being analyzed individually.

Richard Blondi,
Acting Director, Manufacturing, Energy, and Transportation Division, Office of Compliance.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90–468; RM–7380]

Radio Broadcasting Services;
Wickenburg and Lake Havasu City, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document grants a Petition for Reconsideration filed by Interstate Broadcasting System of Arizona, Inc., licensee of Station KRDS-FM, Channel 287C2, Wickenburg, Arizona, directed to the Report and Order in this proceeding which had upgraded the Station KRDS-FM license to specify operation on Channel 287C1. See 56 FR 43884, September 5, 1991. With this action, the proceeding is terminated.

EFFECTIVE DATE: January 26, 1996.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 776–1654.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission’s Memorandum Opinion and Order in MM Docket No. 90– 468, adopted December 6, 1995, and released December 12, 1995. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission’s copy contractor, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:


§ 73.202 [Amended]

2. Section 202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 287C1 and adding Channel 287C2 at Wickenburg.

Federal Communications Commission.

Douglas W. Webbink,
Chief, Policy and Rules Division, Mass Media Bureau.

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